

STATE BOARD OF EDUCATION

STATE OF GEORGIA

AM. B. and AS. B.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2004-27
	:	
HENRY COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by sisters Am. B. and As. B. (Students) from a decision by the Henry County Board of Education (Local Board) to uphold the decisions of a student disciplinary officer and individualized educational plan (IEP) teams to allow Student Am. B. to return to school but expelled Student As. B. with the option of attending an alternative school after finding them guilty of fighting on a bus. The Students claim that the evidence did not support the charges and they were acting in self-defense. The Local Board's decision is sustained.

On October 24, 2003, the Students were riding a school bus as it approached a middle school. Another student hit Student As. B. three times in the back of the head. When the student tried to strike her again, Student As. B. hit the student back and they began fighting. Three other students jumped in and started hitting Student As. B. When the other three students started hitting her sister, Student Am. B. became involved and attempted to help her sister. An earring was torn from Student Am. B.'s ear and her ear began bleeding. The fighting stopped momentarily until Student As. B. saw her sister's ear bleeding. She then approached the student who had originally hit her. The student hit her again and they began fighting again until the bus stopped and an assistant principal entered the bus. The Students were charged with fighting.

A hearing was held on November 4, 2003 before a tribunal hearing officer. After receiving testimony from the Students, the bus driver, and another student on the bus, and viewing a video tape of the incident, the hearing officer found the Students guilty and recommended their expulsion for the remainder of the year with the opportunity to attend an alternative school. Since both Students receive special education services, an IEP committee reviewed the hearing officer's recommendation. The IEP committee approved the hearing officer's recommendation for Student As. B., but changed the punishment for Student Am. B. and allowed her to immediately return to school. When the Students appealed to the Local Board, the Local Board upheld the decisions made by the hearing officer and the IEP committees. The Students then filed a joint appeal to the State Board of Education.

The Students claim that they were merely defending themselves. The Students made the same argument before the hearing officer, who, nevertheless, found the Students guilty of fighting on a bus. The Students admitted to fighting even though the bus driver was present and available if the Students had asked for help before the fighting started. "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 evidence from which the hearing officer could find the Students guilty of fighting even in the face of their claim of self-defense.

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. Accordingly, the Local Board's decision is
SUSTAINED.

This _____ day of March 2004.

William Bradley Bryant
Vice Chairman for Appeals