

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>A. L.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	<b>CASE NO. 1998-8</b>
<b>vs.</b>	:	
	:	<b>DECISION</b>
<b>FAYETTE COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	

This is an appeal by A. L. (Student) from a decision by the Fayette County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel her for the remainder of the 1997-1998 school year with the opportunity to attend an alternative school during the expulsion period after finding her guilty of making threats against a faculty member. The Student claims that both the tribunal’s decision and the Local Board’s decision were erroneous because she did not communicate any threats to the faculty member. The Local Board’s decision is sustained.

On December 10, 1997, the Student, a tenth grader, was escorted to the assistant principal’s office after being involved in an incident in the cafeteria. While she was in the assistant principal’s office waiting for him to return, she told the security officer that was sitting with her that she was going to “kick [the assistant principal’s] ass” when he returned to the office because he was “a son-of-a-bitch” and a “punk” since he would not listen to her side of the story. When the assistant principal returned to his office, the Student repeated her comments about him being a son-of-a-bitch and punk, but she did not make any threats against him or make any threatening moves. After she left the office, the security officer reported to the principal what the Student had said about hitting the assistant principal.

The principal charged the Student with violating Rule 7 of the Fayette County Guidelines for Student Behavior, which provides:

*7. Offense* Assault and/or battery on faculty or staff member .Touching, striking, pushing or threatening bodily harm to faculty or staff member....

A student disciplinary tribunal, which held a hearing on January 7, 1998, found the Student guilty of the charge and expelled her from school for the remainder of the 1997-1998 school year with the opportunity to attend an alternative school during the expulsion period. The Local Board upheld the tribunal’s decision and the Student filed a timely appeal to the State Board of Education.

The Student first claims that she was denied due process because documents were given to the tribunal that were not entered into evidence. The documents, which consisted of the charge letter, the student handbook, and the written statements of four people, three of whom were witnesses, were given to the tribunal at the beginning of the hearing. The Student's attorney did not raise any objection and did not raise any issue about the event during the hearing. "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). This issue, therefore, is without merit.

The Student next claims that the evidence does not support either the Local Board's decision or the tribunal's decision because she did not communicate her threats to the assistant principal. Instead, she did not have any intent of hitting anyone and she was only telling the security officer how mad she was. The Local Board argues that the rule does not require a threat to be made directly to the faculty member; students are prohibited from making threats and there was clear evidence that the Student communicated a threat to the security officer that she was going to hit the assistant principal.

"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, the Student admitted that she made the statements to the security officer. There was also evidence that the assistant principal overheard the Student say "hit him" just before he entered his office and, when he asked the Student whether she had reference to him, she answered, "Yes." Although the assistant principal never felt threatened, the security officer was convinced that the Student meant to strike the assistant principal when he entered the office. Even if a threat has to be communicated to the individual against whom it is directed, there was some evidence that the threat was communicated to the assistant principal in this case. The State Board of Education, therefore, concludes that 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 some evidence to support the Local Board's decision. Accordingly, the Local Board's decision is SUSTAINED.

This 14<sup>th</sup> day of May 1998.

Larry Thompson  
Vice Chairman for Appeals

**THE BOARD OF EDUCATION**

**STATE OF GEORGIA**

**S. A.,**

**Appellant,**

**CASE NO. 1998-5**

**DEKALB COUNTY  
BOARD OF EDUCATION,**

**DECISION**

**Appellee.**

This is an appeal by **S. A.** (Student) from a decision by the DeKalb County Board of Education to uphold the decision of a student disciplinary tribunal to expel him, with a reduction of the expulsion period to forty-five days, after finding him guilty of threatening a staff member, rude and disrespectful behavior, refusal to follow instructions, classroom disturbance, and violation of probation. The expulsion period has passed and the State Board of Education is unable to provide the Student with any relief the issues are moot and the appeal, therefore, is hereby

**DISMISSED.**

This 14th of May 1998.

Vice Chairman for Appeals  
**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

**J. T.,**

**Appellant,**

**CASE NO. 1998-6**

**DEKALB COUNTY  
BOARD OF EDUCATION,**

**DECISION**

**Appellee.**

This is an appeal by J. T. (Student) from a decision by the DeKalb County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel her for the remainder of the 1997-1998 school year after finding her guilty of threatening a faculty member, rude and disrespectful behavior, refusal to follow instructions, skipping class, causing a classroom disturbance, and using profanity. The Student claims that the hearing officer was biased and that the punishment was too severe. The Local Board's decision is sustained.

On December 19, 1997, the Student cursed her English teacher, took a book off his desk and refused to return it, then threw all the books on his desk to the floor and threatened him after the teacher refused to return a note the Student had written to another student and he had taken up. A student disciplinary tribunal conducted a hearing on January 21, 1998. The Student admitted she had cursed the teacher, but claimed that he had been harassing her in class. The student disciplinary tribunal found her guilty of threatening a faculty member, rude and disrespectful behavior, refusal to follow instructions, causing a classroom disturbance, and using profanity. The tribunal then suspended her for the remainder of the 1997-1998 school year with an opportunity to go to alternative school. When the Student appealed to the Local Board, the Local Board reduced the expulsion period to six weeks, provided she attended the alternative school, and placed her on probation through the 1998-1999 school year. The Student then appealed to the State Board of Education.

On appeal to the State Board of Education, the Student claims that the transcript of evidence was tampered with by the hearing officer because he was a good friend of the accusing teacher. She also claims that improper evidence was admitted about her prior actions and her mother was not notified about any previous incidents. Finally, she claims that the teacher made inappropriate remarks to her and the punishment was too harsh. None of these issues, however, provide any basis for reversing the Local Board's decision.

The Student has not offered any evidence that the transcript was tampered with and she has not shown how the tribunal's decision would have been changed because of the transcript. On the contrary, it appears that the tribunal made its decision before the transcript was prepared. Other documents in the record support the essential elements of the transcript. In the absence of any evidence that the transcript was tampered with, the State Board of Education concludes that this is a baseless claim.

The Student did not object to the testimony about previous incidents and she was not charged with committing repeated violations. Whether her mother was contacted about the previous incidents is immaterial to the charges made against the Student. The State Board of Education, therefore, concludes that the tribunal did not err by permitting testimony about previous incidents.

Except to establish mitigation, whether the teacher made disparaging remarks to the Student is also immaterial and does not provide any basis for reversing the tribunal's decision. The tribunal was free to judge the Student's credibility regarding her charge. If there are any questions about the credibility of witnesses and the weight to be given their testimony, those questions must be decided by the tribunal. *See, e.g., Smith v. State*, 263 Ga. 224, 430 S.E.2d 579 (1993).

"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 Ed*, Case No. 1978-7." *Joseph M v. Jasper Cnty. Bd. of Educ.*, Case No. 1981-40 (Ga. SBE, Feb. 11, 1982). The decision to expel the Student is within the discretion of the Local Board and the Student has not shown any violation of law. The State Board of Education, therefore, concludes that the Student's claim that the punishment is too harsh does not provide any ground for reversing the Local Board's decision.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board's decision is supported by the evidence and the Student has not shown any basis for reversing the Local Board's decision. The Local Board's decision, therefore, is SUSTAINED.

This *I* 'K.zdayofMay,1998.

Larry Thompson  
Vice Chairman for Appeals

**STATE BOARD OF EDUCATION****STATE OF GEORGIA****A. L.,****Appellant,****CASE NO. 1998-8****FAYETTE COUNTY  
BOARD OF EDUCATION,****DECISION****Appellee.**

This is an appeal by A. L. (Student) from a decision by the Fayette County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel her for the remainder of the 1997-1998 school year with the opportunity to attend an alternative school during the expulsion period after finding her guilty of making threats against a faculty member. The Student claims that both the tribunal's decision and the Local Board's decision were erroneous because she did not communicate any threats to the faculty member. The Local Board's decision is sustained.

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This / !(-'day of May 1998.