

**STATE BOARD OF EDUCATION  
STATE OF GEORGIA**

<b>R.R.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>v.</b>	:	<b>CASE NO. 2012-03</b>
	:	
<b>TIFT COUNTY BOARD OF EDUCATION,</b>	:	<b>DECISION</b>
	:	
	:	
<b>Appellee.</b>	:	

This is an appeal by R.R. (“Student”) from a decision by the Tift County Board of Education (“Local Board”) finding that the Student violated its rules by committing an assault and battery on a school employee and engaging in disorderly conduct. For the reasons set forth below, this appeal is **SUSTAINED**.

**I. BACKGROUND**

The Student attends Sixth Street Academy. On or about March 17, 2011, the Assistant Principal asked the Student to sit down. The Student refused. The School Officer was asked by the Assistant Principal to assist. The Officer requested the Student to take his seat. The Student refused and the Officer grabbed the Student’s arm to guide him to his seat. The Student reacted by pulling away from the Officer, throwing punches, hitting, and kneeing the Officer. The Student was arrested and charged with simple battery and disorderly conduct. At the hearing, the Local Board offered evidence supporting the charges against the Student.

After hearing all the evidence, the hearing officer found that the Student engaged in misconduct, and expelled the Student. The Local Board upheld the decision of the hearing officer. The Student has appealed to this Board.

**II. ISSUES ON APPEAL**

**A. Motion to Dismiss.**

The Local Board has moved to dismiss this appeal on two grounds. First, the Local Board contends that the Student failed to file his notice of appeal with the Superintendent, but rather filed it directly with the State Board. The Local Board contends that pursuant to O.C.G.A. § 20-2-1160(b), the Student was required to file the notice of appeal with the Superintendent. This Board agrees that the Student is required to file the appeal with the Superintendent. However, once the appeal is filed it is the duty of the Local Board to transmit the evidence and proceedings below.

In this case, it appears that the Student may not have properly appealed to this Board. However, as set forth below, since the decision of the Local Board is affirmed, this Board declines to dismiss this appeal.

In addition, the Local Board contends that the Student's appeal is based upon issues involving the Individuals with Disabilities Education Act ("IDEA"), codified at 20 U.S.C. § 1400 *et seq.* This Board does not have jurisdiction over issues that arise under the IDEA. See O.C.G.A. § 20-2-1160(f); M.G. v. Gwinnett County Bd. of Educ., Case No. 2004-40 (Ga. SBE, July 2004). Therefore, to the extent the Student's appeal raises issues governed by the IDEA, this Board is without jurisdiction.

### **B. Record Evidence.**

This 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 does not challenge the factual findings of the Local Board. Furthermore, the record shows that the Student assaulted the Officer, and engaged in disorderly conduct at school. Specifically, the Student refused to follow the directives of school officials. The record further shows that the Student threw punches, attempted to hit, and kneed the Officer. The Student was arrested and charged with simple battery and disorderly conduct. Thus, the record supports the decision of the Local Board.

### **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 12th day of October 2011.

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MARY SUE MURRAY  
VICE CHAIR FOR APPEALS