

STATE BOARD OF EDUCATION

STATE OF GEORGIA

U. S.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2006-32
	:	
FULTON COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by U. S. (Student) from a decision by the Fulton County Board of Education (Local Board) that upheld the finding by a student disciplinary tribunal that he assaulted a school resource officer. Neither the Local Board nor the tribunal sought to impose any punishment because the Student is enrolled as a special education student. Since the Local Board has not imposed any punishment and the Student has not suffered any detriment, there is no relief for the State Board of Education to grant. The Student's appeal is moot and, therefore, is dismissed.

The Student claims that the testimony of both the school resource officer and an assistant teacher were not credible. "It is the duty of the hearing tribunal to determine the veracity of the witnesses and the State Board of Education will not go behind such determination if there is any evidence to support the decision." *David L. v. DeKalb Cnty. Bd. of Educ.*, Case No. 1996-1 (Ga. SBE, Apr. 11, 1996). "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 fact that the testimony of the witnesses was not identical in all respects does not require the throwing out of their testimony or a determination that they were not credible witnesses. There was, therefore, evidence to support the decision of the Local Board and the tribunal.

Based upon the foregoing, it is the opinion of the State Board of Education that the issues raised are moot because the Local Board did not impose any punishment on the Student and the Student has not suffered any detriment. Accordingly, the appeal is hereby **DISMISSED**.

This ____ day of February 2006.

William Bradley Bryant
Vice Chairman for Appeals

SUMMARY

This is an appeal by U. S. (Student) from a decision by the Fulton County Board of Education (Local Board) that upheld the finding by a student disciplinary tribunal that he assaulted a school resource officer. Neither the Local Board nor the tribunal sought to impose any punishment because the Student is enrolled as a special education student. Since the Local Board has not imposed any punishment and the Student has not suffered any detriment, there is no relief for the State Board of Education to grant. The Student's appeal is moot and, therefore, is dismissed.