

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>S. E.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2003-30</b>
	:	
<b>GWINNETT COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	<b>DECISION</b>
<b>Appellee.</b>	:	

This is an appeal by S. E. (Student) from a decision by the Gwinnett County Board of Education (Local Board) to expel him from November 6, 2002 through April 14, 2003 after a student disciplinary tribunal found him guilty of hacking into the school computer system and stealing tests that he sold to other students. The Student claims that he was denied due process and equal protection, and that the tribunal failed to consider his medical condition. The Local Board’s decision is sustained.

On October 23, 2002, school administrators at the Student’s high school learned that someone had made an unauthorized access to the school computer. Upon checking, the computer specialists were able to determine that the Student was the one who had accessed the computer. They were also able to determine that he had obtained copies of tests. The Student was called in by an assistant principal and he confessed upon being presented with the evidence. The Student was charged with misuse of school property, computer trespass, stealing school property, selling stolen school property, transmitting stolen school property, altering or misusing technology, urging or encouraging other students to violate any rules of conduct, and disruption of the school computer system. A tribunal hearing was held on November 6, 2002, where the Student again admitted that he had accessed the school’s computer, stole some tests, and sold the tests to other students. The Student admitted his guilt to all of the charges except computer trespass and urging or encouraging other students to violate any rules of conduct. The tribunal found the Student guilty of all of the charges and expelled him from regular school from November 6, 2002 through April 14, 2003 with the option of attending an alternative school during the expulsion period. The Local Board upheld the tribunal’s decision when the Student appealed and the Student then filed an appeal with the State Board of Education.

On appeal to the State Board of Education, the Student claims that he was denied equal protection because other similarly situated students were treated differently. There was, however, no evidence that other students were similarly situated. The Student was the one who introduced a program onto the school computer that allowed him access to the teacher files where he downloaded the tests and quizzes that he sold to other students.

There was no evidence that any other student took similar actions and was treated differently. Accordingly, the State Board of Education concludes that the Student was not denied equal protection.

The Student also claims that he was not afforded due process because he was not told that he did not have to testify against himself. The Student has not cited any cases to support his argument. He was given notice of his right to have an attorney, his right to subpoena witnesses, and his right to cross-examine witnesses. He was given notice of the witnesses who would testify on behalf of the school system with the substance of the testimony they would give and he was informed of the violations he was being charged with. He was also given an opportunity to present his side of the story. Due process does not require more. *See, Goss v. Lopez*, 419 U.S. 565, 95 S.Ct. 729, 42 L.Ed.2d 725 (1975), *Dixon v. Alabama St. Bd. of Educ.*, 294 F.2d 150 (5<sup>th</sup> Cir., 1961). The State Board of Education, therefore, concludes that the Student was not denied due process.

Finally, the Student claims that the tribunal did not take his physical handicap into consideration. There was, however, no evidence that the Student was identified as a disabled student subject to the provisions of the Individuals With Disabilities Education Act, 20 U.S.C. § 1400, *et seq.* (IDEA). There was also no evidence presented that showed that the Student could not attend the alternative school. The State Board of Education, therefore, concludes that the Student was not denied any rights because of his handicap.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board did not deny the Student due process, equal protection, or any rights under IDEA. Accordingly, the Local Board's decision is SUSTAINED.

This \_\_\_\_\_ day of April 2003.

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Wanda L. Barrs  
Chairperson, State Board of Education