

**STATE BOARD OF EDUCATION
STATE OF GEORGIA**

J.B.,	:	
	:	
Appellant,	:	
	:	
v.	:	CASE NO. 2010-88
	:	
MUSCOGEE COUNTY BOARD OF EDUCATION,	:	DECISION
	:	
Appellee.	:	

This is an appeal by J.B. (“Student”) from a decision by the Muscogee County Board of Education (“Local Board”) suspending the Student from school for the remainder of the 2009-2010 school year, and assigning the Student to the Local Board’s alternative school for the first semester of the 2010-2011 school year. The Local Board took these actions because it found that the Student violated the Local Board’s rules by engaging in fighting. For the reasons set forth below, the decision of the Local Board is SUSTAINED.

I. BACKGROUND

The Student attended Jordan High School. On or about April 21, 2010, the Student was involved in a fight with another student off school premises. On May 3, 2010, the Local Board sent the Student a charge letter providing notice of her disciplinary hearing. At the hearing, the Student admitted to attacking another student based upon problems with the student that started at the beginning of the school year. At the hearing, the Student testified that she went home after school and then left home to engage in the fight. After hearing all the evidence, the hearing tribunal found that the Student’s conduct violated the Local Board’s rules. The hearing tribunal recommended suspending the Student from school for the remainder of the 2009-2010 school year, and placing the Student on probation for the 2010-2011 school year. The Local Board affirmed the decision of the hearing tribunal, but changed the discipline to assign the Student to the alternative school for the first semester of the 2010-2011 school year. The Student has appealed the Local Board’s decision to this Board.¹

II. ERROR ASSERTED ON APPEAL

¹ The Local Board contends that this appeal should be dismissed on the grounds that the Student failed to file a brief or request oral argument. See Chris M. v. McIntosh County Bd. of Educ., Case No. 1995-47 (Ga. SBE, Jan. 11, 1996). However, the Student did file a timely brief on July 5, 2010. However, it appears that the Student did not serve the brief on counsel for the Local Board as required by the State Board rules. Therefore, the State Board does not consider this appeal abandoned. See H.L. v. Henry County Bd. of Educ., Case No. 2010-53 (Ga. SBE, April 2010).

A. Record Evidence.

The Student contends that the decision of the Local Board should be reversed because the fight did not occur at school, but occurred after she had gone home and then left to engage in the fight off school premises. The Local Board has the burden of proof when it charges a student with an infraction of its rules. Scott G. v. DeKalb County 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).

The Student contends that her actions are not subject to the Local Board’s rules because the fight occurred after she left school, went home and then left home before engaging in the fight. However, this Board was previously reversed for finding that a Local Board lacked jurisdiction for actions by a student after the student went home. See M.H. v. Gwinnett County Bd. of Educ., Case No. 2000-37 (Ga. SBE, Sep. 2000), citing Gwinnett County Bd. of Educ. v. Ron C., Civil Action No. 94-A-05298-3, reversing Ron C. v. Gwinnett County Bd. of Educ., Case No. 1994-31 (Ga. SBE, July 1994). Moreover, the events leading to the fight occurred at school. Thus, this assertion is without merit.

In this case, the record is clear that the Student engaged in fighting with another student. It is also undisputed that the fight occurred because of ongoing problems between the students arising at school. Thus, the decision of the Local Board is supported by the evidence.

B. Level of Punishment.

The Student asserts that the discipline she received is excessive. However, “[t]he 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 August 2010.

MARY SUE MURRAY
VICE CHAIR FOR APPEALS