

STATE BOARD OF EDUCATION

STATE OF GEORGIA

A. C.,	:	
	:	
Appellant,	:	CASE NO. 2010-47
	:	
vs.	:	
	:	
MARIETTA CITY	:	
BOARD OF EDUCATION,	:	DECISION
	:	
Appellee.	:	

This is an appeal by A. C. (Student) from a decision by the Marietta City Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him permanently from regular school after finding him guilty of stealing property at school and being in possession of stolen property. Appellant claims that the punishment is too severe, the Local Board's policies do not provide for permanent expulsion, and he did not have notice that permanent expulsion was possible. The Local Board's decision is sustained.

On October 29, 2009, a video surveillance camera at the Student's school recorded him in the hallway near the band room at a time when he should not have been there. The Student went through some book-bags that were in the hallway. The school administration received a report that several electronic items had been stolen from the band room. A school official viewed the video surveillance camera recordings and recognized the Student. The school officials notified the local police, who executed a search warrant at the Student's home and found one of the stolen items.

Based upon their investigation, the school system referred the matter to a student disciplinary tribunal for a hearing, with a recommendation of permanent expulsion, based on the charges of theft of property and being in possession of stolen property. The school system sent a notice to the Student that informed him of the charges, the hearing, and that the school system was recommending permanent expulsion.

At the tribunal hearing, the Student pled guilty to the charge of being in possession of stolen property but denied stealing any property. The school system presented the video recording pictures that showed the Student handling the book-bags and then entering the band room from where many of the electronic items were stolen. The Student was accompanied by two other students. The Student testified that he received the electronic item found in his home from one of the other two students and he did not know that it was stolen. The tribunal found the Student guilty of theft of personal

property and decided to permanently expel the Student. The Local Board upheld the tribunal's decision and the Student then appealed to the State Board of Education.

On appeal, the Student claims that the punishment is too harsh, that the student handbook does not provide for permanent expulsion, and that he did not receive any notice that he was facing permanent expulsion.

At the hearing, the Student did not raise any issue about the student handbook not providing for permanent expulsion or that he did not receive notice that he was facing permanent expulsion. "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). Contrary to the Student's assertions, the student handbook provides for permanent expulsion upon a finding of guilt for either of the charges. Also, the notice to the Student of the charges and the hearing informed him that he was facing expulsion.

Regarding the Student's claim that the punishment was too harsh, the State Board of Education cannot adjust the level or degree of discipline imposed by a local board of education unless the decision is found to be arbitrary or capricious. *See, B. K. v. Bartow Cnty. Bd. of Educ.*, Case No. 1998-33 (Ga. SBE, Sep. 10, 1998).

Based upon the foregoing and a review of the record, it is the opinion of the State Board of Education that there was evidence to support the Local Board's decision, that the Local Board acted within its scope of authority, and the Student was not denied due process. Accordingly, the Local Board's decision is SUSTAINED.

This _____ day of April 2010.

William Bradley Bryant
Vice Chairman for Appeals