

STATE BOARD OF EDUCATION

STATE OF GEORGIA

C. P.,

Appellant,

CASE NO. 1999-14

vs.

**DEKALB COUNTY
BOARD OF EDUCATION,**

DECISION

Appellee.

This is an appeal by C. P. (Student) from a decision by the DeKalb County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him from regular school for the remainder of the 1998-1999 school year, with the option of attending an alternative school, after finding him guilty of violating the Local Board's rules against inappropriate bodily contact with a staff member, property damage, simple battery, creating a school disturbance, and probation violation. The Student claims that the Local Board's decision was too harsh and violated the law because he is a special education student. The Local Board's decision is sustained.

On November 17, 1998, the Student, a seventeen-year-old twelfth grader, attacked another student while in the counselor's office. During the melee, the Student struck the counselor, pushed the counselor and the other student to the floor, broke a lamp, and knocked items from the counselor's desk. The Student was upset because he had been suspended from the basketball team.

The Student did not appear at the student disciplinary tribunal hearing on December 3, 1998. Instead, he sent a notice to the tribunal and asked for a continuance. The tribunal received the request one hour before the hearing, despite a Local Board rule that continuance requests have to be filed twenty-four hours in advance. The tribunal proceeded with the hearing and received evidence concerning the incident.

At the conclusion of the hearing, the tribunal made its decision to expel the Student. The matter was then turned over to a student support team to determine whether the Student could be disciplined because of his special education status. The student support team decided that the Student's special education status – ADD, ADHD – did not cause his outburst and that he could be disciplined as recommended by the tribunal. The Local Board upheld the decision on January 4, 1999.

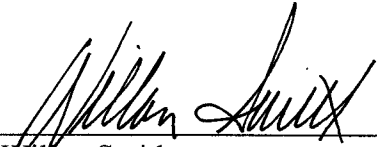
On appeal, the Student argues that he is a special education student and the Local Board has failed to provide him with an adequate public education by not implementing a program that would have permitted him to avoid the incident. The Student did not raise any of these issues before the tribunal and did not present any of the evidence concerning his disability.

The State Board of Education serves as an appellate body and can only review the evidence and issues presented in the initial hearing. *See, Boney v. County Bd. of Educ. of Telfair County*, 203 Ga. 152, 45 S.E.2d 442 (1947). Since none of the issues raised on appeal were presented before the student disciplinary tribunal, the State Board of Education cannot now consider them on appeal.

The record shows that the hearing was conducted according to the policies established by the Local Board. The Local Board has the power and authority to expel a student for the conduct displayed by the Student. "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).

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board's decision was within its authority and there was no abuse of discretion. Accordingly, the Local Board's decision is
SUSTAINED.

This 13th day of May 1999.



Willou Smith
Chairperson