

STATE BOARD OF EDUCATION

STATE OF GEORGIA

DARLENE LABI,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2008-21
	:	
FULTON COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION
	:	

This is an appeal by Darlene Labi (Appellant) from a decision by the Fulton County Board of Education (Local Board) to suspend her without pay for three days after a tribunal found her guilty of willful neglect of duty following an incident in her classroom where a student was injured during a fight that occurred while Appellant was absent from her classroom. Appellant claims there was no evidence to support the decision and that she was denied due process. The Local Board's decision is sustained.

On March 15, 2007, two students engaged in a fight in Appellant's classroom. The Local Board employed Appellant as a teacher in its Paul D. West Middle School during the 2006-2007 school year. The fight occurred while Appellant was temporarily absent from the classroom. Appellant did not report the incident and told the students not to make a report. The principal, however, began an investigation when one of the students reported the incident after another teacher observed a bruise under the student's eye. Following his investigation, the principal informed Appellant that he was recommending Appellant's suspension without pay for three days because of insubordination, willful neglect of duty, and other good and sufficient cause.

Appellant asked for a hearing, which was subsequently conducted by a three-member tribunal. Although Appellant claimed that the principal was taking the action in retaliation for her having filed a complaint about the management of the school and that the students were not fighting, the tribunal nevertheless found that a fight occurred under unsupervised conditions, which constituted willful neglect of duty and other good and sufficient cause. The tribunal recommended a three-day suspension without pay, which the Local Board accepted. Appellant then filed an appeal with the State Board of Education.

On appeal, Appellant claims that there was no evidence to support the tribunal's findings. Additionally, she claims that she was denied due process because the hearing officer accepted testimony from two students without taking testimony from the other students in her classroom.

"The standard for review by the State Board of Education is that if there is any evidence to support the decision of the local board of education, then the local board's decision will stand unless there has been an abuse of discretion or the decision is so arbitrary and capricious as to be illegal. *See, Ransum v. Chattooga County Bd. of Educ.*, 144 Ga. App. 783, 242 S.E.2d 374 (1978); *Antone v. Greene County Bd. of Educ.*, Case No. 1976-11 (Ga. SBE, Sep. 8, 1976)." *Roderick J. v. Hart Cnty. Bd. of Educ.*, Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). "It is the duty of the hearing tribunal to determine the veracity of the witnesses and the State Board of Education will not go behind such determination if there is any evidence to support the decision." *David L. v. DeKalb Cnty. Bd. of Educ.*, Case No. 1996-1 (Ga. SBE, Apr. 11, 1996). In the instant case, there was testimony that two students engaged in a fight when Appellant went to the door of her classroom to speak to a student from another class. Although Appellant claimed she did not leave her students unsupervised, there was testimony that they were not supervised long enough for the fight to occur. The State Board of Education, therefore, concludes that there was some evidence to support the Local Board's decision

Appellant's claim that there was error because some students did not testify is without merit. There is no requirement for a school system to call any witnesses. The school system is only required to prove the charges made against the teacher. The school system gave Appellant notice that the students would be testifying and if the teacher wanted other students to testify, she could have obtained a subpoena for their testimony. The State Board of Education concludes that there is no merit in Appellant's claim.

Based upon the foregoing, it is the opinion of the State Board of Education that there was evidence to support the Local Board's decision to suspend Appellant without pay for three days. Accordingly, the Local Board's decision is SUSTAINED.

This _____ day of February 2008.

William Bradley Bryant
Vice Chairman for Appeals