



February 11, 1994. After hearing the Student's story, the Tribunal voted to expel the Student for one calendar year. The Local Board affirmed the Tribunal's decision on February 21, 1994.

### **PART III**

#### **DISCUSSION**

On appeal, the Student claims there was no evidence he knowingly had possession of the pistol on school property. The Local Board claims there is some evidence that permits it to find that the Student knew he had the pistol on school property.

"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). In the instant case, however, there was no evidence that the Student had any knowledge that the gun was in his car.

The only evidence presented concerning whether the Student was aware the gun was in the pouch of his automobile was the Student's testimony and written statements from the other students that were consistent with the Student's testimony that he was unaware of the gun. The Local Board did not provide any evidence that the Student knowingly brought the gun on campus.

The Local Board argues that it could infer that the Student was aware he had the gun because he wrote in a statement he gave to the principal that he had forgotten about the gun until Patrick asked him about it while they were in their sixth period class, the Student did not report the possibility of a weapon being in his automobile, the Student did not return the gun to Patrick, and the Student told his younger brother a different story about the gun. The Local Board's conclusion, however, is based upon mere speculation, conjecture, and guess. There was no evidence presented that the Student was aware he had the gun in his automobile, and all of the consistent evidence supports the Student's assertions of lack of knowledge.

### **PART IV**

#### **DECISION**

Based upon the foregoing, the State Board of Education is of the opinion there was no evidence to support the Local Board's decision that the Student was aware a gun had been placed in his car by another Student before he drove it on campus. The Local Board's decision, therefore, is REVERSED.

This 14<sup>th</sup> day of July, 1994.

Mr. Williams was not present.

Robert M. Brinson  
Vice Chairman for Appeals