

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>K. L.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2008-71</b>
	:	
<b>LIBERTY COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>

This is an appeal by K. L. (Student) from a decision by the Liberty County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel her until the end of the first semester of the 2008-2009 school year after finding her guilty of striking two employees of the school system. The Student claims that she did not intend to strike either employee, the facts did not support a finding of guilty for the offenses charged, and the punishment was too harsh. The Local Board's decision is sustained.

On April 1, 2008, an assistant principal confiscated a cell phone from a male student in the lunchroom. The male student approached another table of students and asked if any of them had a cell phone that he could use. The assistant principal then admonished the students at the table that he would confiscate their telephone also if they allowed the male student to use their telephone. The assistant principal then turned and walked towards the door of the lunchroom when the Student approached him from the back and pushed him.<sup>1</sup> The assistant principal turned around and the Student began pointing her finger and screaming at him. The Student then began using profanity. A nearby school resource officer then arrived and told the Student to step away. The Student continued to yell at the assistant principal and the resource officer moved to escort her from the lunchroom. When the resource officer reached out to her, the Student slapped his hand down and swore at him. The resource officer then escorted the Student out of the lunchroom. The resource officer relaxed his hold on the Student once they were out of the lunchroom and the Student then swung her purse and hit the resource officer on the side of his face.

The Student was charged with battery on a school employee. Based on the testimony of the assistant principal and the school resource officer, the tribunal found the Student guilty of the charge and expelled her for the remainder of the 2007-2008 school

---

<sup>1</sup> For some reason, the Student apparently was upset about the assistant principal speaking to the table of students about lending a cellular telephone to the male student.

year and through the first semester of the 2008-2009 school year. The Local Board upheld the tribunal's decision when the Student appealed and the Student then filed an appeal to the State Board of Education.

The Student claims that she did not intend to strike either the school resource officer or the assistant principal. Based on the testimony presented, however, the tribunal could find that the Student intended to strike both the school resource officer and the assistant principal. "The tribunal sits as the trier of fact and, if there is conflicting evidence, must decide which version to accept. When that judgment has been made, the State Board of Education will not disturb the finding unless there is a complete absence of evidence." *F. W. v. DeKalb Cnty. Bd. of Educ.*, Case No. 1998-25 (Ga. SBE, Aug. 13, 1998). The Student's argument that she did not intend to strike either employee, therefore, is not supported by the record.

The Student next argues that the facts do not support the charge and she cites the criminal provision for simple battery found at O.C.G.A. § 16-6-23. The Student, however, was not charged under the criminal provisions of the Georgia Code, but, instead, was charged as permitted by O.C.G.A. § 20-2-751.6, which provides that local boards of education shall provide for penalties against students who commit acts of physical violence against a school employee. "Physical violence" is defined as "[i]ntentionally making physical contact of an insulting or provoking nature with the person of another...." O.C.G.A. § 20-2-751.6(a)(1). The Student's argument, therefore, is without merit.

The Student also argues that the hearing officer was biased and other forms of punishment should have been considered. O.C.G.A. § 20-2-751.6, however, provides that a student found guilty of physical violence must be expelled from school. There was no evidence in the record that the hearing officer displayed any bias against the Student. The State Board of Education, therefore, concludes that the Student's claim of bias is unfounded.

Based upon the foregoing and a review of the record, it is the opinion of the State Board of Education that there was evidence to support the Local Board's decision and the Local Board was authorized to expel the Student. The Local Board's decision, therefore, is  
SUSTAINED.

This \_\_\_\_\_ day of September 2008.

---

William Bradley Bryant  
Vice Chairman for Appeals