

STATE BOARD OF EDUCATION

STATE OF GEORGIA

G. H.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2004-35
	:	
HENRY COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by G. H. (Student) from a decision by the Henry County Board of Education to uphold the decision of a student disciplinary tribunal officer to suspend him until the end of the 2003-2004 school year after he was found guilty of sexual misconduct, making terroristic threats, inappropriate physical contact, use of vulgar language, and conduct detrimental to learning because he touched, or attempted to touch, several girls on their breasts, buttocks, legs, and in their crotch area. The Student claims that the charge against him was unconstitutionally vague and the evidence did not support the charges. The Local Board's decision is sustained.

The Student was charged with sexual misconduct, the making of terroristic threats, inappropriate physical contact, making vulgar gestures and using vulgar language, and behavior detrimental to learning after several girls in the school reported that he had touched them on their buttocks, breasts, and thighs, and had asked them to perform sexual acts with him. At a hearing before a student disciplinary tribunal officer, several of the girls testified that the Student had touched them on their breasts and buttocks. One female student testified that on the day the incident was reported, December 5, 2003, the Student tried to bend her over and "tried to hump me and make sexual noises."

At the conclusion of the hearing, the hearing officer found the Student guilty of the charges and suspended him until the end of the 2003-2004 school year with the opportunity to attend an alternative school during the suspension period. The Local Board upheld the hearing officer's decision when the Student appealed and an appeal was then filed with the State Board of Education.

The Student claims that the Student Handbook does not define sexual misconduct. The record, however, shows that sexual misconduct is defined as

Harassment, obscene gestures, possession of obscene or vulgar materials, indecent exposure, and/or sexual contact.

Henry County Schools Secondary Handbook, p. 32. The Student's objection that there was no definition for sexual harassment, therefore, is unfounded.

The Student also claims that there was no evidence to support the charges. "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). There was testimony from the female students about the Student's groping them and making indecent proposals to them. This testimony constituted sufficient 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 May 2004.

William Bradley Bryant
Vice Chairman for Appeals