

STATE BOARD OF EDUCATION

STATE OF GEORGIA

KRISTY DIXON,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2008-15
	:	
FULTON COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by Kristy Dixon (Appellant) from a decision by the Fulton County Board of Education (Local Board) to suspend her for three days after she was involved in an altercation with a special education student. Appellant claims that she reacted in self-defense and the Local Board should not have suspended her. The Local Board's decision is reversed.

Appellant is employed as a special education teacher by the Local Board. On March 2, 2007, Appellant followed a female special education student to another teacher's classroom in an effort to get the student to return to her classroom. The student unexpectedly knocked Appellant to the floor and began striking her on the chest and head. Appellant reached up, grabbed the girl's throat with her hands, and pushed the student away. Appellant then left the scene.

The Local Superintendent charged Appellant with insubordination, willful neglect of duty, and other good and sufficient cause under the provisions of O.C.G.A. § 202-2-940(a) and suspended her for five days for violating Local Board Procedure GBU(7) and Standards 2 and 10 of the Code of Ethics for Educators. Appellant requested a hearing on the charges to contest her suspension.

A tribunal conducted a hearing and found that "in an effort to extricate herself from the assault and to avoid further blows... [Appellant] did place her hands around the student's neck and pushed her away. After the event neither ... [Appellant] or [sic] the student demonstrated any ongoing acinus [sic] or malice." The record shows that the incident lasted for only a few seconds. The tribunal concluded that "though ... [Appellant's] actions may have been instinctual and understandable under the circumstances, her action in putting her hands around the neck of a student is inherently contrary to the applicable standards of ethical and professional conduct". The tribunal recommended a three-day suspension,

which the Local Board adopted. Appellant then filed an appeal to the State Board of Education.

On appeal, Appellant claims that her actions were taken in self-defense, which makes her actions justifiable. O.C.G.A. § 16-3-21 provides that “[a] person is justified in ... using force against another when and to the extent that he or she reasonably believes that such threat or force is necessary to defend himself or herself or a third person against such others imminent use of unlawful force....” “Justification, if established ... should always result in acquittal.” *Gordy v. The State*, 93 Ga. App. 743, 745, 92 S.E.2d 737, 739 (1956). The Local Board responds by arguing that there was evidence that Appellant choked the student, which is an inappropriate response by a teacher. The Local Board also argues that Appellant’s response was not self-defense.

"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). However, in “all hearings, the burden of proof shall be on the school system” O.C.G.A. § 20-2-940(e)(4).

Standard 2 of the Code of Ethics for Educators provides that: “An educator should always maintain a professional relationship with all students, both in and outside the classroom. Unethical conduct includes but is not limited to: 1. committing any act of child abuse, including physical and verbal abuse; 2. committing any act of cruelty to children or any act of child endangerment.... Rules and Regulations of the State of Georgia, § 505-6-.01(3)(b) (2007). Standard 10 provides that “[a]n educator should demonstrate conduct that follows generally recognized professional standards. Unethical conduct is any conduct that impairs the certificate holder’s ability to function professionally in his or her employment position or a pattern of behavior or conduct that is detrimental to the health, welfare, discipline, or morals of students.” Rules and Regulations of the State of Georgia, § 505-6-.01(3)(j) (2007).

In the instant case, the tribunal found that Appellant’s actions were instinctual and ended as soon as the student was off her. This case, therefore, differs from *Gaines v. Bibb Cnty. Bd. of Educ.*, Case No. 2005-01 (Ga. SBE, Oct. 14, 2004), where the State Board of Education said that 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.” In the instant case, Appellant’s actions were instinctual and were over in mere seconds. Although the tribunal found that Appellant’s actions were “inherently contrary to the applicable standards of ethical and professional conduct”,

such a determination is valid only if the teacher's actions were deliberate and not done as an act of self-defense. Teachers cannot be expected to analyze coldly the response they should make when a student is raining blows down around their head and chest.

The Local Board makes much of Appellant's actions before the student attacked her. While Appellant possibly could have avoided the entire confrontation by approaching the situation differently, she was charged with abusing the student and unprofessional conduct in choking the student, not with using bad judgment in asking the student to return to the classroom. The student's attack was sudden and unexpected and Appellant's reaction constituted neither abuse of the student nor unprofessional conduct.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board failed to carry the burden of proof that Appellant's actions were not taken in self-defense. Accordingly, the Local Board's decision is REVERSED.

This _____ day of December 2007.

William Bradley Bryant
Vice Chairman for Appeals