

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>C. B.,</b>	:	
	:	
<b>Appellant,</b>	:	<b>CASE NO. 2012-02</b>
	:	
<b>vs.</b>	:	
	:	
<b>MARIETTA CITY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	<b>DECISION</b>
	:	
<b>Appellee.</b>	:	

This is an appeal by C. B. (Student) from a decision by the Marietta City Board of Education (Local Board) to expel him permanently from regular school, with the option of attending alternative school during the period of expulsion, after a student disciplinary tribunal found him guilty of an off-campus rape and suspended him until the end of the school year.<sup>1</sup> The Student claims that there was no evidence that his presence at school was disruptive and the Local Board denied him due process because the Local Board failed to enter any reasons for increasing his punishment. The Local Board’s decision is SUSTAINED.

On March 16, 2011, Marietta City School System officials learned that the Student had been charged as an adult with rape, aggravated assault, and false imprisonment. The Student was charged with off-campus conduct punishable under the criminal codes that was punishable as a felony for which the Student had been arrested and which affected the safety and welfare of the school, staff and students, or that disrupted the discipline or educational environment of the school. A student disciplinary tribunal conducted a hearing on March 29, 2011, and found the Student guilty of the charges. The tribunal expelled the Student for the remainder of the 2010-2011 school year with the option of attending an alternative school during the suspension period. When the Student appealed to the Local Board, the Local Board increased the punishment to permanent expulsion based on the severity of the incident. The Student then appealed to the State Board of Education.

The Student claims that the Local Board’s decision was arbitrary and capricious because there was no evidence that his continued presence at the school was disruptive. The Local Board’s rule requires that punishable conduct must be such that it “affects the safety and welfare of the school, staff, students, and/or property at the school or that disrupts the discipline or educational environment of the school.” "The standard for

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<sup>1</sup> The Local Board also provided that the Student could re-apply for admission to regular school if he was found innocent of the criminal charge.

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). There was evidence that the School System had to remove the matter to a central-office-level administrator and that news reporters visited the school to cover the story, thus disrupting the normal school processes for handling disciplinary matters. There was, therefore, some evidence that the Student's continued presence at the school would be disruptive.

The Student also claims that he was denied due process and the Local Board's decision was arbitrary and capricious because the Local Board increased the degree of punishment without entering any reasons. In *Chauncey Z. v. Cobb Cnty. Bd. of Educ.*, Case No. 1992-42 (Ga. SBE, Mar. 11, 1993), the State Board of Education held that a local board of education cannot impose a more severe punishment in the absence of an explanation for the harsher punishment. The record in this case, however, shows that the Local Board considered that the severity of the charges warranted permanent expulsion. The State Board of Education, therefore, concludes that the Local Board's decision was not arbitrary or capricious.

Based upon the foregoing and a review of the record, it is the opinion of the State Board of Education that the Local Board did not deny the Student any of his due process rights and there was evidence to support the Local Board's decision. Accordingly, the Local Board's decision is SUSTAINED.

This 12th day of October 2011.

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MARY SUE MURRAY  
VICE CHAIR FOR APPEALS