

STATE BOARD OF EDUCATION

STATE OF GEORGIA

C. B., D. B., and J. B.,	:	
	:	
Appellants,	:	
	:	
vs.	:	CASE NO. 2005-57
	:	CASE NO. 2005-58
GWINNETT COUNTY	:	CASE NO. 2005-59
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

The appeals of C. B., D. B., and J. B. (Students), who are siblings, have been consolidated because the disciplinary actions they are appealing arose from the same incident and similar charges. C. B. and D. B. appeal a finding by a student disciplinary tribunal that they were guilty of posturing to fight and failure to follow written instructions.¹ In addition, D. B. appeals the finding by the tribunal that she was rude and disrespectful and that she caused a disruption in the school. J. B. appeals from a decision by the Gwinnett County Board of Education (Local Board) to assign her to an alternative school through the end of the first semester of the 2005-2006 school year after a student disciplinary tribunal found her guilty of creating a school disturbance, using profanity, posturing to fight, failing to follow written instructions, and of having chronic discipline problems. The Student claims that they did not posture to fight and did not fail to follow written directions.

The record shows that the appeal for all three students was not filed until 32 days after the Local Board made its decision. The law requires appeals to be filed with the local superintendent within 30 days after a local board of education makes its decision.² If the appeal is not filed within 30 days, the State Board of Education does not have jurisdiction to consider the appeal. *Kenisha B. v. Cobb Cnty. Bd. of Educ.*, Case No. 1994-14 (Ga. SBE, May 12, 1994). Consequently, since the appeals were filed more than 30 days after the Local Board made its decision, each of the three appeals is dismissed.

Although the appeals are dismissed, there was evidence to support the findings made by the student disciplinary tribunal and to uphold the decision by the Local Board. The evidence showed that on March 18, 2005, the Students became involved in an

¹ Both C. B. and D. B. are special education students. Consequently, they were referred to a special education review team to determine their disposition and the Local Board did not make any decision regarding their discipline.

² O. C. G. A. § 20-2-1160.

argument in the lunchroom with some other students, profanities were exchanged, and it appeared that a fight was about to begin when administrators intervened and escorted the Students to the central office, where the Students continued to voice profanities.

C. B. was charged with rude and disrespectful conduct, causing a disruption, use of profanity, posturing to fight, and failing to follow written instructions. The tribunal found him guilty of all the charges, but he only appealed from the finding that he was posturing to fight, and that he failed to follow written directions.

D. B. was charged with rude and disrespectful conduct, causing a disruption, posturing to fight, failing to follow written directions, and chronic disruptive behavior. The tribunal found her guilty of all the charges, and she appealed from all the findings except the finding that she was guilty of chronic disruptive behavior.

J. B. was charged with causing a disruption, using profanity, posturing to fight, failing to follow written instructions, and chronic disruptive behavior. The tribunal found her guilty of all the charges and she appealed the findings that she used profanity, postured to fight, and failed to follow written instructions. J. B., however, admitted during the hearing that she used profanity and failed to follow written directions. She also admitted that she caused a disruption in the school. Based upon her admissions, there was evidence from which the Local Board could expel her until the end of the first semester of the 2005-2006 school year with the option of attending an alternative school.

Based upon the foregoing, it appears that there was evidence to support the Local Board's decision concerning Student J. B. and the findings by the student disciplinary tribunal regarding Students C. B. and D. B., but, since the appeals were not timely filed, the State Board of Education does not have jurisdiction to entertain the appeals. Accordingly, the appeals are hereby DISMISSED.

This _____ day of August 2005.

William Bradley Bryant
Vice Chairman for Appeals