

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>BRODERIC A.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	<b>CASE NO. 1996-27</b>
<b>vs.</b>	:	
	:	<b>DECISION</b>
<b>GWINNETT COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	

This is an appeal by Broderic A. (Student) from a decision by the Gwinnett County Board of Education (Local Board) to uphold the decision of a Student Disciplinary Tribunal to suspend him from regular classes until January, 1997, with the option of attending an alternative school during the suspension period, after finding that he had violated three rules of student conduct when he swore in the school lunchroom, was disrespectful to a teacher, and returned to campus while on short-term suspension. The Student claims that the Local Board violated his due process rights and that the punishment is too harsh. The Local Board's decision is sustained.

On February 20, 1996, the Student became angry in the lunchroom, shoved a chair and began swearing. He continued to use inappropriate language while being escorted to the principal's office, even though he was told to discontinue such usage. The principal suspended the Student for a short term pending a hearing and told the Student that he was not to appear on campus during the short-term suspension.

On February 22, 1996, the Student went on campus before a basketball game. He was observed, taken to the principal's office, and picked up by one of his parents.

On February 26, 1996, the principal charged the Student with violating Rules 1(L), 1(1), and 4(a), which provide that a student shall not cause a disruption in the school, shall not be on campus without authorization, and shall not behave in a way that might cause physical injury. The notice of the charges also informed the Student that a hearing would be held on the charges on March 5, 1996, that he had the right to be represented by an attorney, and could subpoena witnesses. The Student did not receive the letter until March 4, 1996.

The hearing was held before a Student Disciplinary Tribunal on March 5, 1996. The Student admitted all of his actions and the Student Disciplinary Tribunal found him guilty of violating the rules. The Tribunal decided to suspend the Student until January 7, 1997, but granted him eligibility to attend an alternative school.

The Student appealed to the Local Board on the grounds that the discipline was too harsh. The Local Board upheld the Student Disciplinary Tribunal's decision and the Student appealed to the State Board of Education.

On appeal to the State Board of Education, the Student argues that he was denied due process because he did not receive notice of the hearing until one day before it was held. As a result, he was unable to obtain subpoenas and did not have counsel. The record, however, shows that the Student did not raise this issue before the Student Disciplinary Tribunal or before the Local Board. "If an issue is not raised at the initial hearing, it cannot be raised for the first time when an appeal is made." *Hutcheson v. DeKalb Cnty. Bd. of Educ.*, Case No. 1980-5 (Ga. SBE, May 8, 1980). The State Board of Education, as an appellate body, is not authorized to consider matters that have not been raised before the Local Board. *Sharpley v. Hall Cnty. Bd. of Educ.*, 251 Ga. 54, 303 S.E.2d 9 (1983). The State Board of Education, therefore, concludes that the issue of whether the Student was denied counsel cannot now be raised for the first time on appeal.

The Student next contends that the punishment was too harsh. "A local board of education ... is charged with the responsibility of managing the operation of its schools, and, in matters of discipline, the State Board of Education cannot substitute its judgment for the judgment of the local board. See, *Boney v. County Board of Education of Telfair County*, 203 Ga. 152 (1947); *Braceley v. Burke County Bd. of Education.*, Case No. 1978-7." *Joseph M v. Jasper Cnty. Bd. of Educ.*, Case No. 1981-40 (Ga. SBE, Feb. 11, 1982). The Local Board has the authority to suspend a student and the State Board of Education will not interfere with this judgment. The State Board of Education, therefore, concludes that the harshness of the discipline does not provide any basis for reversal of the Local Board's decision.

As a final ground for appeal, the Student contends that it was error for the Student Disciplinary Tribunal and the Local Board to make a decision without making findings of fact. A local board of education is not required to make findings of fact to support its decision. See, *Ca/free v. Atlanta Bd. of Educ.*, Case No. 1982-18 (Ga. SBE, Dec. 9, 1982); *Jones v. Montgomery Cnty. Bd. of Educ.*, Case No. 1982-13 (Ga. SBE, Nov. 11, 1982). The State Board of Education, therefore, concludes that neither the Student Disciplinary Tribunal nor the Local Board committed any error by not making findings of fact.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board did not abuse its discretion and did not err by failing to make findings of fact. The Local Board's decision, therefore, is SUSTAINED.

This 12th day of September, 1996.

Ms. Julie D. Keeton and Mr. A. Joe McGlamery were present. The seat for the eleventh District is vacant.

Robert M. Brinson  
Vice Chairman for Appeals