

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>D. P.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 1999-67</b>
	:	
<b>WINNETT COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>

This is an appeal by D. P. ("Student") from a decision by the Gwinnett County Board of Education ("Local Board") to uphold the decision of a disciplinary tribunal to expel him through the end of the 1999-2000 school year after finding him guilty of damaging school property, disrupting school, assault, having weapons, drugs, and alcohol on school property, and subversive conduct. The Student claims that the discipline imposed was too harsh. Additionally, he makes numerous claims that the administrators acted irresponsibly and unprofessionally and were thus responsible for his actions. Since the Local Board's decision, the Student has graduated from high school and is now enrolled in college. The issues raised by the Student, therefore, are moot and the State Board of Education is unable to provide him with any relief.

Even on the merits, the Local Board's decision is sound. On September 12, 1999, the Student took part of a microphone stand from the moderator of a school meeting and failed to return it. After learning of the Student's involvement, an administrator took the Student to his office and told the Student to wait. Instead, the Student left the office, went outside to his truck in the student parking lot, and began to leave the school. Two administrators confronted the Student and told him he could not leave. The Student started swearing at the administrators and threatened to strike them. A school resource officer and another administrator were called to the scene. The Student continued with his threats and profanity as he was removed from the parking lot. Several days later, the Student's truck was searched and an open whiskey bottle, some marijuana, a beer can, and a knife were found.

"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). Although there is no question about the Student's actions, he wants to shift the responsibility for his actions to the administrators who were attempting to recover the microphone stand. "It is the duty of the hearing tribunal to determine the veracity of the witnesses and the State Board of Education will not go behind such determination if there is any

evidence to support the decision." *David L. v. DeKalb Cnty. Bd. of Educ.*, Case No. 1996-1 (Ga. SBE, Apr. 11, 1996). Thus, since the tribunal decided that the Student was responsible for his own actions and there was evidence to support that decision, the State Board of Education is bound to uphold that decision.

The Student also claims that his punishment is not the same as the punishment given to athletes in similar circumstances. There was no evidence presented during the hearing of disparate treatment. "If an issue is not raised at the initial hearing, it cannot be raised for the first time when an appeal is made." *Hutcheson v. DeKalb Cnty. Bd. of Educ.*, Case No. 1980-5 (Ga. SBE, May 8, 1980). The State Board of Education, as an appellate body, is not authorized to consider matters that have not been raised before the Local Board. *Sharpley v. Hall Cnty. Bd. of Educ.*, 251 Ga. 54, 303 S.E.2d 9 (1983).

Based upon the foregoing, it is the opinion of the State Board of Education that the issues raised by the Student are moot because he has already graduated from high school and is now in college. The appeal, therefore, is hereby

DISMISSED.

This 23<sup>rd</sup> day of February 2000.

---

Bruce Jackson  
Vice Chairman for Appeals