

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>LARHON JACKSON,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2005-38</b>
	:	
<b>EARLY COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>

This is an appeal by Larhon Jackson (Appellant) from a decision by the Early County Board of Education (Local Board) to terminate her teaching contract after finding her guilty of unprofessional conduct when she struck another teacher and called the other teacher a “bitch” while in the lunchroom in front of students. Appellant claims that the evidence was inconclusive, and therefore insufficient, and does not support the Local Board’s decision. The Local Board’s decision is sustained.

On September 30, 2004, Appellant, a first-year teacher, became engaged in a confrontation with another teacher in the lunchroom of the elementary school where she taught. Appellant was sitting at a lunch table with her class. The other teacher entered the lunchroom with her class and placed a clipboard at the head of the Appellant’s table. Appellant claims that the other teacher had previously made comments about finishing up and moving her students out of the lunchroom so the other teacher’s students could use the table. Appellant claims that the other teacher again made a comment and then returned to her students in the lunch line. Appellant approached the other teacher and asked her if she had a problem. The discussion became heated and Appellant called the other teacher a “bitch” and threatened to beat her. When the other teacher turned away, Appellant struck her in the back.

Because of the incident, the Local Superintendent recommended Appellant’s dismissal on charges of incompetency, immorality, and other good and sufficient cause. The Local Board conducted a hearing and voted to terminate Appellant’s contract. Appellant then filed a timely appeal to the State Board of Education.

Appellant claims that the evidence was insufficient to establish that she assaulted the other teacher. She also claims that her actions did not warrant her termination. Finally, she claims that she is the victim of disparate treatment since the other teacher was not similarly disciplined.

Appellant claims that the testimony given by the witnesses was conflicting, e.g., some of the witnesses heard the name-calling but did not see the striking, while others did not hear the name-calling but saw the striking. Based on this, Appellant claims that the evidence was insufficient to support the Local Board’s decision. The Local Board, however, 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). "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, there was evidence that Appellant cursed the other teacher, threatened her, and struck her. There was, therefore, sufficient evidence to support the Local Board's decision.

Appellant claims that termination of her contract was too harsh under the circumstances. The State Board of Education, however, cannot interfere with the degree of punishment imposed if the punishment is within a local board's authority and is not an abuse of discretion. *See, Williams v. Gwinnett Cnty. Bd. of Educ.*, Case No. 1992-14 (Ga. SBE, Sep. 10, 1992). Under O.C.G.A. § 20-2-940, the Local Board has the authority to dismiss a teacher for incompetence, immorality, and other good and sufficient cause. The State Board of Education does not deem the dismissal of a teacher who curses and strikes another teacher in front of students to be an abuse of discretion.

Appellant also claims that she is the victim of disparate treatment because, she claims, the other teacher was not punished. There is, however, no evidence in the record concerning the punishment of the other teacher. Additionally, the evidence shows that Appellant initiated the confrontation and there was no evidence, except for Appellant's uncorroborated testimony, that the other teacher engaged in the same conduct engaged in by Appellant, which negates any contention that they were similarly situated. The State Board of Education, therefore, concludes that Appellant did not receive disparate treatment by the Local Board.

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, the Local Board did not abuse its discretion, and did not deny Appellant equal protection. Accordingly, the Local Board's decision is SUSTAINED.

This \_\_\_\_\_ day of June 2005.

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William Bradley Bryant  
Vice Chairman for Appeals