

**STATE BOARD OF EDUCATION
STATE OF GEORGIA**

ADOLPHUS L.,	:	
	:	
Appellant,	:	
	:	CASE NO 1993-1
vs.	:	
	:	DECISION
MUSCOGEE COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

The parent of Adolphus L. ("Student") appeals a decision by the Muscogee County Board of Education ("Local Board") to permanently expel the Student, with the option of enrolling in an alternative school, because he struck and cursed an assistant principal and a security officer. The Student's parent claims that the punishment is too harsh and that the principal was responsible for the incident. Based upon the "any evidence" rule, the Local Board's decision is sustained.

On February 6, 1992, an assistant principal found the Student outside his classroom. Later, the assistant principal had the Student in his office. The assistant principal told the Student that the Student would have to serve an in-school suspension. The assistant principal testified that the Student became angry and began cursing. As the assistant principal stood in the doorway, the Student walked toward him and attempted to walk out the door as if the assistant principal was not there. The Student bumped into the assistant principal and then proceeded down the hall of the school building. Another teacher approached and the assistant principal asked for help in stopping the Student. The Student began cursing the teacher and then went out the door of the school and walked towards the parking lot. As the Student neared the parking lot, he met a security officer. The security officer ordered the Student to return to the assistant

principal, but the Student refused and cursed the security officer. A struggle ensued, during which the Student bit the security officer, and the security officer subdued the Student while the Student continued to curse and threaten the security officer.

A student disciplinary tribunal met and heard the evidence on February 20, 1992. During the hearing, the assistant principal and the security officer testified to the facts stated above. The Student claimed that he and the assistant principal were exiting the assistant principal's office, with the assistant principal in the lead, but as the assistant principal opened the door, it hit an obstruction and the Student walked into the assistant principal. The assistant principal then turned and struck the Student. The Student said he then became mad and told the assistant principal he was leaving to call his mother. The Student then claimed that when he went into the parking lot, the security officer came up behind him and threw him to the ground without saying anything.

At the conclusion of the hearing, the student disciplinary tribunal voted to permanently expel the Student, with the option of the Student going to an alternative school. The Student's parent filed an appeal with the Local Board on March 10, 1992. On October 10, 1992, the Local Board met, reviewed the record, and voted to uphold the decision of the student disciplinary tribunal. The Student's parent then appealed to the State Board of Education.

"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 this case,

there was evidence presented that the Student struck and cursed the assistant principal and the security officer. Although the Student presented a different story to the student disciplinary tribunal, it was the duty of the tribunal to decide which version of the evidence to accept. After the tribunal made its decision, the State Board of Education cannot make a different finding.

The control and management of the public schools constitutionally rests with the county board of education and such control and management will not be interfered with except where that control and management is contrary to law. *See, Colson v. Hutchinson*, 205 Ga. 559, 67 S.E.2d 764 (1951); *Boney v. County Board of Education of Telfair County*, 203 Ga. 152 (1947). There was no evidence that the Local Board abused its discretion or acted contrary to law.

Based upon the foregoing, the State Board of Education is of the opinion that there was evidence to support the decision of the Local Board and that the Local Board did not abuse its discretion. The Local Board's decision, therefore, is

SUSTAINED.

This 11th day of March, 1993.

Mr. Sears and Mr. Sessoms were not present.

Robert M. Brinson
Vice Chairman for Appeals