

**STATE BOARD OF EDUCATION
STATE OF GEORGIA**

C.J.,	:	
	:	
Appellant,	:	
	:	
v.	:	CASE NO. 2009-55
	:	
GWINNETT COUNTY BOARD OF EDUCATION,	:	DECISION
	:	
Appellee.	:	

This is an appeal by C.J. (“Student”) from a decision by the Gwinnett County Board of Education (“Local Board”) to suspend the Student until February 17, 2010, with the option of attending the Local Board’s alternative school. Specifically, the Local Board found that the Student violated the Local Board’s rules by physically hitting another student. For the reasons set forth below, this appeal is sustained because the record contains evidence supporting the decision of the Local Board.

I. BACKGROUND

The Student attends Grayson High School. On February 6, 2009, the Student and another student exchanged words during a basketball game. After the game, the two students confronted one another, and the other student dared the Student to hit him. The Student hit the other student several times. The incident was reported to the administration. The Local Board then notified the Student that he was charged with violating the Student Conduct and Behavior policy of the Local Board.

The Student requested a hearing. On February 17, 2009, the Local Board convened a hearing tribunal. After hearing all the evidence, the hearing tribunal recommended suspending the Student for one year or until February 17, 2010, with the option of attending the Local Board’s alternative school. The Local Board affirmed the decision of the tribunal.

II. ERROR ASSERTED ON APPEAL

A. Record Evidence.

The Local Board has the burden of proof when it charges a student with an infraction of its rules. Scott G. v. DeKalb Cnty. Bd. of Educ., Case No. 1988-26 (Ga. SBE, Sep. 1988). If the Local Board meets its burden, the State Board is required to affirm the decision of the Local Board if there is any evidence to support the decision, unless there is abuse of discretion or the decision is arbitrary and capricious as to be illegal. See Ransum v. Chattooga County Bd. of

Educ., 144 Ga. App. 783 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (Ga. SBE, Sep. 1976). “[T]he State Board of Education will not disturb the finding [of the Local Board] unless there is a complete absence of evidence.” F.W. v. DeKalb County Bd. of Educ., Case No. 1998-25 (Ga. SBE, Aug. 1998).

In this case, the Student challenges the admission of the videotape and the testimony of the Local Board administrator describing the videotape. However, the videotape is admissible evidence. Moreover, the administrator was qualified to describe and identify the events on the videotape.

Furthermore, the Student admits that he hit the other student several times. While the Student contends he was provoked, the undisputed record evidence shows that he violated the policy of the Local Board by physically hitting another student. Thus, the decision of the Local Board is supported by admissible evidence.

B. Level of Punishment.

The Student asserts that the discipline he received is excessive and detrimental to his academic success. Specifically, the Student asserts that his one year suspension requires him to return in the middle of the second semester of school, which is detrimental to his academic success. The Student contends the additional six weeks of discipline does not provide any greater disciplinary deterrence than he has already received and is outweighed by detrimental impact to his education by having to return to Grayson High School after the second semester has already started. In other words, the Student contends that he has learned his lesson and the additional six weeks only hurts his education.

The State Board finds the Student’s rationale compelling. This Board agrees that local boards should weigh the balance of sufficient discipline and the impact on education of students. Thus, the wisdom of ending discipline during a semester should be a factor in determining punishment. However, “The State Board of Education . . . cannot adjust the level or degree of discipline imposed by a local board of education.” B.K. v. Bartow County Bd. of Educ., Case No. 1998-33 (Ga. SBE, Sep. 1998). Thus, this Board cannot alter the length of the Student’s discipline.

III. CONCLUSION

Based upon the reasons set forth above, it is the opinion of the State Board of Education that the evidence supports the decision of the Local Board, and it is therefore **SUSTAINED**.

This _____ day of August, 2009.

WILLIAM BRADLEY BRYANT
VICE CHAIRMAN FOR APPEALS