

STATE BOARD OF EDUCATION
STATE OF GEORGIA

JACOB C.,	:	
	:	
Appellant,	:	
	:	CASE NO. 1995-31
vs.	:	
	:	DECISION
COLUMBIA COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by Jacob C. (Student) from a decision by the Columbia County Board of Education (Local Board) to suspend him from high school for the remainder of the 1994-1995 school year and assign him to an alternative school because he was found in possession of marijuana off campus and after school hours. In addition, the Local Board imposed a requirement that the Student appear before a tribunal before he can be re-admitted to the regular high school. The Student contends that the Local Board's decision violated its own policies concerning drug possession and he was not given notice that the Local Board had adopted a "zero tolerance position for drug possession and the Local Board also failed to follow its own policies. The Local Board's decision is reversed.

The record in this case is devoid of any proper evidence of what occurred. Apparently, the Student was arrested and charged with misdemeanor possession of marijuana. As a result, a Student Disciplinary Tribunal hearing was held on March 16, 1995. During the hearing, the school system did not present any evidence that the Student was in possession of marijuana. The principal, assistant principal, and school safety officer provided testimony that they had been told that the Student was using drugs. The Student did not testify and did not present any evidence. At the conclusion of the hearing, the Tribunal decided to suspend the Student for the remainder of the 1994-1995 school year with the option of attending an alternative school. The Student then appealed to the Local Board. The Local Board upheld the Tribunal's decision and, without explanation, added the additional requirement that the Student must appear before another tribunal before being admitted to school at the beginning of the 1995-1996 school year. The Student then appealed to the State Board of Education.

The Local School System's case against the Student was based solely upon hearsay evidence. While hearsay evidence is admissible in an administrative hearing, it cannot, standing alone, serve as the basis for an administrative decision. See, McGahee v. Yamaha Motor Mfg. Corp. of America, 214 Ga. App. 473 (1994). In addition, a local board of education cannot impose any greater punishment than what was imposed by the student disciplinary tribunal unless the local board provides reasons for the increased penalty. See, Chauncey Z. v. Cobb Cnty. Bd. of Educ., Case No. 1992-42 (Ga. SBE, Mar. 11, 1993).

Based upon the foregoing, the State Board of Education is of the opinion that the Local Board's decision was arbitrary and capricious and was not supported by the evidence. The Local Board's decision, therefore, is REVERSED.

This 10th day of August, 1995.

Messrs. Sessoms, Teasley and William were not present. The seat for the Tenth District is vacant.

Robert M. Brinson
Vice Chairman for Appeals