

STATE BOARD OF EDUCATION

STATE OF GEORGIA

B. H.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2004-05
	:	
DEKALB COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by B. H. (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 through the end of the 2003-2004 school year and to place him on probation until the end of the 2004-2005 school year after finding him guilty of possessing a gun in school. The Student claims that there was no evidence to support the charge; the school system only presented hearsay evidence. The Local Board's decision is sustained.

On April 28, 2003, a gun was smuggled into a middle school. The gun was hidden in the ceiling of the boys' restroom. It was later retrieved and taken out of the school by a female student. There were approximately six students involved in the incident.

During the investigation of the incident, the Student's name was mentioned by one of the students who were being investigated. The Student was charged with possession of a weapon and disturbance in the school.

During the hearing before a student disciplinary tribunal, an assistant principal testified that the Student admitted that he removed the gun from the ceiling of the restroom and gave it to another student.

The student disciplinary tribunal found the Student guilty of possessing a weapon and disrupting the school and expelled him through the end of the 2003-2004 school year and placed him on probation until the end of the 2004-2005 school year. The Local Board upheld the decision when the Student appealed the tribunal's decision. The Student then appealed to the State Board of Education.

On appeal to the State Board of Education, the Student claims that there was no evidence to support the Local Board's decision and that only hearsay evidence was presented. "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, the assistant principal's testimony concerning the Student's confession was direct evidence of the Student's

involvement. There was, therefore, evidence from which the tribunal could find that the Student was involved in the incident and had possession of the gun.

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. Accordingly, the Local Board's decision is SUSTAINED

This 9th day of October 2003.

Wanda T. Barrs

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Chairperson - State Board of Education