

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>D. H.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2006-82</b>
	:	
<b>MORGAN COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>

This is an appeal by D. H. (Student) from a decision by the Morgan County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him permanently from his regular high school, with an opportunity to attend an alternative school during his expulsion term, after finding him guilty of possessing marijuana at school. The Student claims that the evidence was inconsistent and, therefore, does not support the tribunal’s decision. The Local Board’s decision is sustained.

On February 27, 2006, a teacher observed the Student in the hallway with another student while they engaged in a transaction where the Student gave the other student a plastic bag and the other student gave money to the Student. The teacher reported the incident, which led to the administration questioning the other student and finding that he had some marijuana in a plastic bag. The other student said that he had bought the marijuana from the Student. The school administration charged the Student with possessing marijuana at school.

At the tribunal hearing, the student who was found with the marijuana testified that he had purchased the marijuana from the Student. A teacher testified about observing the transaction in the hallway. Additionally, the resource officer testified that the substance taken from the other student was marijuana. The tribunal found the Student guilty of possessing marijuana at the school. The Local Board upheld the tribunal’s decision when the Student appealed. The Student then appealed to the State Board of Education.

The Student claims that the transcript did not contain portions of the testimony given at the hearing, thus prejudicing the review by the Local Board. The transcript, however, does not contain any indication of any missing testimony and there does not appear to be any breaks in the testimony. The Student was unable to state what testimony was missing or how the testimony would have aided his case. The State Board of Education, therefore, concludes that there is no basis for the Student’s claim that the transcript was faulty.

The Student also claims that the testimony was inconsistent and, therefore, cannot support the tribunal's decision. "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). Thus, although there was inconsistent testimony, there was support for the tribunal's finding that the Student was in possession of marijuana in school.

The Student also claims that he was denied due process because he did not participate in the hearing for the other student. There was no evidence presented to the tribunal concerning the hearing of the other student involved in the incident, and the Student did not raise any issue about the other student's hearing. The tribunal made its decision at the conclusion of the hearing and, therefore, was not influenced by the facts of any other case. There is, therefore, no basis for the Student's claim of error because he was not involved in the other student's hearing.

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. Accordingly, the Local Board's decision is  
SUSTAINED.

This \_\_\_\_\_ day of October 2006.

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Wanda T. Barrs  
Chair, State Board of Education

#### **SUMMARY**

This is an appeal by D. H. (Student) from a decision by the Morgan County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him permanently from his regular high school, with an opportunity to attend an alternative school during his expulsion term, after finding him guilty of possessing marijuana at school. The Student claims that the evidence was inconsistent and, therefore, does not support the tribunal's decision. The Local Board's decision is sustained.