

**STATE BOARD OF EDUCATION
STATE OF GEORGIA**

J.M.,	:	
	:	
Appellant,	:	
	:	
v.	:	CASE NO. 2010-76
	:	
DEKALB COUNTY BOARD OF EDUCATION,	:	DECISION
	:	
Appellee.	:	

This is an appeal by J.M. (“Student”) from a decision by the DeKalb County Board of Education (“Local Board”) suspending the Student for the remainder of the school year with the option to attend the Local Board’s alternative school, and placed the Student on system-wide probation through graduation. The Local Board took these actions because it found that the Student violated its Code of Conduct regarding the possession of a weapon on school property. For the reasons set forth below, the decision of the Local Board is SUSTAINED.

I. BACKGROUND

The Student attended Dunwoody High School. On or about February 9, 2010, the Student was questioned by the school administration regarding issues related to the theft of electronic devices. As a result, at the request of the school administration, the Student allowed the school administration to search his vehicle. In doing so, the school administration found two knives in the Student’s vehicle. As a result, the Local Board charged the Student with violating its Code of Conduct prohibiting the possession of a weapon, which includes knives. The Student requested a hearing and the Local Board convened a hearing tribunal.

At the hearing, the Student admitted to knowing the policy prohibiting possession of the knives on school property. The Student further testified that he possessed the knives in his vehicle while on school property but that he had forgotten that the knives were in his vehicle. The hearing tribunal recommended suspending the Student for the remainder of the school year with the option to attend the Local Board’s alternative school, and placed the Student on system-wide probation through graduation. The Local Board affirmed the decision of the hearing tribunal.

II. ERROR ASSERTED ON APPEAL

As an initial matter, this appeal¹ is moot. The punishment imposed by the Local Board ended at the end of the 2009-2010 school-year. Thus, this appeal is moot because the controversy no longer exists, 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 admitted to knowing the policy prohibiting possession of the knives on school property. The Student further testified that he possessed the knives in his car while on school property but that he had forgotten that the knives were in his vehicle. Thus, even if this appeal was not moot, the decision of the Local Board is supported by admissible evidence.

¹ On appeal, the Student asserts that his rights were violated at the hearing regarding the hearing procedures, the admission of evidence, and the search of his vehicle. The Local Board contends that the Student did not assert these objections at the hearing. Thus, the Local Board contends that this objection was not raised before the hearing officer, and, therefore, cannot be raised on appeal to the State Board. Hutcheson v. DeKalb County Bd. of Educ., Case No. 1980-5 (Ga. SBE, May 1980); Z.G. v. Henry County Bd. of Educ., Case No. 2007-05 (Ga. SBE, Jan. 2007) citing Sharpley v. Hall County Bd. of Educ., 251 Ga. 54 (1983). Based upon a review of the record, the State Board agrees that the Student failed to assert these objections before the hearing tribunal, and, therefore, these objections cannot be raised before this Board.

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 July 2010.

MARY SUE MURRAY
VICE CHAIR FOR APPEALS