

**STATE BOARD OF EDUCATION
STATE OF GEORGIA**

E.B.,	:	
	:	
Appellant,	:	
	:	
v.	:	CASE NO. 2011-05
	:	
GORDON COUNTY BOARD OF EDUCATION,	:	DECISION
	:	
	:	
Appellee.	:	

This is an appeal by E.B. from a decision by the Gordon County Board of Education (“Local Board”) to suspend the Student from school for the remainder of the 2009-2010 school year and assign him to the Local Board’s alternative school for the first semester of the 2010-2011 school year. Specifically, the Local Board found that E.B. violated the Local Board’s rules by physically assaulting another student. For the reasons set forth below, the decision of the Local Board is **SUSTAINED**.

I. FACTUAL BACKGROUND

On May 18, 2010, the Student struck another student while in class, causing the other student’s lip to bleed. At the hearing, the Student admitted to physically assaulting the other student. The Student provided testimony at the hearing that he had been bullied and threatened during the school year by the other student. Prior to May 18, 2010, the Student did not report the threats or bullying to the Local Board.

II. ERRORS 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. 12, 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. 8, 1976).

In this case, the Student admitted¹ to the charges against him but asserts that he was being bullied and threatened by the other student during the school year. This Board has recognized self-defense where evidence supported self-defense. T.P. v. Henry Cnty. Bd. of Educ., Case No. 2005-25 (Ga. SBE, April 2005). However, the record is unclear as to whether the Student's actions were in direct response to being assaulted by the other student, or in response to the alleged bullying. Furthermore, the hearing tribunal heard the Student's evidence and determined that the Student had violated the policy. Thus, the decision of the Local Board is supported by the evidence.

B. Level of Punishment.

The Student contends that the discipline he received is excessive. Specifically, the Student contends that the Local Board's policy does not allow for a suspension beyond the current semester. In this case, the Student was suspended only through the end of the 2009-2010 school year and assigned to the alternative school for the first semester of the 2010-2011 school year. Thus, the Student was not suspended for more than the current semester. Moreover, the Student has failed to show that the Local Board does not have the authority to suspend the Student and thereafter assign him to the alternative school for one semester. Finally "[t]he 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 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 October 2010.

MARY SUE MURRAY
VICE CHAIR FOR APPEALS

¹ The Student contends that the Local Board is without the authority to accept a guilty plea. The Local Board provided the Student a hearing at which he admitted to violating the charges. The admission was for purposes of his disciplinary hearing. The Student could have denied the allegations but chose not to do so. Thus, this assertion is without merit.