

STATE BOARD OF EDUCATION

STATE OF GEORGIA

L. C.,	:	
	:	
Appellant,	:	CASE NO. 2011-04
	:	
vs.	:	
	:	
HENRY COUNTY	:	
BOARD OF EDUCATION,	:	DECISION
	:	
Appellee.	:	

This is an appeal by L. C. (Student) from a decision by the Henry County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel her from regular school until the end of the first semester of the 2010-2011 school year, with the option of attending alternative school during the period of expulsion, after finding her guilty of fighting on a bus and disobeying rules and directives of school administrators. Appellant claims that there was no evidence to support the charges, she was acting in self-defense, and the punishment is too harsh under the circumstances. The Local Board’s decision is SUSTAINED.

On May 13, 2010, the Student’s bus broke down. As the Student tried to exit the bus when a parent arrived, a male student stood in her path and would not move. The male student then struck her in the head, whereupon the Student began hitting the male student. The fight stopped briefly, and then the two began fighting again. The Student struck the male student several times in the head.

The Student’s father took her back to her school and reported the incident to an assistant principal. The assistant principal said he would investigate the matter the next day. When the Student arrived at school the next day, the assistant principal met her before school and told her to go to the in-school suspension room. The Student did not report to the in-school suspension room and the assistant principal found her in her first regular classroom. The Student refused to accompany the assistant principal to the in-school suspension classroom and an argument ensued. The Student finally accompanied the assistant principal to the in-school suspension room, but remained argumentative. The assistant principal then took her to an administrator’s office. The Student then left the office without permission and the assistant principal had to go looking for her. The assistant principal found the Student in an ROTC assembly in the stadium area. Again, the Student initially refused to accompany the assistant principal, but she finally went with him to the central office area where she remained for the rest of the day without incident.

As a result of these incidents, the assistant principal charged the Student with fighting, committing a misdemeanor, causing a disruption of school operations, insubordination, physically abusing others, being in an unauthorized area, and violating school bus policies. A student disciplinary tribunal hearing was held on May 19, 2010.¹ At the conclusion of the testimony, the tribunal found the Student guilty of all the charges and expelled her from regular school until the end of the first semester of the 2010-2011 school year, with the option of attending an alternative school.

The Local Board upheld the tribunal's decision when the Student appealed and the Student then filed an appeal to the State Board of Education.

On appeal to the State Board of Education, the Student claims that she was acting in self-defense during the fight on the bus. She claims that she was on medication and upset by her treatment at the school since she was not the aggressor and was being punished for no reason and before the investigation was started. She also claims that the punishment was too harsh for the circumstances. Finally, she claims that there was no evidence to support the tribunal's decision.

"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). There was testimony from the bus driver, the Student herself, and the male student, that the Student struck the other student several times and that her striking went beyond self-defense to being aggressive actions. There was, therefore, sufficient evidence for the tribunal to find that the Student engaged in a fight on the bus, which, alone, was sufficient to support her expulsion.

There was also evidence from the assistant principal regarding the Student's refusal to leave a classroom, her showing of disrespect to the assistant principal, her leaving a place of detention and going to another classroom on two occasions. All of this was direct evidence that supported the remaining charges against the Student. The Student's claim that there was no evidence, or that the evidence was all hearsay, is without any support in the record.

The Student also claims that the punishment was too harsh under the circumstances. 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). The punishment imposed in this instance, i.e., expulsion for one semester, was within the authority of the Local Board. The

¹ The Student receives services under the Individuals with Disabilities Education Act, 20 U.S.C. Secs. 1400 *et seq.* An individualized educational plan committee determined that the Student's actions were not a manifestation of her disability.

Student's claim of harshness, therefore, is insufficient to provide for reversal of the Local Board's decision.

Based upon the foregoing and a review of the record, it is the opinion of the State Board of Education that there was evidence to support the Local Board's decision and the decision was not arbitrary or capricious. Accordingly, the Local Board's decision is SUSTAINED.

This _____ day of October 2010.

MARY SUE MURRAY
VICE CHAIR FOR APPEALS