

STATE BOARD OF EDUCATION

STATE OF GEORGIA

A. N,	:	
	:	
Appellant,	:	
	:	
vs.	:	
	:	
	:	CASE NO. 1999-72
FORSYTH COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by A. N. (Student) from a decision by Forsyth County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him until the end of the 1999-2000 school year, with the option of attending an alternative school. The tribunal found that the Student was involved in a fight with another student, struck a teacher, and refused to stop fighting when asked by the teacher. The Student claims that the evidence does not support the decision and the punishment was too harsh. The Local Board's decision is sustained.

On October 1, 1999, the Student was attacked from behind by another student while in the hallway. A male teacher separated the two students, but, after the two were separated, the Student struck the teacher in the face. The teacher restrained the Student against the lockers and told the Student to lower his hands but the Student refused and kept trying to get away. After another male teacher arrived, the Student became calm. The police found tobacco and tobacco-related products on the Student when they later searched him. The Student was suspended pending a student disciplinary hearing and told not to come on campus. That night, the Student went to the football game. An assistant principal saw him and told him he was not supposed to be on campus. The Student appeared to leave, but the assistant principal found him on campus again at a later time.

The Student was charged with striking a teacher, possession of tobacco and tobacco products, trespass, and some other related charges. After hearing the evidence, a student disciplinary tribunal found the Student guilty and expelled him until the end of the 1999-2000 school year with the option of attending an alternative school. The Local Board upheld the tribunal's decision when the Student appealed. The Student then filed a timely appeal to the State Board of Education.

On appeal, the Student claims that there was no evidence that he struck the teacher. He also claims that the evidence concerning the tobacco products should not have been admitted because they were found as the result of an illegal search. Additionally, the Student claims that the out-of-school suspension was improperly imposed so that his appearance at the football game was not improper.

"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). There was testimony from the teacher that the Student struck him after he had intervened and separated the combatants. Such testimony was sufficient to permit the tribunal to find that the Student struck the teacher as charged.

The Student's next complaint is that the evidence concerning the tobacco and tobacco-related products should not have been admitted because they were found as the result of an illegal search. The policeman found the cigarettes and rolling paper while searching the Student

for weapons before handcuffing him and taking him to detention. In the context of the school setting, however, the search was not illegal. The State Board of Education concludes that the evidence of cigarette possession was properly admitted.

The Student claims the punishment was too harsh because he was not the aggressor and he struck the teacher accidentally when the teacher intervened. "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 tribunal considered all of the circumstances presented and the punishment was within the Local Board's discretionary authority.

Based upon the foregoing, it is the opinion of the State Board of Education that there was evidence to support the Local Board's decision and the Student's due process rights were not violated. Accordingly, the Local Board's decision is
SUSTAINED.

This 9th day of November 2000.

Bruce Jackson
Vice Chairman for Appeals