

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>GWENDALE GAINES,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2005-01</b>
	:	
<b>BIBB COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>

This is an appeal by Gwendale Gaines (Appellant) from a decision by the Bibb County Board of Education (Local Board) to terminate her teaching contract after finding her guilty of other good and sufficient causes under the provisions of O.C.G.A. § 20-2-940(a) because she struck a student several times in retaliation for the student striking her. Appellant claims that she was acting in self-defense and that the witnesses did not tell the truth. The Local Board's decision is sustained.

On February 3, 2004, two students became involved in a fight in the gymnasium of Miller Middle School. One of the students, C. W., had previously reported to a counselor that the other student wanted to fight with her and that she was afraid. The counselor, thinking that nothing would happen in school, told C. W. to go to class. It was later in the day that C. W. was in the gymnasium where she met the other student and began fighting. When the fight was broken up, Appellant began escorting C. W. to the front office. As they neared the office, C. W. began running towards the counselors' offices and calling for the counselor she had spoken with earlier. Appellant caught up with C. W. as she began entering the room of the counselor she had spoken with earlier. Appellant pulled C. W. back into the hallway, whereupon C. W. hit the teacher in the chest. In the meanwhile, the principal heard the commotion and stepped out of her office into the hall to see what was happening. The principal saw Appellant strike C. W. twice with a closed fist. Appellant then grabbed C. W. around the neck as C. W. began screaming that Appellant had hit her. The principal stepped in and removed Appellant's hand from around C. W.'s throat. The principal saw blood coming out of C. W.'s nose.

Following the incident, the principal told the superintendent what she had seen and the superintendent decided to terminate Appellant's teaching contract based upon other good and sufficient cause because Appellant had hit a student. Appellant asked for a hearing on the charges before the local board, which was held on May 6, 2004.

In addition to the principal's testimony, the school system presented the testimony of two counselors, two students, and a clerk in the main office, and all of them testified that Appellant hit the student more than once and then grabbed her around the neck. There was also testimony

about the student's bloody nose. The Local Board found Appellant guilty of the charges and decided to terminate her teaching contract. Appellant then filed a timely appeal to the State Board of Education.

On appeal, Appellant claims that she merely acted in self-defense and that the witnesses for the school system did not tell the truth about what they saw.

Appellant raised the issue of self-defense during the hearing before the Local Board, but the Local Board did not accept her defense. There was no evidence that the student attempted any further action against the teacher after first attempting to push her away. Appellant, however, struck the student twice and then grabbed her neck when she started shouting that she had been hit by Appellant. "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). Since there was evidence that Appellant's reaction to the student continued after the student had stopped her aggressive actions, the Local Board could find that Appellant went beyond self-defense. Since there was some evidence to support the Local Board's decision, the decision must stand.

Appellant also claims that the other witnesses did not tell the truth during the hearing. "The tribunal sits as the trier of fact and, if there is conflicting evidence, must decide which version to accept. When that judgment has been made, the State Board of Education will not disturb the finding unless there is a complete absence of evidence." *F. W. v. DeKalb Cnty. Bd. of Educ.*, Case No. 1998-25 (Ga. SBE, Aug. 13, 1998). In addition to Appellant and the student, six other people testified about what occurred in the hallway between Appellant and the Student. While their testimony may not have been exactly the same regarding all of the details, the Local Board could find that there was a consistent story, i.e., Appellant struck the student at least twice and grabbed her about the neck. Appellant's argument that the witnesses failed to tell the truth is, therefore, without merit.

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 to terminate Appellant's teaching contract because she hit a student at least twice with a closed fist and grabbed the student around the neck. Accordingly, the Local Board's decision is  
SUSTAINED.

This \_\_\_\_\_ day of October 2004.

---

William Bradley Bryant  
Vice Chairman for Appeals

