

**STATE BOARD OF EDUCATION  
STATE OF GEORGIA**

<b>T.B.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>v.</b>	:	<b>CASE NO. 2011-06</b>
	:	
<b>COFFEE COUNTY BOARD OF EDUCATION,</b>	:	<b>DECISION</b>
	:	
	:	
<b>Appellee.</b>	:	

This is an appeal by T.B. from a decision by the Coffee County Board of Education (“Local Board”) to permanently expel T.B. from school. Specifically, the Local Board found that T.B. violated the Local Board’s rules by fighting. The Local Board further permanently expelled the Student because the last incident was his third violation of the fighting policy. For the reasons set forth below, the decision of the Local Board is **REVERSED**.

**I. FACTUAL BACKGROUND**

On April 29, 2009, T.B. was standing in the hallway talking to other students. Another student approached T.B. and began physically attacking him. T.B. attempted to run away from the student through the school hallways, but the student continued to pursue him. The record testimony shows that T.B. stated to the other student for her to go away, but she kept pursuing him. T.B. ultimately struck the student, knocking her unconscious. The Local Board relied primarily on the videotape in support of its decision.

**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).

On appeal, the Student contends that he was approached and struck by another student, which caused the fight. The Local Board contends that the Student admitted to fighting and, therefore, the decision must be affirmed. However, the Student asserts that he only engaged in

fighting in response to being approached and struck by another student. Thus, while the Student does not use the phrase self-defense, it is clear that his contention is one of self-defense. This Board has recognized self-defense where evidence was offered to support self-defense. T.P. v. Henry Cnty. Bd. of Educ., Case No. 2005-25 (Ga. SBE, April 2005).

In this case, while T.B. admits that he engaged in fighting, the videotape clearly shows that he was standing in the hallway talking to other students when the other student approached him and began attacking him. T.B. attempted to run away from the other student, but she continued to pursue him, until he finally swung back, which knocked her unconscious. Based upon a review of the videotape, the decision of the Local Board is not supported by the evidence. The videotape shows that T.B. attempted to refrain from fighting, but the other student continued to pursue him. The record evidence further shows that T.B. told her to go away and ran from her, but she continued to pursue him. Thus, this Board finds that the decision of the Local Board is not supported by the evidence.

**B. Level of Punishment.**

The Student further contends that the discipline he received is excessive. For the reasons set forth above, this issue is moot.

**III. CONCLUSION**

Based upon the reasons set forth above, it is the opinion of the State Board of Education that the evidence does not support the decision of the Local Board, and it is, therefore, **REVERSED.**

This \_\_\_\_\_ day of October 2010.

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MARY SUE MURRAY  
VICE CHAIR FOR APPEALS