

The Student claims he was denied due process because the Local Superintendent prejudged the case and the Student Disciplinary Tribunal members were aware that the Local Superintendent wanted the Student expelled. As a result, the Tribunal members were biased to permanently expel him.

At the beginning of the hearing, the Tribunal members were questioned about their knowledge of the Local Superintendent's remarks and whether they could make an independent decision. The Tribunal members testified they were aware of the newspaper article but they did not feel any pressure to decide the case in any way and would be guided by the evidence. The Student did not present any evidence of actual bias.

The Student argues that even the appearance of bias is sufficient to require recusal, and such an appearance exists because of the Local Superintendent's statements and knowledge of the remarks by the Tribunal members since they would not do anything to offend their superior. While we find it regrettable that the Local Superintendent made public remarks before the hearing, we do not find, in this instance, that the remarks resulted in any bias on the part of the Tribunal. If, however, there was even the slightest evidence that any of the Tribunal members felt any apprehension whatsoever, then we would have to conclude that the hearing was biased. Such evidence does not exist in the instant case.

Appellant's remaining arguments were made in *Madison L. v. Burke Cnty. Bd. of Educ.*, Case No. 1995-50 (Ga. SBE, Mar. 14, 1996), where we upheld the Local Board's decision. *Madison L.* is controlling and we find no merit to Appellant's remaining arguments.

Based upon the foregoing, it is the opinion of the State Board of Education that the Student was not denied due process and the Local Board's decision was within its authority. Accordingly, the Local Board's decision is SUSTATH4ED.

This 9th day of May, 1996.

Ms. Barbara King, Mr. Dick Owens, Ms. Julie Keeton, Mr. Walt Sessoms and Mr. Ed Floyd were not present.

Robert J. Brinson
Vice Chairman for Appeals