

**STATE BOARD OF EDUCATION
STATE OF GEORGIA**

C.S.,	:	
	:	
Appellant,	:	
	:	
v.	:	CASE NO. 2012-15
	:	
HABERSHAM COUNTY BOARD OF EDUCATION,	:	DECISION
	:	
	:	
Appellee.	:	

This is an appeal by C.S. (“Student”) from a decision by the Habersham County Board of Education (“Local Board”) finding 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 Habersham County 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 Local Board offered evidence showing that the Student admitted to possessing marijuana on school premises.

After hearing all the evidence, the tribunal found that the Student violated the Local Board’s rules by possessing marijuana on school premises. The tribunal assigned the Student to the Alternative School for the remainder of the first semester of the 2011-2012 school year, placed her on disciplinary probation for the remainder of 2011-2012 school year, and banned her from driving or parking on school property for the 2011-2012 school year. The Local Board affirmed the decision of the tribunal.

II. ERROR ASSERTED ON APPEAL

A. Record 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 Ransom 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 by possessing marijuana on school premises. On appeal, the Student contends that the only admissible evidence is based upon hearsay that the substance was marijuana. The Student relies on Neal v. Augusta-Richmond County Personnel Bd., 304 Ga. App. 115 (2010) in support of her position. However, in Neal, the employer only offered the testimony of a medical review officer who did not conduct the drug test to support its decision to terminate an employee. In this case, the Local Board did not offer or rely on a third party drug test to support its case. Rather, the Principal testified that the Student admitted to possessing marijuana. The Student confirmed this admission in her written statement.¹ Thus, Neal is inapplicable to this case. Therefore, the decision of the Local Board is supported by admissible evidence.

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 January 2012.

MARY SUE MURRAY
VICE CHAIR FOR APPEALS

¹ On appeal, the Student does not challenge the admission of her written statement. In any event, the Student’s written statement is admissible evidence. See O.C.G.A. § 24-3-31.