

STATE BOARD OF EDUCATION

STATE OF GEORGIA

D.C.,	:	
	:	
	:	
Appellant	:	
	:	
	:	CASE NO. 1998-19
	:	
vs.	:	
	:	
FULTON COUNTY	:	
BOARD OF EDUCATION	:	
	:	
Appellee	:	DECISION

This is an appeal by D. C. (Student) from a decision by the Fulton County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal that found him guilty of cursing on a bus and improperly touching a female aide who was on the bus. The student disciplinary tribunal did not impose any punishment upon the student, but, instead, referred the matter to the Student’s individualized education program team because the Student is enrolled in the special education program. The Student claims that the evidence did not support the charges. The Local Board’s decision is sustained.

The Student’s only claim on appeal is that there was no evidence that he intentionally touched the female aide. Instead, the Student claims that he was merely attempting to retrieve a pencil from another student and accidentally touched the female aide. The female aide, however, testified that the Student reached over the back of her seat and touched her and she thought the touching was purposefully done because the other student was in the seat beside her and there was no reason to touch her if the Student was attempting to retrieve a pencil from the other student.

“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. 199 1-14 (Ga. SBE, Aug. 8, 1991). In the instant case, there was some evidence from which the tribunal could determine that the Student’s touching was intentional. In addition, there was undisputed evidence that the Student cursed on the bus.

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 10th day of September 1998.

Ms. Willou Smith & Mr. Phil Wilheit were not present.
The seat for the 2nd Congressional District is vacant.

Larry Thompson
Vice Chairman for Appeals