

STATE BOARD OF EDUCATION

STATE OF GEORGIA

D. M.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2005-04
	:	
HENRY COUNTY	:	
BOARD OF EDUCATION,	:	
	:	DECISION
Appellee.	:	

This is an appeal by D. M. (Student) from a decision by the Henry County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to suspend him for two days after finding him guilty of exposing himself in the school lunchroom. The Student claims that the evidence does not support the decision and the Local Board’s policy is unconstitutionally vague. The appeal is dismissed because the suspension period is over and the State Board of Education cannot provide the Student with any relief.

On May 20, 2004, two female students reported that the Student, an eighth grade student, had opened his pants and exposed his penis to them in the lunchroom of the middle school. The Student later told a friend that he had “flashed” two female students in the lunchroom. The school administration charged that the Student had violated the Local Board’s policies governing sexual misconduct and engaging in behavior detrimental to learning.

At a hearing before a student disciplinary hearing officer, the female students testified that they had seen the Student expose himself to them in the lunchroom. Some male students testified that they saw the Student’s underwear, but they had not seen his penis. The Student claimed his pants were held together by a Velcro® adhesive band and had accidentally come open. The hearing officer found that the Student had not intentionally exposed himself but nevertheless found him guilty of both charges and suspended him from school for two days. The Student then appealed to the Local Board, which upheld the hearing officer’s decision on the grounds the appeal was moot since the suspension period had passed. The Student then appealed to the State Board of Education.

The suspension period has passed and the Student’s appeal is moot, as ruled by the Local Board. The State Board of Education cannot provide the Student with any relief, regardless of the merits of his appeal. Accordingly, the Student’s appeal is hereby **DISMISSED**.

This _____ day of October 2004.

William Bradley Bryant
Vice Chairman for Appeals