

**STATE BOARD OF EDUCATION
STATE OF GEORGIA**

G.W.,	:	
	:	
Appellant,	:	
	:	CASE NO.: 2019-37
v.	:	
	:	DECISION
LIBERTY COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by G.W. ("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 tenth grader at Liberty County High School ("LCHS"). On the Friday evening prior to the incident in question, the Student and some of her female LCHS friends were involved in a dispute with another group of female students from LCHS. One of the girls from the other group, "A,"¹ sent a message on Snapchat to the Student and her friends with an address for them to meet and fight. Some of the girls' adult relatives became aware of the conflict and diffused the situation before any meeting or fight took place. The students agreed over Snapchat that the dispute was over.

At LCHS on the following Monday, March 11, 2019, "A" made a comment to the Student. During the transition between classes, the Student walked up to "A" and asked her why she made the comment if the dispute had been resolved. "A" handed her belongings to another student. As the Student turned away, "A" hit her on her left ear. In response, the Student hit "A," and a fight ensued. Prior to hitting "A," the Student did not seek out the school resource officer ("SRO") or an administrator for assistance.

Once the fight between the Student and "A" began, other students also began fighting. School administrators and the SRO attempted to break up the melee. The Student was on top of a pile of other students. Ms. Reed, the school registrar, grabbed the Student by the leg, but the Student pulled away. At the time, however, the Student did not know who had grabbed her by the leg. She stopped fighting when she realized that it was a school administrator. The school administrators and SRO finally dispersed the group of students.

¹ At the disciplinary hearing, "A" was identified only by her first name. Thus, for purposes of this decision, she will be referred to by her first initial.

II. PROCEDURAL HISTORY

The Student was charged with fighting. According to the school's charge letter, fighting is a "violation of either board policy, disciplinary rules, or the code of conduct." The Student was suspended from school for 10 days pending the outcome of a school disciplinary hearing.

The disciplinary hearing took place on March 21, 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.

The hearing officer found the Student guilty of fighting. The record does not indicate whether he considered the Student's self-defense claim. 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 claim of self-defense.

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

III. ISSUES ON APPEAL

Was the Student guilty of fighting, and therefore should she be expelled until January 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, disciplinary rules, or board policy upon which the school based its charge against the Student, the substance of the rule was not introduced into evidence and is not part of the record. Moreover, while the Student admitted that she was fighting, she also claimed that she was acting in self-defense.

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). Moreover, she was not required to retreat if she reasonably believed that she was in imminent risk of harm. *Id.* 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. Likewise, the record does not reflect whether the Local Board considered the Student's self-defense claim.

The State Board finds that the Local Board did not apply the proper law to the evidence as to the Student's self-defense claim and reach its own findings. Consequently, the State Board remands this case to the Local Board with instructions to make further findings and conclusions after applying the appropriate law to the evidence in accordance with *Henry Cnty. Bd. of Educ. v. S.G.*, 301 Ga. 794, 804 S.E.2d 427 (2017).

V. CONCLUSION

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

This 22nd day of August, 2019.



LISA KINNEMORE
VICE CHAIR FOR APPEALS