

**STATE BOARD OF EDUCATION
STATE OF GEORGIA**

F.F.,	:	
	:	
Appellant,	:	
	:	
v.	:	CASE NO. 2010-05
	:	
McDUFFIE COUNTY BOARD OF EDUCATION,	:	DECISION
	:	
Appellee.	:	

This is an appeal by F.F. (“Student”) from a decision by the McDuffie County Board of Education (“Local Board”) to expel the Student through the second semester of the 2009-2010 school year, with the option to enroll in the alternative school, and, upon satisfactory completion of the expulsion, placing the Student on probation for ninety (90) days for the 2010-2011 school year. Specifically, the Local Board found that the Student violated the Local Board’s rules on nineteen (19) occasions, with each resulting in a disciplinary referral. For the reasons set forth below, this appeal is sustained because the record contains evidence supporting the decision of the Local Board.

I. BACKGROUND

During the 2008-2009 school year, the Student was in the eighth grade at Thomson-McDuffie Junior High School. During the 2008-2009 school year, the Student received nineteen (19) disciplinary referrals. These disciplinary referrals included one prior theft, two for improper touching of a female student, three for being disrespectful to teachers or bus drivers, three for classroom disruption, and two for inappropriate or rude conduct of a sexual nature. When the Student was questioned about his actions, he would refuse to take responsibility for his actions by denying any wrongdoing, until he was confronted with video surveillance proving his misconduct. In an effort to assist the Student, the Local Board provided counseling sessions for the Student to correct his behavior.

On May 8, 2009, the Student was riding the bus home from school. The Student saw a CD boom box belonging to another student sitting on the bus. The Student took the CD boom box, exited the bus, and ran from the bus. The Student and his mother were notified of this offense. The next day, the Student returned the stolen CD boom box. As a result, the Student was notified that he was being suspended for nine (9) days, and that he was being proposed for expulsion through the second semester of the 2009-2010 school year.

The Student requested a hearing, and the Local Board convened a hearing tribunal. The Student received notice of the hearing but did not attend the hearing. After hearing all the

evidence, the hearing tribunal recommended to uphold the original nine (9) day suspension, to expel the Student through the second semester of the 2009-2010 school year, with the option to enroll in the alternative school, and, upon satisfactory completion of the expulsion, placing the Student on probation for ninety (90) days for the 2010-2011 school year. The Local Board affirmed the decision of the tribunal.

II. ERROR ASSERTED ON APPEAL

A. Record Evidence.

The Local Board has the burden of proof when it charges a student with an infraction of its rules. Scott G. v. DeKalb Cnty. Bd. of Educ., Case No. 1988-26 (Ga. SBE, Sep. 1988). If the Local Board meets its burden, the State Board is required to affirm the decision of the Local Board if there is any evidence to support the decision, unless there is abuse of discretion or the decision is arbitrary and capricious as to be illegal. See Ransum v. Chattooga County Bd. of Educ., 144 Ga. App. 783 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (Ga. SBE, Sep. 1976). “[T]he State Board of Education will not disturb the finding [of the Local Board] unless there is a complete absence of evidence.” F.W. v. DeKalb County Bd. of Educ., Case No. 1998-25 (Ga. SBE, Aug. 1998).

In this case, the Student does not dispute that he committed the nineteen (19) disciplinary offenses. Moreover, the record contains sufficient facts supporting the nineteen (19) disciplinary referrals during the 2008-2009 school year. These disciplinary referrals included one prior theft, two for improper touching of a female student, three for being disrespectful to teachers or bus drivers, three for classroom disruption, and two for inappropriate or rude conduct of a sexual nature. Thus, the decision of the Local Board is supported by admissible evidence.

B. Level of Punishment.

The Student asserts that, since his expulsion, he has been attending counseling and has learned to behave and respect adults. Thus, the Student seeks for this Board to reduce the punishment. However, the punishment received by the Student is consistent with the Local Board’s policy, which provides for expulsion after eight (8) major violations of school rules. The punishment received by the Student is within the range of punishment allowed by the Local Board’s policy.

Furthermore, the record shows that the Student was provided counseling sessions to correct his behavior during the school year, but continued to violate the rules, with the theft of the CD boom box leading to his expulsion. Moreover, “The State Board of Education . . . cannot adjust the level or degree of discipline imposed by a local board of education.” B.K. v. Bartow County Bd. of Educ., Case No. 1998-33 (Ga. SBE, Sep. 1998). This Board cannot alter the Student’s discipline.

III. CONCLUSION

Based upon the reasons set forth above, it is the opinion of the State Board of Education that the evidence supports the decision of the Local Board, and it is therefore **SUSTAINED**.

This _____ day of September, 2009.

WILLIAM BRADLEY BRYANT
VICE CHAIRMAN FOR APPEALS