

STATE BOARD OF EDUCATION

STATE OF GEORGIA

M. P.,

Appellant,

vs.

DEKALB COUNTY  
BOARD OF EDUCATION,

Appellee.

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CASE NO. 2004-14

DECISION

This is an appeal by M. P. (Student) from a decision by the DeKalb County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel her until the end of the 2003-2004 school year and place her on system-wide probation through the end of the 2004-2005 school year after finding that she had possession of a handgun in school. The Student claims there was no evidence to support the charges. The Local Board's decision is sustained.

This case is a companion case to *B. H. v. DeKalb Cnty. Bd. of Educ.*, Case No. 2004-05 (GA. SBE, Oct. 9, 2003). On April 28, 2003, a gun was smuggled into a middle school. The Student reported the presence of a gun, but an initial investigation failed to reveal the gun, which had been hidden in the ceiling of the men's restroom. The students involved later recovered the gun and it was given to the Student, who put it in her locker. Another student then recovered it from the Student and the gun was taken out of the school to the home of another student, where it was recovered the next day.

Initially, the Student denied any involvement in the incident, but she later admitted that the gun was given to her and she placed it in her locker. The Student was charged with possession of a weapon. A student disciplinary tribunal found the Student guilty and suspended her through the end of the first semester of the 2003-2004 school year and placed her on probation through the end of the 2004-2005 school year. The Student appealed to the State Board of Education after the Local Board upheld the tribunal's decision.

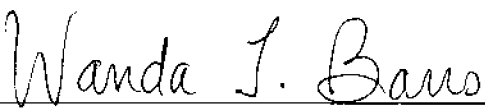
The Student claims that no one testified against her to establish that she had possession of the weapon. Although none of the other students testified against her, the Student's confession to her involvement was sufficient evidence for the tribunal to find that she had possession of the weapon. "The 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). The Student's confession was sufficient evidence.

The Student claims that another student who was involved was not disciplined because he was represented by an attorney. The Student is apparently claiming that she was denied equal protection of the law. The circumstances concerning the other student's involvement are not before the State Board of Education. Since there are numerous reasons why a school system might decide that a student should not be charged with violating a policy, or decide to drop charges after initially bringing them, the fact that another student was not disciplined is irrelevant to a consideration of the Student's guilt or innocence or punishment. The State Board of Education, therefore, concludes that there is no evidence that the Student did not receive equal protection of the law.

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 Student was not denied equal protection of the law. Accordingly, the Local Board's decision is SUSTAINED.

This 14<sup>th</sup> day of November 2003.

  
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Wanda T. Barrs  
Chairperson - State Board of Education