

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

N. N.,	:	
	:	
Appellant,	:	CASE NO. 2011-67
	:	
vs.	:	
	:	
GWINNETT COUNTY	:	
BOARD OF EDUCATION,	:	DECISION
	:	
Appellee.	:	

This is an appeal by N. N. (Student) from a decision by the Gwinnett County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him from regular school until March 2, 2012, with the option of attending alternative school during the period of expulsion, after finding him guilty of fighting and unintentional behavior that caused physical injury to an employee. The Student claims that there was no evidence to support the charges and that the punishment was excessive. The Local Board’s decision is **SUSTAINED**.

The Student engaged in a fight with another student in a science classroom on February 23, 2011. When the teacher intervened, the teacher was struck in the head, his glasses were bent, and his nose was cut. The Student was charged with fighting and unintentional behavior that caused physical injury to an employee. At a student disciplinary tribunal hearing, the Student pleaded guilty to the charges. The hearing officer expelled the Student until March 2, 2012. On appeal, the Local Board upheld the tribunal decision. The Student then appealed to the State Board of Education.

Notwithstanding his plea of guilty to both charges, the Student now claims before the State Board of Education that there was no evidence to support either of the charges because the teacher who was struck did not see the Student throw any punches and did not know which student hit him in the face. "The standard for review by the State Board of Education is that if there is any evidence to support the decision of the local board of education, then the local board's decision will stand unless there has been an abuse of discretion or the decision is so arbitrary and capricious as to be illegal. *See, Ransum v. Chattooga County Bd. of Educ.*, 144 Ga. App. 783, 242 S.E.2d 374 (1978); *Antone v. Greene County Bd. of Educ.*, Case No. 1976-11 (Ga. SBE, Sep. 8, 1976)." *Roderick J. v. Hart Cnty. Bd. of Educ.*, Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). In addition to his pleas, the Student admitted during the hearing that he initiated the fight, that he struck the other student, and that he threw the other student to the floor. There was, therefore, evidence to support the tribunal decision.

The Student also claims that the punishment was too harsh. The State Board of Education, however, cannot adjust the level or degree of discipline imposed by a local board of

education. *B. K. v. Bartow Cnty. Bd. of Educ.*, Case No. 1998-33 (Ga. SBE, Sep. 10, 1998). "A local board of education ... is charged with the responsibility of managing the operation of its schools, and, in matters of discipline, the State Board of Education cannot substitute its judgment for the judgment of the local board. See, *Boney v. County Board of Education for Telfair County*, 203 Ga. 152, 45 S.E.2d 442 (1947); *Braceley v. Burke County Bd. of Ed.*, Case No. 1978-7." *Joseph M. v. Jasper Cnty. Bd. of Educ.*, Case No. 1981-40 (Ga. SBE, Feb. 11, 1982). The State Board of Education concludes that the decision by the Local Board was within its authority and the Student has not shown that it was arbitrary or capricious.

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 that the decision was not arbitrary or capricious. Accordingly, the Local Board's decision is **SUSTAINED**.

This 10<sup>th</sup> day of August 2011.

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MARY SUE MURRAY  
VICE CHAIR FOR APPEALS