

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>A. W.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2007-46</b>
	:	
<b>GWINNETT COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>

This is an appeal by A. W. (Student) from a decision by the Gwinnett County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel her from regular school until August 1, 2007, with the option of attending an alternative school during her expulsion term, after finding her guilty of engaging in gang activities. The Student claims that the evidence did not support the charges and she was denied due process because the school system failed to have a counselor available at the hearing. The Local Board’s decision is sustained.

The Student was charged with participating in a street gang, classroom disruption, encouraging other students to violate school rules, and providing false information to school staff after she took a blue bandana to an assistant principal’s office and told the principal that she had been “beat in” a gang. The Student went on to explain that she had agreed to a beating. The following Monday, December 4, 2007, the Student asked permission to go to the clinic, but instead of going to the clinic, she met two female students and asked them to hit her a number of times. The next day, the Student met another girl and told the girl she had to “hit me 12 times”. The girl initially refused and then proceeded to hit the Student, causing bruises.

Testimony was received by the student disciplinary tribunal from the students involved in hitting the Student. The tribunal found the Student guilty of the charges and expelled her from regular school until August 1, 2007, with the option of attending an alternative school during her expulsion period. The Local Board upheld the tribunal’s decision upon appeal and the Student appealed to the State Board of Education.

The Student claims that the evidence does not support the charges because only the testimony of the other girls involved in the incidents implicated her in any gang activity. The testimony of the other students, however, is direct evidence that the tribunal could consider in reaching its 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). The State Board of Education concludes that there was evidence to support the tribunal's decision.

The Student also claims that she was denied due process because the school system failed to have a counselor present at the hearing. The school system, however, is not required to have witnesses available who have not been subpoenaed. *See, Jack S. v. DeKalb County Bd. of Educ.*, Case No. 1991-10 (Ga. SBE, June 13, 1991). There is no indication in the record that the Student had a subpoena issued for the attendance of the counselor. The State Board of Education concludes that the school system did not deny the Student any due process rights.

The Student also makes a generalized claim in which she seeks to absolve herself of any responsibility and place the blame on the school system because it failed to respond to her earlier reports that there was gang activity in the school. The tribunal had an opportunity to listen to the evidence and observe the demeanor of the witnesses. The tribunal also had the responsibility of deciding what version of the evidence to believe. The State Board of Education, therefore, concludes that there is no merit to the Student's generalized claim.

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 and the Student was not denied due process. Accordingly, the Local Board's decision is SUSTAINED.

This \_\_\_\_\_ day of June 2007.

---

William Bradley Bryant  
Vice Chairman for Appeals

#### SUMMARY

This is an appeal by A. W. (Student) from a decision by the Gwinnett County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel her from regular school until August 1, 2007, with the option of attending an alternative school during her expulsion term, after finding her guilty of engaging in gang activities. The Student claims that the evidence did not support the charges and she was denied due process because the school system failed to have a counselor available at the hearing. The Local Board's decision is sustained.