

STATE BOARD OF EDUCATION

STATE OF GEORGIA

P. H.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2008-08
	:	
GWINNETT COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by P. H. (Student) from a decision by the Gwinnett County Board of Education (Local Board) to expel him from school until April 30, 2008, provided that if he completed 40 hours of community service before January 1, 2008, then he would be eligible to return to school on January 1, 2008.¹ The decision modified a student disciplinary tribunal decision. The Student claims that there was no evidence to support the charges that he tampered with a school computer. The Local Board's decision is sustained.

On April 18, 2007, school personnel discovered that the Student was attempting to access an unauthorized area of the school computer system from a computer terminal at his school. The Student was charged with violating Rule 2J, which prohibits computer trespass by accessing unauthorized areas on the computer, and Rule 2I, which prohibits the altering or misuse of technology or any other equipment or software or a school web site. Additionally, the Student was charged with the use of profanity.

At the hearing on the charges before a student disciplinary tribunal, the school system presented the testimony of a computer forensic specialist who had not been disclosed to the Student. The Student objected to the specialist's testimony because of the non-disclosure. The tribunal, however, permitted the specialist to testify.

The Student testified that he attempted to access the unauthorized area of the computer system but he was unaware that it was an unauthorized area. He then testified that he was attempting to assist the school system to identify vulnerabilities that existed in its computer system. The tribunal found the Student guilty of all the charges and expelled him from regular school for one year, i.e., until April 30, 2008, with an opportunity to attend an alternative school during his expulsion period.

¹ The letter to the Student advising him of the Local Board's decision, which was not written until June 22, 2007, had an obvious incorrect date of return, i.e., January 1, 2007.

The Student appealed to the Local Board. The Local Board dismissed the testimony of the computer forensic specialist, dismissed the tribunal's finding that the Student had used profanity, and voted to permit the Student to return to school on January 1, 2008, if he completed 40 hours of community service before then. The Student then filed an appeal with the State Board of Education.

On appeal to the State Board of Education, the Student claims that without the testimony of the computer forensic specialist there is no evidence that he violated any of the Local Board's rules. The Local Board, however, argues that the Student's own testimony provides sufficient evidence to show that the Student violated the rules.

"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). During the hearing, the Student admitted that he attempted to access an area of the school computer system that he did not know was an unauthorized area. His claim that he was unaware that the area was unauthorized is belied by his further testimony that he was attempting to discover vulnerabilities in the computer system so that steps could be taken to make the system more secure. The Student also testified that he was not asked by any teacher or administrator to seek out vulnerabilities in the computer system. Based upon such testimony, the tribunal could find that the Student was aware that he was attempting to access an unauthorized area of the school computer system; otherwise, there would not be anything to call to the attention of school personnel to make the computer system more secure. The State Board of Education, therefore, concludes that, even without the testimony of the forensic specialist, there was some evidence to support the Local Board's decision.

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 2007.

Wanda T. Barrs
Chair, State Board of Education