

**STATE BOARD OF EDUCATION
STATE OF GEORGIA**

G.S.,	:	
	:	
Appellant,	:	
	:	
v.	:	CASE NO. 2010-69
	:	
SAVANNAH-CHATHAM COUNTY BOARD OF EDUCATION,	:	DECISION
	:	
Appellee.	:	

This is an appeal by G.S. (“Student”) from a decision of the Savannah-Chatham County Board of Education (“Local Board”) assigning the Student to the alternative school for the remainder of the 2009-2010 school year. The Local Board took this action because it found that the Student violated its policies by his failure to comply with directions of school personnel, disrupting and interfering in the orderly operation of the school, causing a substantial disruption in the school environment, threatening others, and disrespectful conduct. For the reasons set forth below, this appeal is sustained.

I. BACKGROUND

The Student attends Bartlett Middle School. On or about January 14, 2010, the Student was taking a test during his Social Studies class. During the course of the test, the Paraprofessional noticed that the Student was not on task and instructed him to stay on task. In response, the Student responded by saying under his breath, something “bitch.” The Paraprofessional was shocked and asked another student what he said to confirm what she believed he said. The other student confirmed that the Student used the word “fuck.” The Paraprofessional concluded he said, “fuck this bitch.” The Paraprofessional informed the classroom Teacher, who instructed her to write a disciplinary action on the Student. As the Paraprofessional went to get the disciplinary referral form, the Student stated, “if you write me up, I’ll beat your. . . .”

On January 25, 2010, the Student was provided a notice of hearing for his proposed expulsion for his conduct. The notice identified the Local Board policy violations, the witnesses, and the conduct of using vulgar language. At the hearing, the Local Board provided the testimony of the Paraprofessional regarding the Student’s conduct. After hearing all the evidence, the hearing officer found that the Student was guilty of the misconduct and upheld the Principal’s request for the Student to be expelled for the remainder of the 2009-2010 school year and assigned to the Local Board’s alternative school. The Local Board affirmed the decision of the hearing officer.

II. ERROR ASSERTED ON APPEAL

A. Due Process.

The Student asserts that his rights were violated because the charges against him were not clear. “The essential requirements of due process are notice and an opportunity to respond.” Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532, 546 105 S. Ct. 1487 (1985). Furthermore, O.C.G.A. § 20-2-754(b) requires the Local Board to provide the Student with reasonable notice of the charges against him.

In this case, the Student was provided notice of hearing for his proposed expulsion for his conduct. The notice identified the Local Board policy violations, the witnesses, and his conduct of using vulgar language. Thus, the Student’s assertion that he did not receive sufficient notice of the charges against him is without merit.

B. 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 was taking a test during his Social Studies class. During the course of the test, the Paraprofessional noticed that the Student was not on task and instructed him to stay on task. In response, the Student responded by saying under his breath, something “bitch.” The Paraprofessional was shocked and asked another student what he said to confirm what she believed he said. The other student confirmed that the Student used the word “fuck.” The Paraprofessional concluded he said, “fuck this bitch.” The Paraprofessional informed the classroom Teacher, who instructed her to write a disciplinary action on the Student. As the Paraprofessional went to get the disciplinary referral form, the Student stated, “if you write me up, I’ll beat your. . . .”

Based upon the record evidence, the decision of the Local Board is supported by admissible evidence proving the Student violated the Local Board’s policies. Specifically, the Student failed to comply with directions of school personnel, disrupted and interfered in the orderly operation of the school, caused a substantial disruption in the school environment, threatened others, and engaged in disrespectful conduct.

C. Bias of the Hearing Officer.

The Student asserts that the Hearing Officer was biased based upon her questioning of the Student. Based upon a review of the record, the questioning of the Student by the Hearing Officer and the Hearing Officer's comments to the Student during the hearing show possible bias. For instance, during the hearing, the Hearing Officer stated, "I would have given you a zero on the test, to start with." However, the Hearing Officer's decision is supported by the evidence, and the recommendation was consistent with the recommendation of the Principal. Thus, this Board finds that there is not sufficient evidence to show that the Hearing Officer was biased.

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 June 2010.

WILLIAM BRADLEY BRYANT
VICE CHAIRMAN FOR APPEALS