

STATE BOARD OF EDUCATION

STATE OF GEORGIA

W. L.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 1999-51
	:	
GWINNETT COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by W. L. (Student) from a decision by the Gwinnett County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him until April 2000 after finding him guilty of engaging in improper sexual conduct on campus, unauthorized absence from class, and repeated violations. The Student claims that the evidence against him was contradictory. The Local Board's decision is sustained because it is the tribunal's duty to decide which testimony to believe.

On April 13, 1999, the Student attempted sexual intercourse with a female student during class hours and on campus. Four other students observed the activity. The Student was charged with engaging in improper sexual conduct on campus, unauthorized absence from class, and repeated violations.

During the hearing before the tribunal, the Student denied that he was even out of class during the incident, but four of the students testified that the Student attempted sexual intercourse with the female student. The tribunal found him guilty of all the charges and expelled him from all regular schools for one year, with the option of attending an alternative school during the expulsion period. The Local Board upheld the tribunal's decision and the Student filed an appeal with the State Board of Education.

The only error argued by the Student on appeal is that the testimony of the other students was conflicting. It is, however, the duty of the tribunal to resolve conflicts in the testimony of different witnesses since the tribunal has the opportunity to observe the demeanor of the witnesses. "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. 1991-14 (Ga. SBE, Aug. 8, 1991). In the instant case, at least four people testified that the two students attempted to engage in sexual

intercourse, while only the Student denied he was even on the scene. The State Board of Education, therefore, concludes that there was evidence to support the tribunal's findings.

Based upon the foregoing, it is the opinion of the State Board of Education that there was evidence to support the tribunal's and the Local Board's decision, and that the Local Board's decision was within its authority. The Local Board's decision, therefore, is SUSTAINED.

This _____ day of November 1999.

Bruce Jackson
Vice Chairman for Appeals