

IN THE MATTER OF

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BEFORE THE
BOARD OF EDUCATION OF
CARROLL COUNTY

DECISION OF THE BOARD OF EDUCATION OF CARROLL COUNTY

This is an appeal before the Board of Education of Carroll County (the "Board") pursuant to Section 7-305(c) of the Education Article to the Annotated Code of Maryland concerning an extended suspension for the remainder of the 2007-2008 school year for a physical attack on a fellow student in the cafeteria at _____ High School on _____, 2008. The Appellants, _____ and their son _____ (respectively _____ and _____) appeal from the May 9, 2008 decision of Richard J. Simmons who, serving as the Superintendent's designee in this matter, upheld the earlier suspension decision by _____, Principal of _____ High School (_____), who suspended _____ for ten days and requested an extended suspension for the remainder of the school year.

On June 30, 2008, the Board conducted a full evidentiary hearing at which time it reviewed all of the written material submitted by the _____ and by Mr. Simmons, reviewed a series of still photos from the surveillance camera posted in the _____ cafeteria, and heard testimony from _____ Mr. Simmons, _____, and _____. Having fully considered all of the testimony and evidence presented to this Board, we shall affirm Mr. Simmons' decision upholding the suspension and extending the suspension for the remainder of the 2007-2008 school year.

the student that he would not fight him at his friend's home and that the other student then suggested that they go to the park, but [redacted] again declined. According to [redacted], this other student then said that they would fight at school and then left. [redacted] finally mentioned this incident to his mother on Sunday evening.

On Monday, [redacted], 2008, many students apparently knew that a fight was likely to occur. Nonetheless, the other student did not show up for classes in the morning, and testified that he was relieved to see that the student was not in class. Unfortunately, [redacted] never alerted school officials about his concerns regarding the other student. Nonetheless, the other student did arrive at school mid-day while [redacted] was eating lunch. According to [redacted] the other student approached, yelled for [redacted] to "Get Up". As [redacted] was getting up from the lunch table, he grabbed a plastic lunch tray and tried to use it as a shield but, in doing so, swung the tray, hit the other student, and the tray broke into three pieces. It is unclear from testimony whether the tray broke upon the other student's fist or head, but [redacted] did admit that he did land the first blow with the tray. A fight then ensued, and both students exchanged punches before falling to the floor.

The still photos from the video surveillance camera clearly shows [redacted] getting out of his seat in the cafeteria and turning to face the other student and then the boys fully engaged in a fight while [redacted] was trying to break it up. According to [redacted], it was the worst fight that he had ever seen as a teacher or school administrator. [redacted] testified that although the other student was clearly the initial aggressor, both students were fully engaged even while he was trying to separate the boys. Eventually, the boys were separated, and [redacted] was lead off to behind the kitchen door while the other student was lead off in another direction. According to [redacted] [redacted] became placid and was compliant after being lead off, but the other student

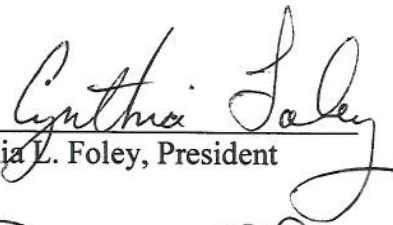
COMAR 13A.08.01.11C(1) provides that “[i]n those instances when the behavior of a student is disruptive and detrimental to the operation of the school, the student may be suspended or expelled.” The conduct displayed by both students in this matter was, *at a minimum*, “disruptive and detrimental to the operation of the school.” Although it is clear from testimony that the other student was the aggressor, it is equally clear that [redacted] did not take steps that he could have taken to extricate himself from this situation. The evidence is clear that [redacted] knew that the other student was seeking a fight, but [redacted] never informed school staff. When the other student entered the cafeteria on Monday, [redacted] 2008 and yelled for [redacted] to “Get Up,” [redacted] rose to the occasion and immediately grabbed a plastic lunch tray which he arguably used to throw the first blow. Although [redacted] and others tried to break up the fight, [redacted] and the other student both continued to throw punches. Not only did the two students inflict pain upon each other, they caused injury to four employees of this Board.

The bottom line in this case is that fighting in school can never be tolerated. Although a student who is cornered and attacked may engage in such self defense as is necessary to extricate himself from the situation, a student may not continue to fight when there are other options available. Here, [redacted] could have sought the help of school administrators, he could have stayed in his seat and refused to fight, he could have tried to escape, and, most importantly, he could have stopped when [redacted] intervened. Instead, despite the fact that [redacted] used good judgment and avoided the fight over the weekend, he failed to use the same good judgment when he fought with the other student in the cafeteria on Monday, [redacted], 2008.

In this case, Mr. Simmons conducted a full and fair investigation into the matter and found that [redacted]’s decision to suspend [redacted] for ten days and recommend an extended suspension was neither arbitrary, unreasonable, nor illegal. We agree with Mr. Simmons’

DISSENT

We respectfully dissent from the decision rendered by the Board majority in this matter. Although we would uphold the ten-day suspension imposed by [redacted]; we would reverse the extended suspension imposed by Mr. Simmons. In our opinion, the other student was clearly the aggressor, and it was unreasonable to impose the same level of discipline upon both students. Moreover, despite the fact that [redacted] was fully engaged in the fight, we believe that [redacted] participation was primarily defensive in nature.


Cynthia L. Foley, President


Barbara Shreeve, Vice President