

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JEFF B.,	)	
	)	
Appellant,	)	
	)	
v.	)	CASE NO. 1983-3
	)	
GWINNETT COUNTY BOARD	)	
OF EDUCATION,	)	
	)	
Appellee.	)	

ORDER

THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of Law of the Hearing Officer are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the appeal herein is moot and is therefore dismissed.

Messrs. Foster and McClung were not present.

This 14th day of April, 1983.

Hollis Q. Lathem  
Acting Vice Chairman for Appeals

## STATE BOARD OF EDUCATION

## STATE OF GEORGIA

**JEFF B.,**

**Appellant**

**V.**

**GWINNETTCOUNTY BOARD  
OF EDUCATION,**

**Appellee**

CASE NO. 1983-3

### REPORT OF HEARING OFFICER

This is an appeal by Jeff B. (hereinafter “Student”) from a decision by the Gwinnett County Board of Education (hereinafter “Local Board”), which upheld a disciplinary panel decision to suspend the Student during the Winter Quarter, 1982-1983. The State Hearing Officer recommends dismissal of the appeal on the grounds the appeal is moot.

On November 17, 1982, the Student was found smoking in the boy's bathroom during school hours. The Local Board had adopted a policy which provided:

For students in grades 9-12, smoking may be permitted, in a specially designated area by the principal, provided a letter from the parents or guardian is sent to the principal giving parental permission for their child to smoke.

The principal of the high school the Student attended chose not to permit smoking in the school and had adopted a rule which provided that “no use of tobacco will be allowed on campus.”

At the time of the smoking incident, the Student was on probation from a previous offense. A disciplinary panel conducted a hearing and received testimony from the Student and one of his parents. The disciplinary panel decided that the Student should be suspended for the Winter Quarter of the 1982-1983 school year, and that he would be under a one-year

probation upon his return. The Student was eligible to be admitted to an alternative school during the period of his suspension.

On December 16, 1982, the Local Board upheld the decision of the disciplinary panel. An appeal to the State Board of Education was filed with the Local Superintendent on January 17, 1983. The Student served his period of suspension during the Winter Quarter of the 1982-1983 school year.

The Student's appeal claims that the rule adopted by the Local Board unconstitutionally denied him equal protection and due process because the rule was not uniformly enforced throughout the county. He also claims that the Local Board unlawfully delegated its authority to the school principals; expulsion for a full quarter is grossly disproportionate to the offense and the denial by the Local Board to allow counsel to appear and be heard was a denial of due process.

In the instant case, the Student has served the suspension during the Winter Quarter and is now eligible to return to school. Any issues presented by the appeal are, therefore, moot and the Hearing Officer concludes that the appeal should be dismissed.

Appellant's claims attacking the constitutionality of the Local Board's rule cannot be raised on appeal since they were not raised before the Local Board. An issue cannot be raised for the first time on appeal.

Local boards of education are charged with the responsibility of managing the schools within their jurisdiction. Unless the disciplinary measures used by a local board of education are so arbitrary and capricious so as to be clearly illegal, the State Board of Education will not substitute its judgment to determine the appropriate measures that should be taken. In the instant case, it does not appear that the disciplinary measures imposed were

arbitrary and capricious and they were within the powers of the Local Board. The Hearing Officer, therefore, concludes that the decision of Local Board was not arbitrary and capricious so as to make it illegal.

Based upon the fact that the suspension complained of has been served, the Hearing Officer recommends dismissal of the appeal because of mootness. If the appeal is not dismissed, then the Hearing Officer recommends that the decision of the Local Board be sustained.

L. O. BUCKLAND  
Hearing Officer