

**STATE BOARD OF EDUCATION
STATE OF GEORGIA**

C.T.,	:	
	:	
Appellant,	:	
	:	
v.	:	CASE NO. 2010-30
	:	
CAMDEN COUNTY BOARD OF EDUCATION,	:	DECISION
	:	
Appellee.	:	

This is an appeal by C.T. (“Student”) from a decision by the Camden County Board of Education (“Local Board”) suspending the Student from school for ten (10) days and ordering him to participate in the Ombudsman Program for the remainder of the first semester of the 2009-2010 school year. The Local Board took these actions because it found that the Student violated its rules by attempting to transmit marijuana. For the reasons set forth below, this appeal is sustained because the record contains evidence supporting the decision of the Local Board.

I. BACKGROUND

The Student attends Camden County High School. On or about September 24, 2009, the school administration received information alleging that the Student was attempting to transmit marijuana while at school. Based upon information from other students, the Local Board charged the Student with violating Rule 7 of its rules. The Student requested a hearing and the Local Board convened a hearing tribunal.

At the hearing, the Student admitted that he engaged in a conversation with another student in which he asked him if he wanted to buy an ounce of marijuana. Another student testified that the Student stated he was going to pick up marijuana in the Ninth Grade Center. A second student testified that the Student asked him how the Student could get some marijuana. A third student testified that the Student asked him if he wanted an ounce of pot for \$50.00.

After hearing all the evidence, the hearing tribunal found that the Student violated Rule 7 of the Local Board’s rules. The hearing tribunal recommended suspending the Student from school for ten (10) days and ordering him to participate in the Ombudsman Program for the remainder of the first semester of the 2009-2010 school year. The Local Board affirmed the decision of the hearing tribunal.

II. ERROR ASSERTED ON APPEAL

A. Record Evidence.

As an initial matter, this appeal is moot. The punishment imposed by the Local Board ended after the first semester of the 2009-2010 school year. Thus, this appeal is moot because the punishment has passed and there is no relief that this Board can grant the Student. See J.S. v. Gwinnett Cnty. Bd. of Educ., Case No. 2006-37, (Ga. SBE, March 2006).

Even assuming this appeal is not moot, the Local Board's decision is supported by the evidence. The Local Board has the burden of proof when it charges a student with an infraction of its rules. Scott G. v. DeKalb Cnty. Bd. of Educ., Case No. 1988-26 (Ga. SBE, Sep. 1988). If the Local Board meets its burden, the State Board is required to affirm the decision of the Local Board if there is any evidence to support the decision, unless there is abuse of discretion or the decision is arbitrary and capricious as to be illegal. See Ransum v. Chattooga County Bd. of Educ., 144 Ga. App. 783 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (Ga. SBE, Sep. 1976). “[T]he State Board of Education will not disturb the finding [of the Local Board] unless there is a complete absence of evidence.” F.W. v. DeKalb County Bd. of Educ., Case No. 1998-25 (Ga. SBE, Aug. 1998).

In this case, the Student asserts that the evidence does not support the decision of the Local Board based upon the credibility of the witnesses.¹ However, the record shows that three students testified regarding statements made by the Student regarding the transmission of marijuana. The Student contends that the witnesses' testimony has been fabricated. However, the credibility of the witnesses is within the purview of the hearing tribunal. Moreover, the Student admitted to engaging in a conversation with another student in which he asked him if he wanted to buy an ounce of marijuana. While the Student contends that he did not intend to traffic drugs, his admission supports the rule violation for which he was charged. Rule 7 clearly provides that “[a] student shall not . . . transmit; or attempt to . . . transmit any substance under the pretense that it is in fact a prohibited substance. . . .” Thus, even if this appeal was not moot, the decision of the Local Board is supported by admissible evidence.

¹ The Student also asserts that he was denied the identity of one of the witnesses. However, “[a] school system . . . is not required to call any particular witnesses or to have them available for cross-examination.” A.A. v. Rockdale Cnty. Bd. of Educ., Case No. 2006-56 (Ga. SBE, May 2006); D.B. v. Gwinnett Cnty. Bd. of Educ., Case No. 2008-75 (Ga. SBE, Sept. 2008). The Student also asserts that the Local Board did not follow policy regarding notice and right to receive counsel by the Principal. Based upon a review of the record in this case, this Board does not find any policy violations by the Local Board. The Student was provided notice of the charges and a hearing in accordance with Georgia law.

B. Level of Punishment.

The Student asserts that the discipline he received is excessive. However, the notice issued to the Student provided possible discipline up to expulsion. The punishment received by the Student was a ten (10) day suspension and participation in the Ombudsman Program for the remainder of the first semester of the 2009-2010 school year. “The State Board of Education . . . cannot adjust the level or degree of discipline imposed by a local board of education.” B.K. v. Bartow County Bd. of Educ., Case No. 1998-33 (Ga. SBE, Sep. 1998). Thus, this Board cannot alter the Student’s discipline.

III. CONCLUSION

Based upon the reasons set forth above, it is the opinion of the State Board of Education that the evidence supports the decision of the Local Board, and it is therefore **SUSTAINED**.

This _____ day of January, 2010.

WILLIAM BRADLEY BRYANT
VICE CHAIRMAN FOR APPEALS