

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>M. H.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2000-36</b>
	:	
<b>HARRIS COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>

This is an appeal by M. H. (Student) from a decision by the Harris County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel her from regular school and assign her to an alternative school until the end of the first semester of the 2000-2001 school year after finding her guilty of verbal assault, simple assault, and bullying. The Student claims that the evidence did not support the charges. The Local Board's decision is sustained.

The evidence showed that the Student, an 11-year old sixth grader, struck a student with a pencil in the back of the neck, choked another student, called other students derogatory names, and pushed other students. These incidents occurred on different dates during March 2000. A student disciplinary tribunal expelled the Student until the end of the first semester of the 2000-2001 school year and the Local Board sustained the decision on appeal. The Student then filed an appeal with the State Board of Education.

The Student claims that the testimony of some of the student witnesses was incredible and cannot serve as the basis for any findings. It is, however, the duty of the tribunal, as the fact finder, to observe the witnesses and determine whether their testimony can be believed. If there is any evidence to support the decision of a local board, then the State Board of Education is bound to support that decision if it is not arbitrary or capricious. *See, Ransum v. Chattooga County Bd. of Educ.*, 144 Ga. App. 783, 242 S.E.2d 374 (1978). Thus, while parts of the testimony given might be unbelievable, the testimony was consistent among the witnesses that the Student stabbed another student with a pencil and choked another student. Additionally, the testimony concerning the Student's oral abuse and pushing of other students was plausible.

Based upon the foregoing, it is the opinion of the State Board of Education that there was some evidence in the record to support the decision of the Local Board. Accordingly, the Local Board's decision to expel the Student until the end of the first semester of the 2000-2001 school year is  
SUSTAINED.

This \_\_\_\_\_ day of September 2000.

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Bruce Jackson  
Vice Chairman for Appeals