

PART II

FACTUAL BACKGROUND

The Student was involved in a fight during a pep rally held at the Student's school. Based on the circumstances of the fight, the Student was charged with a violation of Local Board Rule 7 (a), prohibiting extreme physical violence. As a result of the charge, the Student was suspended for ten days and a hearing was held by the Committee to determine whether further action should be taken. At the hearing, it was established that the Student and a group of his friends were walking past the victim and his friends. Some words were exchanged between the two groups. The Student and his friends then left the area, but returned shortly. As the Student and his friends again passed the victim, the Student suddenly attacked the victim without warning. The testimony further showed that the Student punched the victim in the face, continued punching the victim, and inflicted serious injury on the victim. There was further testimony that, at the time the Student struck the victim, the victim had his hands in his pocket.

The Committee found the Student guilty of extreme physical violence and expelled the Student from all regular units of the Local System for the remainder of the 1987m1988 school year. The Committee allowed the Student to attend the Hamilton Alternative School during winter quarter and placed the Student on probation until his graduation.

Beginning with the spring quarter, the Student will only be allowed to attend open campus until his graduation.

The student appealed the Committee's determination to the local Board, which sustained the Committee's decision. The student then appealed the decision of the Local Board to the State Board of Education.

PART III
DISCUSSION

The Student contends on appeal that the rule against extreme physical violence is too vague to be enforceable and that the Student should be able to expect the victim to receive the same punishment. In support of his position that the rule was not uniformly enforced, the Student argues that it is not fair that the other student was not as harshly punished.

Appellant's arguments fail to take into consideration the facts of the case. There was testimony from which the Local Board could have concluded the Student attacked the victim in a vicious manner with intent to injure the victim, and, at the time the Student attacked the victim, the victim was in a defenseless position.

Appellant contends that the average high school student would not consider fist-fighting to be extreme physical violence. The Local Board's rule, however, states that "fighting" is one of the offenses under the category of "violence involving actual physical contact." The Local Board's rule should alert a student to the possibility of expulsion for "fighting," regardless of how the fighting is conducted. The State Board of Education, therefore, concludes that the rule is not so vague to be unenforceable.

The Student's argument that the punishment must be equally enforced is without merit. The facts clearly authorized the Local Board to differentiate between the two students based upon the local Board's finding that the Student was the aggressor in the fight.

The State Board of Education is not authorized to substitute its judgment for that of the local board and must sustain the decision of the local board if there is any evidence to support the local board's decision, absent an abuse of discretion or violation of law by the local board. See, Ransum v. Chattooga Cnty. Bd. of Ed., 144 Ga. App. 783 (1978);

Antone v., Greene Cnty. Bd. of Ed., Case No. 1976-11. In the present case, there does not appear to be any abuse of discretion or violation of law.

PART IV
DECISION

Based upon the foregoing discussion, the record submitted, and the briefs and arguments presented, the State Board of Education concludes that there was evidence to support the decision of the Local Board and the discipline imposed by the Local Board was within its authority and did not constitute an abuse of discretion. The decision of the Local Board is, therefore,

SUSTAINED.

JOHN M. TAYLOR
Vice Chairman for Appeals