

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>Q. H.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2007-25</b>
	:	
<b>NEWTON COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>

This is an appeal by Q. H. (Student) from a decision by the Newton County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him from regular school for the remainder of the 2006-2007 school year and assigning him to an alternative school during the expulsion period after finding him guilty of engaging in indecent exposure on campus. The Student claims that the evidence was inconclusive. The Local Board’s decision is sustained.

On August 11, 2006, while in a science class watching a movie, the Student exposed his penis to the students sitting beside him, one of which was a girl. The Student was charged with obscenity, indecent exposure, and continuous violation of school rules and regulations.

At a hearing before a student disciplinary tribunal, two male students testified that they saw the Student expose himself, while the Student denied any exposure. The tribunal found the Student guilty, expelled him from regular school, and assigned him to an alternative school until the end of the 2006-2007 school year. The Local Board upheld the tribunal’s decision when the Student appealed and the Student then filed an appeal to the State Board of Education.

On appeal, the Student claims that the school administrators did not appropriately investigate the incident to determine whether one of the students who testified against him was the one who committed the offense. The Student also claims that the testimony of the two witnesses is unbelievable because they could have been involved.

The Student’s claim that the school system committed some error in the way they conducted the investigation is without merit. There is no requirement for a school system to conduct an investigation in any particular manner. The school system has an obligation to present sufficient evidence to sustain its charges; it is not under any obligation to find mitigating information. Since the Student was given an opportunity to present his own evidence, the State Board of Education concludes there was no denial of due process.

The believability of the witnesses is the province of the student disciplinary tribunal. The tribunal had the opportunity to observe the demeanor of the two witnesses and determine whether they believed the two students were telling the truth. "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). Since the tribunal chose to believe the two witnesses, the State Board of Education will not go behind that determination.

Based upon the foregoing, it is the opinion of the State Board of Education that there was sufficient evidence to support the charges against the Student and he was not denied due process. The Local Board's decision, therefore, is **SUSTAINED.**

This \_\_\_\_\_ day of April 2007.

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William Bradley Bryant  
Vice Chairman for Appeals