

STATE BOARD OF EDUCATION

STATE OF GEORGIA

D.C.,	:	:	
Appellant,	:	:	
v.		:	CASE NO. 2008-07
		:	
DOUGLAS COUNTY BOARD OF EDUCATION,		:	DECISION
		:	
Appellee.		:	

This is an appeal by D.C. (Student) from a decision by the Douglas County Board of Education upholding a student disciplinary tribunal's decision to refer the Student to a manifestation committee pursuant to special education services based upon the tribunal's finding that the Student was guilty of threatening and/or intimidating another student with violence. The Student failed to file a brief or request oral argument. Therefore, the Student's appeal is deemed to have been abandoned. *Chris M. v. McIntosh County Bd. of Educ.*, Case No. 1995-47 (Ga. SBE, Jan. 11, 1996). Accordingly, this appeal is hereby **DISMISSED**.

On appeal, Appellee has requested costs, expenses and attorney's fees pursuant to O.C.G.A. § 20-2-1000(c). This provision provides:

If a judgment or finding is rendered in favor of a **defendant educator** in any action, complaint, disciplinary proceeding, or other administrative proceeding brought by a student, a parent or guardian of a student, or any other person on behalf of a student and arising out of or resulting from the discipline of such student or if the complaint is found to be nonmeritorious, frivolous, or without just cause, all reasonable court costs, reasonable attorneys' fees, and reasonable expenses incurred by the defendant educator in defending such action or complaint shall be assessed by the court, agency, or other tribunal against the plaintiff and shall be paid by the plaintiff. (emphasis added.)

"[T]he term 'educator' means any principal, school administrator, teacher, guidance counselor, paraprofessional, school bus driver, volunteer assisting teachers in the classroom, tribunal members, or certificated professional personnel." O.C.G.A. § 20-2-1000(a). Thus, the School Board is not an "educator" as defined under this Section, and therefore, is not entitled to seek costs and attorney's fees pursuant to this Section. Moreover, this Section provides for a defendant to recover attorney's fees, costs and expenses when an educator is defending his or her actions in a legal proceeding filed by a student arising out of the disciplinary action taken against a student. Thus, this Section does not apply when a school board takes disciplinary action against the student, and the student appeals the school board's disciplinary action. Therefore, Appellee's request for attorney's fees, costs and expenses is hereby **DENIED**.

This ____ day of October 2007.

Wanda T. Barrs
Chair, State Board of Education