

STATE BOARD OF EDUCATION

STATE OF GEORGIA

M. S.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2007-26
	:	
TIFT COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by M. S. (Student) from a decision by the Tift County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him permanently from school after finding him guilty of having a loaded gun on school premises. The Student claims that there was no evidence to support the charge. The Local Board’s decision is sustained.

On September 27, 2006, the Student, a ten year old fourth grader, brought a loaded semi-automatic pistol to school and displayed it to other students in the school. The Student threatened to kill the other students if they told on him. The incident was reported the following day and the school officials conducted an investigation. The Student was questioned and admitted that he had brought a gun to school. The Student was charged with possession of a weapon on school grounds and a hearing was set to consider the charge.

On October 19, 2006, a student disciplinary tribunal heard testimony from two of the students who saw the pistol and the principal and assistant principal who were involved in the investigation. The two students testified that the Student showed them the pistol and the bullets while they were in the restroom. The Student also showed the pistol to one of the students earlier in the gymnasium. The two principals testified about their conduct of the investigation and the Student’s admission that he had a gun at school.

The tribunal found the Student guilty and permanently expelled him from school. The Student appealed to the Local Board, which upheld the tribunal decision, but also decided that the Student could petition for entry into the alternative school program after two years. The Student then appealed to the State Board of Education.

On appeal to the State Board of Education, the Student claims that the decision was based on the testimony of two ten year old students and that reliance on such testimony is a violation of the Student’s due process rights. The Student does not cite any case or statutory law to support his contention and the State Board of Education is unaware of any support for such a proposition. The argument also overlooks the fact that

the Student confessed to bringing a gun to school, which negates any contention that the decision rested solely on the testimony of two ten year old students.

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 March 2007.

William Bradley Bryant
Vice Chairman for Appeals