

STATE BOARD OF EDUCATION

STATE OF GEORGIA

M. L.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2004-30
	:	
TROUP COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by M. L. (Student) from a decision by the Troup County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to suspend him from regular school from November 13, 2003 until the end of the first semester of the 2003-2004 school year, with the option of attending an alternative school during the suspension period, after finding him guilty of sexual harassment and sexual battery. The Student claims that the evidence did not support the charges. The Local Board's decision is sustained.

On October 29, 2003, the Student placed his hand inside the front of a female student's pants as they sat side by side in a classroom. The female student got out of her seat and moved away from the Student. The students went on a bathroom break and, upon their return, the Student again placed his hand down the front of the girl's pants. The girl did not do anything during the second incident. When the Student told some other students what he had done, the incident was reported to the school authorities. The Student was charged with sexual harassment and sexual battery and a hearing was held by a disciplinary tribunal.

The Student claims that the record does not support the charges. He claims that he only touched the girl's leg on the outside of her pants. The record, however, supports the Local Board's decision. The female student testified that the Student placed his hand down the front of her pants while they were in class. Other witnesses corroborated her story. It was the tribunal's responsibility to determine which witnesses were the most credible and to select which version to believe. "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). Here, there was evidence to support the Local Board's decision.

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. The Local Board's decision, therefore, is
SUSTAINED.

This _____ day of April 2004.

William Bradley Bryant
Vice Chairman for Appeals