

STATE BOARD OF EDUCATION

STATE OF GEORGIA

K. D.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2001-21
	:	
DEKALB COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by K. D. (Student) from a decision by the DeKalb County Board of Education (Local Board) to uphold the decision of a Student Disciplinary Tribunal to expel him for the remainder of the 2000-2001 school year, with the option of attending an alternative school, after finding him guilty of sexual harassment. The Student claims that the punishment was too harsh and the witnesses were not believable. The Local Board's decision is sustained.

On October 3, 2000, the Student, an eighth grader, made inappropriate sexual contact with two different female students in unrelated incidents. Both female students testified at a tribunal hearing. The tribunal found the Student guilty of sexual harassment and expelled him for the remainder of the 2000-2001 school year. Upon appeal, the Local Board upheld the tribunal's decision. The Student then appealed to the State Board of Education.

The Student claims that the tribunal should not have believed the testimony of the two girls who were confronted by the Student because there was no other proof that either of the incidents took place. "It is the duty of the hearing tribunal to determine the veracity of the witnesses and the State Board of Education will not go behind such determination if there is any evidence to support the decision." *David I. v. DeKalb Cnty. Bd. of Educ.*, Case No. 1996-1 (Ga. SBE, Apr. 11, 1996). The testimony of the two girls was credible because they did not know one another and both incidents occurred on the same day. The Student had an opportunity to cross-examine each of the witnesses to establish any inconsistencies. The State Board of Education, therefore, concludes that the Student's claim that the tribunal should not have believed the two female students is without merit.

The Student also claims that the punishment was too harsh. "A local board of education ... is charged with the responsibility of managing the operation of its schools, and, in matters of discipline, the State Board of Education cannot substitute its judgment for the judgment of the local board. See, *Boney v. County Board of Education for Telfair County*, 203 Ga. 152, 45 S.E.2d 442 (1947); *Braceley v. Burke County Bd. of Ed.*, Case No. 1978-7." *Joseph M. v. Jasper Cnty. Bd. of Educ.*, Case No. 1981-40 (Ga. SBE, Feb. 11, 1982). The State Board of Education, therefore, concludes that the Student's claim that the punishment was too harsh is without merit.

Based upon the foregoing, it is the opinion of the State Board of Education that there was evidence to support the Local Board's decision and the Local Board's decision was not too harsh. Accordingly, the Local Board's decision is SUSTAINED.

This _____ day of April 2001.

Bruce Jackson
Vice Chairman for Appeals