

**STATE BOARD OF EDUCATION
STATE OF GEORGIA**

J.P.,	:	
	:	
Appellant,	:	
	:	
v.	:	CASE NO. 2010-62
	:	
MORGAN COUNTY BOARD OF EDUCATION,	:	DECISION
	:	
	:	
Appellee.	:	

This is an appeal by J.P. (“Student”) from a decision by the Morgan County Board of Education (“Local Board”) suspending the Student from school for the remainder of the 2009-2010 school year with the opportunity to enroll in the Local Board’s alternative school. The Local Board took these actions because it found that the Student violated its rules by possessing and consuming tequila on two occasions on school premises. For the reasons set forth below, this appeal is sustained.

I. BACKGROUND

The Student attends Morgan County Middle School. The Student was charged with drinking tequila on two occasions in the girl’s restroom. The Student appealed the charges and was provided a hearing. At the hearing, another student testified that she brought tequila to school and drank it with the Student. The Student admits that she drank tequila at school on the two occasions.

After hearing all the evidence, the hearing officer found that the Student violated the Local Board’s rules regarding the possession and consumption of alcohol. The hearing officer suspended the Student from school for the remainder of the 2009-2010 school year with the opportunity to enroll in the Local Board’s alternative school. The Local Board affirmed the decision of the hearing officer.

II. ERROR ASSERTED ON APPEAL

A. Record Evidence.

As an initial matter, the Student failed to file a brief or request oral argument. Therefore, the Student’s appeal is deemed to have been abandoned. Chris M. v. McIntosh County Bd. of Educ., Case No. 1995-47 (Ga. SBE, Jan. 11, 1996). Accordingly, this appeal is subject to dismissal.

Even assuming this appeal is not subject to dismissal, 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 was charged with violating the Local Board’s policy regarding the possession and consumption of alcohol on school premises. The Student admits to drinking tequila while on school premises. Thus, the decision of the Local Board is supported by admissible evidence.

B. Level of Punishment.

The Student asserts in her notice of appeal that the discipline she received is excessive. However, “[t]he 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 May 2010.

WILLIAM BRADLEY BRYANT
VICE CHAIRMAN FOR APPEALS