

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JIMMY LEE COLLIER, )

Appellant, )

v. )

CASE NO. 1985-11

GRIFFIN SPALDING COUNTY AREA  
VOCATIONAL TECHNICAL SCHOOL, )

Appellee. )

O R D E R

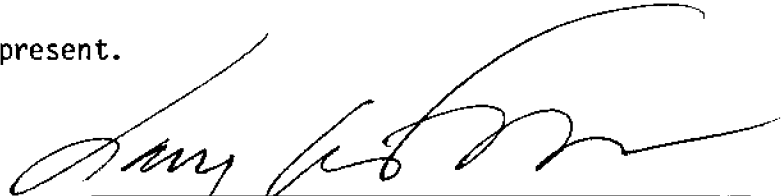
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

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 appeal of the decision of the Griffin Spalding County Area Vocational Technical School herein is DISMISSED due to the fact that there were no issues presented in the appeal which were raised before the Local Board to be considered on appeal.

This 10th day of October, 1985.

Mr. Temples was not present.



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LARRY A. FOSTER, SR.  
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JIMMY LEE COLLIER,	)	
	)	
Appellant,	)	
	)	CASE NO. 1985-11
v.	)	
	)	
GRIFFIN SPALDING COUNTY	)	
AREA VOCATIONAL TECHNICAL	)	
SCHOOL	)	
	)	REPORT OF STATE
Appellee.	)	HEARING OFFICER

PART I

SUMMARY OF APPEAL

This is an appeal by Jimmy Lee Collier (hereinafter "Appellant") from a decision of the Griffin Spalding County Area Vocational Technical School Board of Education (hereinafter "Local Board") expelling Appellant for using unacceptable language, disrupting the educational process, accosting and assaulting a student, and other such disorderly conduct. Appellant contends that the suspension by the Griffin Tech Director was in violation of the Local Student Handbook by suspending him longer than the handbook allowed and because the Director failed to advise him of the suspension and reasons therefor, and also contends that the suspension violated his right to equal protection of the law. The Local Board moved to dismiss the appeal because the notice of appeal failed to set forth any decision of a local board on a disputed issue or controversy and a concise statement of the reasons why such decision of

the Local Board was erroneous. The State Hearing Officer recommends the appeal from the Local Board decision be dismissed.

## PART II

### FACTUAL BACKGROUND

On May 2, 1985, Appellant was given a written notice that he was charged with disorderly conduct as the result of using vile, uncouth, vulgar, lewd, and lascivious language and other actions. Appellant was also notified that a hearing would be held by the Local Board on May 7, 1985 to consider the charges, and that he could be expelled or suspended.

The hearing was held on May 7, 1985 as scheduled. In an opening argument, Appellant admitted he received a copy of the charges, but stated that he had been suspended longer than was allowed by the Student Handbook and that he was not given a fair chance to defend the charges as is required by the Student Handbook. He then requested he be reinstated. Appellant then left the hearing after being advised of his right to remain. The hearing continued without Appellant. Several witnesses testified that Appellant instigated a discussion concerning sex in an inappropriate setting, that he had called other students inappropriate names, and that he had grabbed a student forcefully enough by the arm to cause a bruise. Based upon the testimony presented, the Local Board, in a meeting on May 9, 1985, voted to expel Appellant from school indefinitely and made any future admittance conditional on approval by the Local Board. Appellant filed this appeal June 4, 1985.

PART III

DISCUSSION

Appellant contends on appeal that his civil rights have been violated according to the Student Handbook and that he was denied equal protection because others who were involved in the actions surrounding his discipline were not punished.

The Local Board contends that Appellant's letter and brief on appeal do not set forth any decision of the Local Board on any disputed issues or controversies from which Appellant has the right to appeal.

Appellant's contention relating to violations of the rules of the Student Handbook by the school administration or Local Board provide no basis for appeal to the State Board. Appellant presented an opening argument to the Local Board and presented his concern that his rights had been violated. He chose, however, to leave the hearing without presenting any evidence to that effect. The Student Handbook was never introduced into evidence at the hearing before the Local Board, and the Local Board made no decision regarding violations of the rules of the Student Handbook.

Similarly, Appellant raised no issue before the Local Board concerning a denial of equal protection and, thus, that issue has been raised for the first time on appeal to the State Board of Education. Again, Appellant argued that the student rules had been violated, but he presented no evidence to support that contention. The Local Board made no decision on whether

Appellant's equal protection rights had been violated. The Local Board made a decision to expel the Appellant based upon his actions, which he did not contest.

Appellant's letter of appeal and Appellant's brief on appeal simply raise no issues which were addressed by the Local Board. Appellant's arguments surround a suspension imposed by the school administration which was not the subject of the hearing before the Local Board. The State Board of Education is not authorized to consider on appeal issues not raised before the Local Board. Sharpley v. Hall Cnty. Bd. of Ed., 251 Ga. 54 (1983); Owen v. Long Cnty. Bd. of Ed., 245 Ga. 647 (1980); Boney v. Cnty. Bd. of Ed., 203 Ga. 152 (1947).


Appellant argues on appeal that his unsubstantiated opening argument was a sufficient raising of the issues before the Local Board. Appellant, however, failed to present any evidence to support his opening argument contentions, and none was presented. The State Board of Education is limited to reviewing the record of the hearing conducted by the Local Board and cannot consider other evidence. Therefore, even if Appellant's opening argument was deemed a sufficient raising of the issues before the Local Board, the evidence presented fails to support Appellant's contentions but does support the decision by the Local Board.

PART IV

RECOMMENDATION

Based upon the foregoing, the record presented, and the briefs and arguments of counsel, the State Hearing Officer is of the opinion that there are no issues presented in the appeal which were raised before the Local Board to be considered on appeal. The State Hearing Officer, therefore, recommends the appeal be

DISMISSED.

  
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L. O. BUCKLAND  
STATE HEARING OFFICER