

STATE BOARD OF EDUCATION

STATE OF GEORGIA

D. K. A.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2003-39
	:	
TROUP COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by D. K. A. (Student) from a decision by the Troup County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to permanently expel him after finding him guilty of battery, hazing, and bullying as a result of his participation in attempting to push a plastic jump rope handle into the rectum of another student. The Student claims that the punishment was too harsh and the evidence did not support the decision. The Local Board's decision is sustained.

On October 21, 2002, the Student and another student, both senior wrestlers, called a meeting of the wrestling team, which was composed mostly of freshmen students. The Student and the other student selected a freshman student and wrestled him to the ground. While the Student held the freshman student in a headlock, the other student pulled the freshman student's pants down and attempted to insert the plastic handle of a jump rope into the freshman student's rectum. There had been rumors during the preceding weeks that an initiation of some of the freshmen wrestlers would occur. The freshman student testified that although he was not injured, he was frightened, humiliated, and embarrassed. The Student was charged with battery, hazing, and bullying.

A student disciplinary tribunal heard testimony on November 13, 2002. The Student admitted that he was involved in the incident, but that he was unaware that the other senior student was going to attempt to put the plastic handle of a jump rope into the freshman student's rectum, and, had he known, he would not have participated. The tribunal, apparently discounting his testimony, found him guilty on all charges after hearing the testimony of several other witnesses and the victim. The tribunal then permanently expelled him. The Local Board upheld the tribunal's decision when the Student appealed. This appeal then followed.

On appeal, the Student claims that he did not have any knowledge that the other senior student was going to attempt to push the handle of a jump rope into the victim's rectum and he should not, therefore, be punished so harshly. "The tribunal 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 State Board of Education, however, cannot adjust the level or degree of discipline imposed by a local board of education." *B. K. v. Bartow Cnty. Bd. of Educ.*, Case No. 1998-33 (Ga. SBE, Sep. 10, 1998). "A local board of education ... is charged with the responsibility of managing the operation of its schools, and, in matters of discipline, the State Board of Education cannot substitute its judgment for the judgment of the local board. *See, Boney v. County Board of Education for Telfair County*, 203 Ga. 152, 45 S.E.2d 442 (1947); *Braceley v. Burke County Bd. of Ed.*, Case No. 1978-7." *Joseph M. v. Jasper Cnty. Bd. of Educ.*, Case No. 1981-40 (Ga. SBE, Feb. 11, 1982). There was evidence that the Student held the freshman student on the ground while the other senior student attempted to push the jump rope handle into the freshman student's rectum. There was some evidence before the tribunal that could lead it to believe that the Student was aware of what was taking place. Regardless of whether he was aware of what the other student was doing, there was no question that the Student committed battery against the freshman student.

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. Accordingly, the Local Board's decision is
SUSTAINED.

This _____ day of June 2003.

Wanda T. Barrs
Chair, State Board of Education