

STATE BOARD OF EDUCATION
STATE OF GEORGIA

T. B.,	:	
	:	
Appellant,	:	
	:	CASE NO. 1997-10
vs.	:	
	:	DECISION
DEKALB COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by T. B. (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 first semester of the 1997-1998 school year after finding that he brought a gun to school. The Student claims that the evidence did not support the charges. The Local Board's decision is sustained.

The Student is 17 years old and was in the twelfth grade. On October 28, 1996, a counselor was told that the Student had brought a gun to school and placed it in the locker of another student. The counselor investigated and found the gun in the other student's locker. The Student was arrested by the DeKalb County police and removed from the school.

The Student was charged with possession of a weapon, creating a disturbance, and giving false information. A student disciplinary tribunal held a hearing on November 22, 1996.

During the hearing, a female student testified that the Student placed a bag in her locker, with her permission, at the end of the first period. After the third period, she moved the bag and thought there was a gun in it. She went to a counselor and told him what she thought. Another student testified that he saw the Student with a clip from a gun in his hand.

The tribunal found the student guilty of the charges and expelled him through the fall semester of the 1997-1998 school year. The Local Board upheld the decision when the Student appealed. The Student then filed a timely appeal to the State Board of Education.

The Student claims that there was no evidence that he brought the gun to school and that the testimony of the female student was inherently unreliable. The tribunal, however, sits as the trier of fact and the State Board of Education cannot go behind the findings of the tribunal. The tribunal has the opportunity to observe the witnesses to determine their credibility, and they chose to believe the two student witnesses who testified that the Student placed the bag in the

locker and that he had the clip of a gun in his hand. "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, 242 S.E.2d 374 (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). In this case, the State Board of Education concludes that there was some evidence to support the findings of the tribunal and the Local Board's decision.

Based upon the foregoing, it is the opinion of the State Board of Education that there was evidence to support the Local Board's decision. The Local Board's decision, therefore, is SUSTAINED.

This 8th day of May, 1997.

Mr. Larry Thompson was not present.

Mr. Johnny Isakson
Chairman