

STATE BOARD OF EDUCATION

STATE OF GEORGIA

J.F.,	:	
	:	
Appellant,	:	
	:	
v.	:	CASE NO. 2010-40
	:	
HENRY COUNTY BOARD OF EDUCATION,	:	DECISION
	:	
	:	
Appellee.	:	

This is an appeal by J.F. (Student) from a decision by the Henry County Board of Education upholding a student disciplinary tribunal’s decision to expel the Student from November 5, 2009 until the last day of the second semester of the 2009-2010 school year based upon the tribunal’s finding that the Student violated the Local Board’s rules. Specifically, the Local Board found that the Student engaged in sexual misconduct by allowing another student to touch her chest and her crotch during a school assembly. For the reasons set forth below, the decision of the Local Board is sustained.

First, the Student failed to file a brief or request oral argument. Therefore, the Student’s appeal is deemed to have been abandoned. Chris M. v. McIntosh County Bd. of Educ., Case No. 1995-47 (Ga. SBE, Jan. 11, 1996). Therefore, this appeal is subject to dismissal.

Furthermore, even assuming this appeal had not been abandoned, the Local Board’s decision is supported by the evidence. The Local Board has the burden of proof when it charges a student with an infraction of its rules. Scott G. v. DeKalb Cnty. Bd. of Educ., Case No. 1988-26 (Ga. SBE, Sep. 1988). If the Local Board meets its burden, the State Board is required to affirm the decision of the Local Board if there is any evidence to support the decision, unless there is abuse of discretion or the decision is arbitrary and capricious as to be illegal. See Ransum v. Chattooga County Bd. of Educ., 144 Ga. App. 783 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (Ga. SBE, Sep. 1976). “[T]he State Board of Education will not disturb the finding [of the Local Board] unless there is a complete absence of evidence.” F.W. v. DeKalb County Bd. of Educ., Case No. 1998-25 (Ga. SBE, Aug. 1998).

In this case, the record contains admissible evidence showing that the Student violated the Local Board’s rules by engaging in sexual misconduct. Specifically, the Student engaged in sexual misconduct by allowing another student to touch her chest and her crotch during a school assembly. Thus, even if this appeal had not been abandoned, the decision of the Local Board is supported by admissible evidence.

Based upon the reasons set forth above, it is the opinion of the State Board of Education that this appeal has been abandoned and the evidence supports the decision of the Local Board, and it is therefore **SUSTAINED**.

This _____ day of February, 2010.

WILLIAM BRADLEY BRYANT
VICE CHAIRMAN FOR APPEALS