

**STATE BOARD OF EDUCATION  
STATE OF GEORGIA**

<b>D.W.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>v.</b>	:	<b>CASE NO. 2010-78</b>
	:	
<b>DOUGLAS COUNTY BOARD OF EDUCATION,</b>	:	<b>DECISION</b>
	:	
	:	
<b>Appellee.</b>	:	

This is an appeal by D.W. (“Student”) from a decision by the Douglas County Board of Education (“Local Board”) suspending the Student from school until June 1, 2010, and allowing her to apply to the Local Board’s alternative school. In addition, the Local Board directed the Student to attend the Youths Against Violence Program and provided the Principal the discretion to allow the Student to participate in graduation activities. The Local Board took these actions because it found that the Student violated its Code of Conduct regarding fighting and disorderly conduct. For the reasons set forth below, the decision of the Local Board is SUSTAINED.

**I. BACKGROUND**

The Student attended Douglas County High School. On or about January 22, 2010, the Student was involved in a fight at a school bus stop. The Student was arrested and charged with disorderly conduct, fighting, and affray. As a result, the Local Board charged the Student with violating its Code of Conduct. The Student requested a hearing and the Local Board convened a hearing tribunal. At the hearing, the Student admitted to the charges. The hearing tribunal recommended suspending the Student for the remainder of the 2009-2010 school year, and allowed her to apply to the Local Board’s alternative school. In addition, the hearing tribunal directed the Student to attend the Youths Against Violence Program and provided the Principal the discretion to allow the Student to participate in graduation activities. The Local Board affirmed the decision of the hearing tribunal.

**II. ERROR ASSERTED ON APPEAL**

**A. Record Evidence.**

As an initial matter, this appeal is moot. The punishment imposed by the Local Board ended at the end of the 2009-2010 school year and graduation ceremonies have already occurred. Thus, this appeal is moot because the controversy no longer exists, and there is no relief that this Board can grant the Student. See J.S. v. Gwinnett Cnty. Bd. of Educ., Case No. 2006-37, (Ga. SBE, March 2006).

Even assuming this appeal is not moot, the Local Board's decision is supported by the 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 involved in a fight at a school bus stop. The Student was arrested and charged with disorderly conduct, fighting, and affray. The Local Board charged the Student with violating its Code of Conduct. At the hearing, the Student admitted to the charges. Thus, even if this appeal was not moot, the decision of the Local Board is supported by admissible evidence.

#### **B. Level of Punishment.**

The Student appears to assert that the discipline she received is excessive. "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). Thus, 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 July, 2010.

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MARY SUE MURRAY  
VICE CHAIR FOR APPEALS