

STATE BOARD OF EDUCATION

STATE OF GEORGIA

D. P.,	:	
	:	
Appellant,	:	CASE NO. 2010-87
	:	
vs.	:	
	:	
HENRY COUNTY	:	
BOARD OF EDUCATION,	:	DECISION
	:	
Appellee.	:	

This is an appeal by D. P. (Student) from a decision by the Henry County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him from regular school until the end of the first semester of the 2010-2011 school year, with the option of attending alternative school during the period of expulsion, after finding him guilty of possessing and drinking an alcoholic beverage on campus. The Student claims that the punishment is too harsh. The Local Board’s decision is SUSTAINED.

The Student admitted to taking a sip of an alcoholic beverage that was passed to him on May 5, 2010, while he was sitting in the gymnasium bleachers with several other students. The school administration charged the Student with drinking and possessing alcohol and referred him to a student disciplinary tribunal. The school system’s student handbook provides that if a student is found guilty of using or being under the influence of any alcoholic beverage at a school related activity, “the hearing officer will issue an expulsion from school.” Although the Student had never been involved in any previous disciplinary action, the hearing officer expelled the Student until the end of the first semester of the 2010-2011 school year and gave him the option of attending an alternative school during his expulsion period. The Local Board upheld the tribunal decision when the Student appealed. The Student then filed an appeal to the State Board of Education.

On appeal, the Student claims that the punishment was too harsh. He claims that his principal assured him that he would not receive anything more than a short suspension and that he did not have to hire a lawyer to represent him because he had never been involved in any previous disciplinary incidents. He also claims that several of the other students who participated in the incident, including the ones who brought the alcohol on campus, were not punished so he is being unfairly singled out for punishment. Finally, he states that the alternative school does not provide an education; the students are permitted to swear in class, they do not receive any remedial help, and the class hours subject his family to severe hardship.

"The standard for review by the State Board of Education is that if there is any evidence to support the decision of the local board of education, then the local board's decision will stand unless there has been an abuse of discretion or the decision is so arbitrary and capricious as to be illegal. *See, Ransum v. Chattooga County Bd. of Educ.*, 144 Ga. App. 783, 242 S.E.2d 374 (1978); *Antone v. Greene County Bd. of Educ.*, Case No. 1976-11 (Ga. SBE, Sep. 8, 1976)." *Roderick J. v. Hart Cnty. Bd. of Educ.*, Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). In the instant case, the Student admitted the infraction so there was no question about the evidence supporting the charges.

Regarding the harshness of the punishment, "[a] local board of education ... is charged with the responsibility of managing the operation of its schools, and, in matters of discipline, the State Board of Education cannot substitute its judgment for the judgment of the local board. *See, Boney v. County Board of Education for Telfair County*, 203 Ga. 152, 45 S.E.2d 442 (1947); *Braceley v. Burke County Bd. of Ed.*, Case No. 1978-7." *Joseph M. v. Jasper Cnty. Bd. of Educ.*, Case No. 1981-40 (Ga. SBE, Feb. 11, 1982). *See, also, B. K. v. Bartow Cnty. Bd. of Educ.*, Case No. 1998-33 (Ga. SBE, Sep. 10, 1998). Thus, even if we were to agree with the Student, the State Board of Education cannot change the Local Board's judgment.

The Student's claims regarding the punishment received by other students and the condition of the alternative school cannot be considered by the State Board of Education because there was no evidence in the record regarding these issues. The State Board of Education can only review evidence that was presented before the original hearing tribunal. *See, Deiangelo E. v. Coffee Cnty. Bd. of Educ.*, Case No. 1991-21 (Ga. SBE, Sep. 12, 1991). We cannot, therefore, address the Student's claims regarding disparate treatment and the condition of the alternative school.

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 and the decision was not arbitrary or capricious. Accordingly, the Local Board's decision is SUSTAINED.

This _____ day of August 2010.

MARY SUE MURRAY
VICE CHAIR FOR APPEALS