

STATE BOARD OF EDUCATION

STATE OF GEORGIA

G. L.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2004-43
	:	
BIBB COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by G. L. (Student) from a decision by the Bibb County Board of Education (Local Board) to uphold the decision of the student disciplinary tribunal that he violated the Local Board's policy against misuse of its computers and sexual harassment by showing other students sexually suggestive pictures on a computer. The Student did not receive any punishment because he is enrolled as a special education student. Instead, he was referred for an individualized educational plan review under the provisions of the Individuals With Disabilities Education Act, 20 U.S.C. § 1400, *et seq.* (IDEA). Since the Student has not received any punishment, there is no relief that the State Board of Education can provide the Student, which renders his appeal moot.

The Student claims that the pictures he displayed on his computer screen could have been the result of something someone else did in the operation of the computer. The tribunal, however, heard the evidence and decided that the Student was responsible for the appearance of the sexually suggestive pictures on his computer. "The tribunal sits as the trier of fact and, if there is conflicting evidence, must decide which version to accept. When that judgment has been made, the State Board of Education will not disturb the finding unless there is a complete absence of evidence." *F. W. v. DeKalb Cnty. Bd. of Educ.*, Case No. 1998-25 (Ga. SBE, Aug. 13, 1998).

The Student also claims that he did not receive notice of the Local Board's meeting to consider his appeal from the tribunal decision. The Local Board, however, has submitted evidence that shows the Student received notice of the meeting. Additionally, the Local Board's consideration of an appeal is based on the record and no new evidence is considered. Consequently, the presence of the Student at the Local Board's meeting did not affect the Local Board's decision and did not deny the Student any of his due process rights.

Based upon the foregoing, it is the opinion of the State Board of Education that the Student's appeal is moot because the State Board of Education cannot provide him

with any relief since he is not being punished for his actions. Accordingly, the appeal is hereby
DISMISSED.

This _____ day of July 2004.

William Bradley Bryant
Vice Chairman for Appeals