

**STATE BOARD OF EDUCATION
STATE OF GEORGIA**

A.R.,	:	
	:	
Appellant,	:	
	:	
v.	:	CASE NO. 2010-64
	:	
HOUSTON COUNTY BOARD OF EDUCATION,	:	DECISION
	:	
	:	
Appellee.	:	

This is an appeal by A.R. (“Student”) from a decision by the Houston Board of Education (“Local Board”) expelling the Student for two (2) semesters with the opportunity to enroll in the Local Board’s alternative school, and with the possibility to return to Perry High School at the beginning of the 2010-2011 school year. The Local Board took these actions because it found that the Student violated its rules by possessing marijuana on school premises. For the reasons set forth below, this appeal is sustained.

I. BACKGROUND

The Student attends Perry High School. The Student was charged with the possession of marijuana while on school premises. The Student appealed the charges and was provided a hearing. At the hearing, the Student admitted that he was in possession of marijuana. The Student testified that another student gave him the marijuana in a bag and he did not realize what was in the bag. The Student further testified that, once he realized that the bag contained marijuana, he was not sure what to do but would have probably reported it to the school resource officer. However, before the Student did so, he was called to the office, at which time, he was found to be in possession of marijuana.

After hearing all the evidence, the hearing tribunal found that the Student violated the Local Board’s rules regarding the possession of drugs. The hearing tribunal expelled the Student for two (2) semesters with the opportunity to enroll in the Local Board’s alternative school, and with the possibility to return to Perry High School at the beginning of the 2010-2011 school year. The Local Board affirmed the decision of the hearing tribunal.

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 of marijuana on school premises. The Student admits possessing marijuana on school premises. Thus, the decision of the Local Board is supported by admissible evidence.

B. Level of Punishment.

The Student asserts in his notice of appeal that the discipline he received is excessive. The Student contends that he is a good student and does not have a disciplinary record. The Student contends that another student gave him the marijuana in a bag and he did not realize what was in the bag. The Student further contends that, once he realized that the bag contained marijuana, he was not sure what to do but would have probably reported it to the school resource officer. However, before the Student did so, he was called to the office, at which time, he was found to be in possession of marijuana. “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 May 2010.

WILLIAM BRADLEY BRYANT
VICE CHAIRMAN FOR APPEALS