STATE BOARD OF EDUCATION

STATE OF GEORGIA

TIMOTHY COOK,	:	
	:	
Appellant,	:	
	:	
v.	:	CASE NO. 1979-29
	:	
CAMDEN COUNTY BOARD OF EDUCATION,	:	
	:	
Appellee	:	

O R D E R

THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of Law of the Hearing Officer are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the decision of the Camden County Board of Education herein appealed from is hereby sustained.

Mrs. Huseman dissented.

This 14th day of February, 1980.

THOMAS K. VANN, JR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

TIMOTHY COOK,	:	CASE NO. 1979-29
Appellant,	:	
vs.	:	REPORT OF
CAMDEN COUNTY BOARD OF EDUCATION,	:	HEARING OFFICER
Appellee.	:	

PART I

SUMMARY OF APPEAL

This is an appeal by the parents of Timothy Cook (hereinafter "Appellant") from a decision by the Camden County Board of Education (hereinafter "Local Board") to expel Appellant for the remainder of the 1979-1980 school year because of marijuana possession. The appeal urges the State Board of Education to reverse the Local Board decision because it is unduly harsh. The Hearing Officer recommends that the Local Board decision be sustained.

PART II

FINDINGS OF FACT

On September 26, 1979, Appellant purchased a marijuana "joint" from another student. The vice-principal was informed about the transaction and he confronted Appellant with the accusation. Appellant admitted he had purchased the "joint" from another student and, upon further questioning produced the "joint" for the vice-principal.

The Local Board had a written policy which prohibited students from possessing, selling, using, transmitting or being under the influence of "any narcotic drug, hallucinogenic drug, amphetamine, barbituate, marijuana, alcoholic beverage, or intoxicant of any kind .... " on the school grounds. The policy was given to all students at the beginning of the school year.

Appellant's parents were notified in writing on September 26, 1979 that there would be an administrative hearing into the matter. The administrative hearing was held on October 8, 1979, and the vice-principal recommended expulsion for the remainder of the school year. Appellant's parents were notified in writing on October 18, 1979 that charges of marijuana possession would be presented to the Local Board. The Local Board held its hearing on October 23, 1979 and voted to suspend Appellant

for the remainder of the 1979-1980 school year due to violation of the Local Board policy prohibiting the possession of marijuana on the school ground during school hours. Appellant's parents were informed in writing of the Local Board's decision and they filed their appeal to the State Board of Education on October 26, 1979.

PART III

CONCLUSIONS OF LAW

The only ground for reversal of the Local Board decision that is contained in the appeal is that the decision is unduly harsh. The evidence contained in the record submitted shows that the Local Board had a written policy prohibiting the possession of marijuana on the school grounds during school hours. It is undisputed that Appellant possessed the marijuana and violated the Local Board policy.

The care and management of the schools is entrusted to the local boards of education. Ga. Code Ann. §32-901. Unless there is some error shown in the decision by a local board of education, the decision will be permitted to stand. The State Board of Education cannot substitute its judgment for the judgment of the local board of education. See, Boney v. County Bd. of

Ed. of Telfair County, 203 Ga. 152 (1947). The Hearing Officer concludes that no error has been shown and the Local Board has not abused its discretion in suspending Appellant for the remainder of the 1979-1980 school year.

Appellant's parents have also raised on appeal the issue that Appellant may be in need of special education services. If Appellant may be in need of special education services, the issue should have been raised at the hearing before the Local Board. An issue that could have been raised at the initial hearing cannot be raised for the first time on appeal. See, e.g., Vowell v. Carmichael, 235 Ga. 387, 219 S.E.2d 732 (1975). There is no evidence in the record submitted that Appellant needs special education services. If Appellant's parents believe there is a need for special education services, they should make a request that the Local School System make the appropriate examinations and, if necessary, have an individual educational program developed. If it becomes apparent during the evaluation process that Appellant does need special education services, the Local Board can reconsider its decision based upon the new evidence presented and the recommendation of the special education personnel. The process will, however, be a different proceeding from the instant proceeding.

PART IV

RECOMMENDATION

Based upon the foregoing findings and conclusions, the record submitted, and the arguments presented, the Hearing Officer is of the opinion that the Local Board of Education did not abuse its discretion and had the power and authority to decide to suspend Appellant for the remainder of the 1979-1980 school year. The Hearing Officer, therefore, recommends that the decision of the Camden County Board of Education be sustained.

L. O. BUCKLAND
Hearing Officer