

-STATE BOARD OF EDUCATION

STATE OF GEORGIA

K. P.,	:	
	:	
Appellant,	:	CASE NO. 2008-24
	:	
vs.	:	
	:	
BIBB COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	
	:	
	:	
P. P.,	:	
	:	
Appellant,	:	CASE NO. 2008-25
	:	
vs.	:	
	:	
BIBB COUNTY	:	
BOARD OF EDUCATION,	:	DECISION
	:	
Appellee.	:	

This is the combined appeals by two sisters, K. P. and P. P., (collectively, Students) from decisions by the Bibb County Board of Education (Local Board) to uphold the decision of a student disciplinary hearing officer to expel them for the remainder of the 2007-2008 school year after finding them guilty of engaging in a fight off campus that resulted in injuries to another student. The Students claim that there was no evidence that they were involved in the fight, that they were mere onlookers, and the Local Board exceeded its authority because they were not convicted of a felony. The Local Board's decision is sustained.

On August 31, 2007, the Students were involved in an off-campus fight at a restaurant. During the fight, the Students and several of their friends knocked a female student and another female to the floor and beat them with their fists and feet. The two females sustained bruises and bloody noses. The Students were charged with fighting, bullying, gang-related behavior, engaging in unacceptable physical contact that results in injury, and disrupting the orderly process of the school. In addition, they were charged with engaging in conduct that would be punishable as a felony if committed by an adult and with simple assault and battery. The hearing officer found that the Students committed a criminal act, assaulted another student, and engaged in behavior that had an

impact on school discipline, the educational function of the school, and the welfare of students and staff. The Students were expelled for the remainder of the 2007-2008 school year. Upon appeal, the Local Board upheld the hearing officer's decisions and the Students filed appeals to the State Board of Education.

On appeal, P. P. claims that she was not engaged in the fight and that she was not charged with a felony, so she cannot be expelled from school. K. P. claims that there was no showing that the educational process was disrupted, thus preventing the Local Board from expelling her. Both Students claim that expulsion denies them their right to a free public education.

"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). Despite the Students' claims, there was testimony from eyewitnesses that they both were engaged in the fight. There was also testimony that the Students were part of a gang and tensions from the fight were in evidence during the following week that required administrators to heighten their awareness, allay the fears of parents and students, and otherwise devote their time to assuring the safety of the pupils in the schools involved. In addition, there was testimony that both Students were involved in incidents during the following week.

O.C.G.A. § 20-2-751.5(c) provides:

Each student code of conduct shall also contain provisions that address off-campus behavior of a student which could result in the student being criminally charged with a felony and which makes the student's continued presence at school a potential danger to persons or property at the school or which disrupts the educational process.

See, also, Ga. Comp. R. & Regs. § 160-4-8-.15. The Students claim that this code section and the State Board of Education's regulation require a student to be charged and convicted with a felony before they can be expelled. P. P. was not charged with a felony and K. P. was not convicted of a felony. Both the statute and the regulation, however, do not require the charging or conviction of a felony. Instead, the plain language of the statute and the regulation address conduct that "could" result in criminal charges; there is no requirement for a conviction or for charges to even be brought against a student. Since the Students could have been charged with a felony, the Local Board did not exceed its authority or abuse its discretion by expelling the Students for the remainder of the 2007-2008 school year.

While the right to a public education is guaranteed by the Georgia Constitution, that right is not unlimited, and local boards of education have the inherent right to expel

students whose conduct, by its very nature, presents a hazard to other students. *See, D. B. v. Clarke Cnty. Bd. of Educ.*, 200 Ga. App. 330, 331, 469 S.E.2d 438, 439 (1996). Here, there was evidence that the Students were involved in the fight and that news of the fight disrupted the schools the following week as students and parents were fearful of retaliatory actions. The State Board of Education concludes that the Students' right to a free public education was not improperly denied.

Based upon the foregoing, it is the opinion of the State Board of Education that there was evidence to support the decisions of the Local Board and that the Local Board did not abuse its discretion by upholding the expulsion of the Students for the remainder of the 2007-2008 school year. Accordingly, the Local Board's decisions regarding both K. P. and P. P. are
SUSTAINED.

This _____ day of February 2008.

William Bradley Bryant
Vice Chairman for Appeals