

STATE BOARD OF EDUCATION

STATE OF GEORGIA

S. H.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2005-26
	:	
HENRY COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by S. H. (Student) from a decision by the Henry County Board of Education (Local Board) to expel her until the end of the 2004-2005 school year, with the option of attending an alternative school during her expulsion period, after a student disciplinary tribunal found her guilty of striking a school resource officer and suspended her until the end of the first semester of the 2004-2005 school year. The Student argues that she did not know that she was striking a resource officer. The Local Board’s decision is sustained.

On October 11, 2004, the Student engaged in a fight with another student in the school building. When a school resource officer became involved, the Student struck him in the temple area with her fist while she was looking directly at him and he was dressed in his police uniform. The Student was charged with “inappropriate physical contact of persons other than students or school personnel.”

A student disciplinary tribunal found the Student guilty of the charges and the Local Board upheld the tribunal’s finding. The Local Board expelled the Student for the remainder of the 2004-2005 school year, but gave her the option of attending an alternative school during her expulsion period. The Student then filed an appeal with the State Board of Education.

The only issue raised by the Student on appeal is that the facts do not support the charge of inappropriate physical contact of persons other than students or school personnel. The Student contends that she did not intentionally strike the school resource officer; she did not know who he was because he did not identify himself and her action was an involuntary response to the resource officer grabbing her.

"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 that the Student was facing the resource officer, who had on his uniform and badge, when she struck him. The combatants had already been separated when the Student punched the resource officer in the temple area. Since the evidence showed that the Student was no longer actively involved in throwing punches at the other student, that she was looking directly at the resource officer, and that the resource officer had on his uniform, the fact finder could determine that the Student's striking of the officer was not accidental. There was, therefore, evidence that the Student deliberately struck the resource officer.

Based upon the foregoing, it is the opinion of the State Board of Education that there was evidence to support the decision of the Local Board. Accordingly, the Local Board's decision is
SUSTAINED.

This _____ day of April 2005.

William Bradley Bryant
Vice Chairman for Appeals