

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>A. C.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	<b>CASE NO. 1999-4</b>
<b>vs.</b>	:	
	:	<b>DECISION</b>
<b>DOUGLAS COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	

This is an appeal by A. C. (Student) from a decision by the Douglas County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him for the remainder of the 1997-1998 school year after the tribunal found the Student guilty of having a B.B. gun in his book bag. The Student claims that the evidence does not support the tribunal’s decision. The appeal is dismissed because it was not timely filed.

On October 30, 1997, the coaches at Douglas County High School conducted a search of the lockers of the freshman football team. They were looking for a stolen pager. When they opened the Student’s locker, they found a B.B. gun in his book bag. The Student was charged with violating the Local Board’s policy that prohibits the possession of objects that can be considered or used as a weapon, including pellet guns.

The Local Board issued its decision on December 15, 1997. The Student filed his appeal with the Local Superintendent on January 22, 1998. O.C.G.A. § 20-2-1160 requires an appeal to be filed with the Local Superintendent within 30 days after a local board of education makes its decision. In the absence of a timely filing, the State Board of Education lacks jurisdiction to consider the appeal and it must be dismissed.

Even a timely filing, however, would not change the outcome. The Student’s only challenge to the Local Board’s decision is that the evidence showed that other students had access to his locker and that he did not have any knowledge of the B.B. gun. The Student’s challenge goes to the credibility of the witnesses, which had to be determined by the student discipline tribunal. “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 Cnty. Bd. of Educ.*, Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). If there are questions about the credibility of witnesses and the weight to be given their testimony, those questions must be decided by the tribunal. *See, e.g., Smith v. State*, 263 Ga. 224, 430 S.E.2d 579 (1993).

Based upon the foregoing, it is the opinion of the State Board of Education that the Student did not file a timely appeal. Accordingly, the appeal is DISMISSED.

This 14<sup>th</sup> day of May 1998.

Larry Thompson  
Vice Chairman for Appeals