

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

**C. M.,**

**Appellant,**

**vs.**

**MUSCOGEE COUNTY  
BOARD OF EDUCATION,**

**Appellee.**

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**CASE NO. 2002-22**

**DECISION**

This is an appeal by C. M. (Student) from a decision by the Muscogee County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to assign him to an alternative school until the end of the first semester of the 2001-2002 school year after finding him guilty of sexual harassment and misconduct. The Student claims that the evidence did not support the charges, some evidence was not considered, and members of the administration were biased. The Local Board's decision is reversed.

The Student, a seventh grader, allegedly tried to touch a female student's breast and called another female student a "bitch." At the hearing before a student disciplinary tribunal, the only witnesses to testify were the principal and the assistant principal, who related the results of their investigation and presented written statements by alleged victims. The Student denied touching anyone or calling anyone a name. Thus, the only evidence presented against the Student was hearsay evidence.

"In this state even in the absence of objection, hearsay is without probative value to establish any fact.' (Citations and punctuation omitted.) *Williams v. Piggly Wiggly Southern*, 209 Ga. App. 490 (433 S.E.2d 676) (1993). We have held this to be the rule even in administrative hearings. *Finch v. Caldwell*, 155 Ga. App. 813, 815 (273 S.E.2d 216) (1980)." *McGahee v. Yamaha Motor Mfg. Corp.*, 214 Ga. App. 473, 474, 448 S.E.2d 249 (1994). Since the only evidence in this case was hearsay evidence, the decision cannot stand.

Based upon the foregoing, it is the opinion of the State Board of Education that no evidence exists to support the Local Board's decision. The Local Board's decision, therefore, is REVERSED.

This \_\_\_\_\_ day of March 2002.

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Bruce Jackson  
Vice Chairman for Appeals