

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

**J. C.,**

**Appellant,**

**vs.**

**GWINNETT COUNTY  
BOARD OF EDUCATION,**

**Appellee.**

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**CASE NO. 2002-38**

**DECISION**

This is an appeal by J. C. (Student) from a decision by the Gwinnett County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him for one year, with the opportunity of attending an alternative school during the expulsion period, after finding him guilty of bringing prescription drugs to school and selling them to other students. The Student claims that there was no evidence that prescription drugs were actually involved, that he was denied an opportunity to present a treatise on drugs to the tribunal, and a recording was not made of the entire hearing. The Local Board's decision is sustained.

On January 18, 2002, the Student, an eighth grader, brought ten pills to school that he claimed were a prescription drug. He took one pill and sold five pills to two other students. The matter was reported to an assistant principal, who investigated the matter and interviewed the three students. Each of them admitted their part in the incident. The Student was charged with violating Rule 7 of the student disciplinary code, which prohibits the use or sale of drugs, alcohol and tobacco on campus. In addition, the rule provides that a student "shall not possess, [or] sell ... any substance under the pretense that it is in fact a prohibited substance as described in this rule."

At the hearing before the student disciplinary tribunal, the Student admitted that he was guilty of violating the rule. The tribunal voted to expel him for one year and gave him the option of attending an alternative school during the expulsion period. The Student appealed the decision to the Local Board and claimed that the tribunal should not have accepted his testimony that he brought a prescription drug to school and it should have permitted him to present a book that had pictures of drugs in it which would have proven that he did not bring a prescription drug to school. The Local Board upheld the tribunal's decision and the Student appealed to the State Board of Education.

The Student complains that the tape recorder was turned off during parts of the hearing before the tribunal. This issue was not raised 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). A review of the record shows that while some administrative matters were attended to, the tape recorder was turned off. The Student did not object at the hearing when the recorder was turned off. The State Board of Education concludes that there is no merit in this issue.

The Student also claims that there are some discrepancies in his disciplinary record. This issue was not raised before the tribunal or the Local Board and cannot now be heard for the first time by the State Board of Education.

The Student also claims that he was not permitted to introduce a book that showed pictures of various drugs, which would have established that he did not have the drug he claimed to have. The tribunal excluded the book as irrelevant because of the Student's claim and the prohibition against selling any substance under the pretense

that it is a prescription drug. The Student admitted that he had claimed he was selling a prescription drug. Thus, even if the book showed that the pill the Student sold was not the drug he claimed it was, the Student violated the rule by claiming he was selling a prohibited substance. The State Board of Education, therefore, concludes that the tribunal did not commit any error and did not deny the Student any of his due process rights.

Based upon the foregoing, it is the opinion of the State Board of Education that the Student was not denied due process and that the Local Board acted within its authority. The Local Board's decision, therefore, is SUSTAINED.

This \_\_\_\_\_ day of August 2002.

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Bruce Jackson  
Vice Chairman for Appeals