

**STATE BOARD OF EDUCATION
STATE OF GEORGIA**

R.B.,	:	
	:	
Appellant,	:	
	:	CASE NO.: 2019-36
v.	:	
	:	DECISION
LIBERTY COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by R.B. ("Student") from the decision of the Liberty County Board of Education ("Local Board") to expel her for the remainder of the 2018-2019 school year through the end of the first semester of the 2019-2020 school year for fighting. For the following reasons, this case is **REMANDED WITH INSTRUCTIONS**.

I. FACTUAL BACKGROUND

The Student is a ninth grader at Liberty County High School. On March 11, 2019, the Student was in the common area of the school. She was listening to music when she saw five girls hitting her friend, "G." The Student tried to help her. In an attempt to break up the melee, school personnel held the Student's hands. Meanwhile, one of the other female students continued to hit the Student in her face. The Student tried to defend herself from being punched in the face.

II. PROCEDURAL HISTORY

The Student was charged with fighting. She was suspended from school for 10 days pending the outcome of a school disciplinary hearing.

The disciplinary hearing took place on March 18, 2019 before a school disciplinary hearing officer. The Student admitted that she was guilty of fighting; however, she contended that she acted in self-defense and the defense of her friend.

After a brief proceeding, the hearing officer found the Student guilty of fighting. The record does not indicate whether he considered the Student's claims of self-defense and the defense of others. The hearing officer expelled the Student for the remainder of the 2018-2019 school year through the end of the first semester of the 2019-2020 school year, with the option to enroll in alternative school.

The Student appealed the decision of the disciplinary hearing officer to the Local Board. The Local Board upheld the disciplinary hearing officer's decision without addressing the Student's claims of self-defense and the defense of others.

The Student has appealed to the State Board of Education (“State Board”).

III. ISSUES ON APPEAL

1. Was the Student guilty of fighting?
2. Should the Student be expelled from school until January of 2020?

IV. DECISION

A. Standard of Review

In reviewing this appeal, the State Board must apply the “any evidence rule.” Thus, if there is any evidence to support the Local Board’s decision, this Board must affirm it. *See Ransum v. Chattooga Cnty. Bd. of Educ.*, 144 Ga. App. 783, 242 S.E.2d 374 (1978). *See also, Chattooga Cnty. Bd. of Educ. v. Searels*, 302 Ga. App. 731, 691 S.E.2d 629 (2010). This Board will not substitute its judgment for that of the Local Board unless there is clear evidence that the Local Board’s actions were arbitrary and capricious. *Henry Cnty. Bd. of Educ. v. S.G.*, 301 Ga. 794, 804 S.E.2d 427 (2017); *King v. Worth Cnty. Bd. of Educ.*, 324 Ga. App. 208, 749 S.E.2d 791 (2013).

B. The Local Board’s Decision

At the disciplinary hearing, the Student was charged with fighting. To the extent that there was a specific rule or provision in the student code of conduct upon which the school based its charge against the Student, it was not introduced into evidence and is not part of the record. While the Student admitted that she was fighting, she also claimed that she was acting in self-defense and in the defense of her friend.

The fact that the Student engaged in a fight does not constitute a code of conduct violation if her actions were justified as self-defense. *Henry Cnty. Bd. of Educ. v. S.G.*, 301 Ga. 794, 804 S.E.2d 427 (2017). In the instant case, the hearing officer found the Student guilty of fighting. In issuing his decision, the hearing officer did not address the Student’s claim that she acted in self-defense and in the defense of others. Likewise, the record does not reflect whether the Local Board properly considered the self-defense claims. Consequently, the State Board remands this case to the Local Board to reconsider the Student’s claims of self-defense and the defense of others consistent with the proper legal standard as set forth in *Henry Cnty. Bd. of Educ. v. S.G.*, 301 Ga. 794, 804 S.E.2d 427 (2017).

C. Request for Oral Argument

The Student made an untimely request for oral argument. As a result, her request for oral argument is denied.

V. CONCLUSION

For the foregoing reasons, the State Board of Education **REMANDS** this case to the Local Board with instructions.

This 18th day of July, 2019.



LISA KINNEMORE
VICE CHAIR FOR APPEALS