

STATE BOARD OF EDUCATION

STATE OF GEORGIA

C. A.,	:	
	:	
Appellant,	:	
	:	CASE NO. 1997-9
vs.	:	
	:	DECISION
DEKALB COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by C. A. (Student) from a decision by the DeKalb County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him through the fall quarter of the 1997-1998 school year after finding him guilty of possessing a gun on campus. The Student claims on appeal that the decision was based upon inadmissible hearsay evidence and that he was denied substantive due process. The decision of the Local Board is sustained.

On October 16, 1996, a student at Southwest DeKalb High School told the administration that the Student had a gun at school. The Student, who was fifteen years old and in the ninth grade, denied that he had a weapon at school. Shortly thereafter, the Student's book bag was discovered. A .25-caliber semi-automatic pistol was found inside the bag. The Student was charged with possessing a weapon on campus and a student disciplinary tribunal hearing was held on November 12, 1996. Following the hearing, the tribunal found the Student guilty of possessing the gun and expelled him through the fall quarter of the 1997-1998 school year. Upon appeal, the Local Board sustained the tribunal's decision. The Student then filed a timely appeal with the State Board of Education.

On appeal, the Student claims that the tribunal's decision was erroneous because it was based upon hearsay evidence that was improperly admitted, and because he was denied substantive due process. The Student claims he was denied substantive due process because improper remarks were made by the administration at the beginning of the hearing, because the hearing was limited in time, and because he was limited in his cross examination of the witnesses.

The Student first claims that error was committed at the tribunal hearing because testimony was given about statements made by three students who were not in attendance at the hearing and were unavailable for cross examination. The Student, however, did not object to the testimony about what the students said when the testimony was given. The Student, therefore, cannot object to the testimony on appeal.

The Student also claims that error was committed because statements were read into the record without any identification of who made the statements and when the statements were made. Again, the Student did not raise any objections to the statements when they were read, and the objections cannot now be raised on appeal.

The Student claims he was denied due process because one of the investigating administrators was not present at the tribunal hearing. There is no requirement for a school system to have any particular witnesses in attendance to present a case. The Student was notified that he had the right to subpoena witnesses, but there is nothing in the record to show that he issued a subpoena that was not honored. It does not appear from the record that the administrator would have added any additional information, and the Student has not made any offer of proof to show that the administrator's testimony was critical to his defense. The State Board of Education, therefore, concludes that the Student was not denied due process because the administrator was absent.

The Student claims he was denied substantive due process because the administrator who presented the school system's case made prejudicial statements at the beginning of the hearing. Although the administrator's remarks were clearly improper, the Student did not object to the statements when they were made. Instead, he made reference to the statements as a part of his closing argument, or after his closing argument was made. The Student, therefore, is deemed to have waived any objections about the statements.

The Student claims that there was no evidence available to support the tribunal's decision. The campus supervisor and the arresting police officer both testified that the Student admitted that he brought the gun to school because he was having trouble with some students who had taken some money from him. The police officer testified that the Student said the gun was his mother's. Testimony concerning the details of an admission is admissible. O.C.G.A. § 24-3-34. "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 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (Ga. SBE, Sep. 8, 1976)" Roderick J. v. Hart County Bd. of Educ., Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). The State Board of Education concludes that there was evidence available to the tribunal that would permit it to find that the Student brought a gun to the school.

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

SUSTAINED.

This 8th day of May, 1997.

Mr. Larry Thompson was not present.

Mr. Johnny Isakson
Chairman

