

STATE BOARD OF EDUCATION

STATE OF GEORGIA

E. N. A.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2002-27
	:	
CITY OF DECATUR	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by E. N. A. (Student) from a decision by the City of Decatur Board of Education (Local Board) to expel her until the end of the 2001-2002 school year after finding her guilty of fighting in school and striking a teacher during the fight. The Student claims that the Local Board denied her due process because the Local Board conducted the hearing, she was not given an opportunity to cross examine witnesses, and she was not given an opportunity to call witnesses on her behalf. The Local Board's decision is sustained.

The Student claims that she was denied due process because the Local Board conducted the hearing, which resulted in the Local Board acting as the prosecutor. There were no objections to the conduct of the hearing or to the Local Board hearing the matter. The Student has failed to establish any showing of bias by the Local Board or any evidence the Local Board acted as prosecutor of the matter. "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). Additionally, local boards of education are the bodies that have jurisdiction to hear such cases. *See*, O.C.G.A. § 20-2-1160. The State Board of Education concludes that there is no merit in the Student's claim that she was denied due process because the Local Board heard the case.

The Student claims that the witnesses were not sworn before giving their testimony. The record, however, shows that the witnesses were sworn as a group at the beginning of the hearing. The State Board of Education, therefore, concludes that there is no merit in the Student's claim that the witnesses were not sworn before giving their testimony.

The Student claims that she was denied the opportunity to cross-examine witnesses. The record, however, does not show that the Student was denied an opportunity to cross-examine any witnesses. Although the Student failed to exercise her right to cross-examine witnesses, the record does not show that the Local Board denied her the opportunity to cross-examine the

witnesses. The State Board of Education, therefore, concludes that there is no merit in the Student's claim that she was denied an opportunity to cross-examine witnesses.

The Student claims that she was denied an opportunity to call witnesses on her behalf. The record, however, does not show that the Student either called or sought to call any witnesses on her behalf. The State Board of Education, therefore, concludes that the Student was not denied due process because of any inability to call witnesses on her behalf.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board properly conducted the hearing and there was no abuse of discretion or denial of due process. Accordingly, the Local Board's decision is SUSTAINED.

This _____ day of April 2002.

Bruce Jackson
Vice Chairman for Appeals