

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>C. L.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2005-28</b>
	:	
<b>COBB COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>

This is an appeal by C. L. (Student) from a decision by the Cobb County Board of Education (Local Board) to uphold the decision of a student disciplinary hearing officer to expel him until the end of the 2004-2005 school year, but granting him the option of attending an alternative school during the expulsion period, after finding him guilty of committing battery against another student. The Student contends that there was no evidence to support the Local Board's decision, that only hearsay evidence was presented to the hearing officer, and he was denied due process because he did not have the opportunity to cross-examine witnesses. The Local Board's decision is sustained.

On November 5, 2004, a student, R. G., was walking towards the bus at the end of the school day when someone struck him from behind and knocked him to the floor. R. G. was then kicked in the head and back several times and suffered temporary trauma to his eye. Shortly before the incident occurred, another student, J. A., was walking beside R. G. and taunting him, but R. G. ignored him. J. A. then dropped back as R. G. continued to walk towards his bus. R. G. did not see who hit him and did not know who was involved in the incident.

The high school principal investigated the incident. Along with the victim, he interviewed several other students who witnessed the incident. Based upon his investigation, the principal charged the Student with battery and suspended him from school.

A student disciplinary hearing was held before a hearing officer. At the hearing, the school system presented only two witnesses, the principal who investigated the incident and the victim. The principal testified that the witnesses had identified the Student as being one of the students involved in the attack. The victim testified that he had been jumped from behind and did not see who struck him, nor did

SBOE DECISION

Case No. 2005-28

he see who kicked him when he was on the floor. The principal also presented a written statement that identified the Student as the one who initially knocked the victim to the floor and another unidentified student was the one who kicked the victim while he was on the floor.

The Student testified on his own behalf. He admitted that he was near the victim and bumped into him when he was pushed by someone, but he did not knock the victim down. He further testified that there were rumors that some students were going to fight with the victim. He testified that when he was pushed, he turned around and prepared to defend himself. Some students brushed past him without challenging him so he immediately left the area because he did not want to become involved in any fights. He did not see the victim get pushed to the floor and did not see anyone hitting the victim since he was walking towards his bus away from the scene of the incident. The Student submitted the written statements of two other students who supported his story.

The hearing officer found the student guilty of battery and expelled him from regular school until the end of the 2004-2005 school year and gave him the option of attending an alternative school during the expulsion period. The Local Board upheld the hearing officer's decision when the Student appealed. The Student then appealed to the State Board of Education.

The Student claims that there was no evidence presented to support the hearing officer's finding since hearsay evidence does not have any probative value. He also claims that he was denied due process because he did not have an opportunity to cross-examine his accusers in violation of Georgia law.

"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). In the instant case, we believe the principal's testimony together with the written statement presented was sufficient to establish that the Student was involved in the incident and that the Local Board had the authority to expel the Student.

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

**SBOE DECISION**  
**Case No. 2005-28**

This \_\_\_\_\_ day of April 2005.

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**William Bradley Bryant**  
**Vice Chairman for Appeals**