

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>A. S.,</b>	:	
	:	
<b>Appellant,</b>	:	<b>CASE NO. 2011-36</b>
	:	
<b>vs.</b>	:	
	:	
<b>BIBB COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	<b>DECISION</b>
	:	
<b>Appellee.</b>	:	

This is an appeal by A. S. (Student) from a decision by the Bibb County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him from regular school until the end of the 2010-2011 school year after finding him guilty of repeated violations of the Student Code of conduct, chronic misbehavior, creating a disturbance that involved misconduct, fighting and bullying, and battery. Appellant claims that there was no evidence that his conduct caused a school disruption, his conduct did not constitute bullying under the terms of the bullying statute, expulsion was not a permissible penalty, and he was denied his rights under the Individuals with Disabilities Education Act, 20 U.S.C. Secs. 1400 *et seq.* ("IDEA"). The Local Board's decision is **SUSTAINED**.

While walking home from school on the afternoon of August 23, 2010, with another male student and a female student, the Student began hitting the female student with his belt. His belt broke and he obtained a belt from the other male student and continued to hit the female student with the belt. The incident was reported to school officials on the next day.

The Student was charged with repeated violations/chronic misbehavior,<sup>1</sup> off-campus misconduct, physical violence, fighting/bullying, and battery. At a student disciplinary hearing, the Student pled guilty to the repeated violations/chronic misbehavior charge and the fighting/bullying charge. The student disciplinary hearing officer found the Student guilty of all the charges except the charges of physical violence and battery. The hearing officer expelled the Student for the remainder of the 2010-2011 school year. When the Student appealed to the Local Board, the Local Board upheld the hearing officer's decision. The Student then appealed to the State Board of Education.

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<sup>1</sup> During the previous school year, the Student was involved in 17 disciplinary incidents.

"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). "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). In the instant case, the Student admitted to chronic misbehavior and bullying. Based upon the extensive disciplinary record of the Student, and his admissions, there was ample evidence to support the disciplinary hearing officer's decision and the decision of the Local Board.

The Student claims that his guilty pleas were made out of ignorance of what he was pleading. Even if the guilty pleas had not been entered, there was evidence of a several-page listing of disciplinary infractions by the Student and that the Student struck the female student repeatedly with a belt, all of which would support the hearing officer's findings of guilt.

The Student also argues that he should have been in a special education program and thus should not have been expelled from school. The State Board of Education is not the proper forum to consider questions arising under the provisions of the Individuals with Disabilities Education Act, 20 U.S.C. Secs. 1400 *et seq.* *See, E. A. C. v. Coweta Cnty. Bd. of Educ.*, Case No. 1999-62 (Ga. SBE, Feb. 23, 2000). There was nothing in the record to show that the Student was enrolled in a special education program. The Student's contention, therefore, is meritless.

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

This \_\_\_\_\_ day of March 2011.

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MARY SUE MURRAY  
VICE CHAIR FOR APPEALS