

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

**M. H.,**

<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2000-37</b>
	:	
<b>GWINNETT COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	<b>DECISION</b>
<b>Appellee.</b>	:	
	:	

This is an appeal by M. H. (Student) from a decision by the Gwinnett County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him until January 1, 2001, with the option of attending alternative school, after finding him guilty of striking another student and hitting the student with a tree limb. The Student claims the Local Board does not have jurisdiction because the incident occurred off school property, the punishment was excessive, and the tribunal denied him due process because it allowed hearsay statements to be introduced. The decision of the Local Board is sustained.

On March 3, 2000, the Student, along with two other students, attacked a student while the student was on the way home from school. The Student initially kicked the other student in the head. The Student also picked up the branch of a tree that was lying on the ground and hit the other student in the leg.

The school system charged the Student with battery and use of a weapon. At a hearing before a student disciplinary tribunal, there was testimony about the fight by the Student, the victim, and other participants. Additionally, the tribunal received the statements of two students. The Student pleaded guilty to the charges and the tribunal decided to expel him from regular school until January 1, 2001, with the option of attending alternative school. The Local Board upheld the tribunal's decision when the Student appealed. The Student then filed an appeal with the State Board of Education.

On appeal, the Student claims that the punishment was too harsh, that the tribunal denied him due process by receiving the two statements, and that the Local Board did not have jurisdiction because the incident occurred off school property.

The Student cites *Ron C. v. Gwinnett Cnty. Bd. of Educ.*, Case No. 1994-31 (Ga. SBE, Jul. 14, 1994) for the proposition that the Local Board does not have jurisdiction to consider the case because the incident occurred off school property and after the Student went to another student's house and deposited some of his school materials. In *Ron C.*, the State Board of Education held that the local board did not have jurisdiction over a student after the student

arrived home. The Local Board, however, cites *Gwinnett Cnty. Bd. of Educ. v. Ron C.*, Civil Action No. 94-A-05298-3 (Gwinnett Superior Ct., Aug. 26, 1994), which reversed the State Board of Education decision, to establish that it has jurisdiction. The superior court reasoned that O.C.G.A. § 20-2-753(a)(2) does not contain any geographic limits on a school board's jurisdiction and the local board's policies provided that students were subject to discipline if they violated any state or federal laws. *Ron C.*, however, is inapplicable to the fact situation presented because it involved students who had arrived at home. In the instant case, although the Student dropped some school materials at another student's house, he had not arrived at home and the victim had not arrived at home. Since both the Student and the victim had not arrived at home, the State Board of Education concludes that the Local Board still had jurisdiction over both students.

The Student also claims that the punishment was excessive. "A local board of education ... is charged with the responsibility of managing the operation of its schools, and, in matters of discipline, the State Board of Education cannot substitute its judgment for the judgment of the local board. *See, Boney v. County Board of Education for Telfair County*, 203 Ga. 152, 45 S.E.2d 442 (1947); *Braceley v. Burke County Bd. of Ed.*, Case No. 1978-7." *Joseph M. v. Jasper Cnty. Bd. of Educ.*, Case No. 1981-40 (Ga. SBE, Feb. 11, 1982).

The Student also claims that he was denied due process because hearsay statements were introduced that did not give him an opportunity to cross-examine the statement givers. As argued by the Local Board, the statements were cumulative and did not add anything to the testimony given during the hearing. If it was error to introduce the statements, it was harmless error.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board had jurisdiction to impose punishment, did not deny the Student due process, and acted within its authority in expelling the Student. Accordingly, the Local Board's decision is SUSTAINED.

This \_\_\_\_\_ day of September 2000.

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Bruce Jackson  
Vice Chairman for Appeals