

STATE BOARD OF EDUCATION

STATE OF GEORGIA

P. A.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2001-32
	:	
HENRY COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by P. A. (Student) from a decision by the Henry County Board of Education (Local Board) to uphold the decision of a disciplinary hearing officer to suspend him from school until the end of the 2000-2001 school year because he was involved in the beating of another student in the boys' restroom. The Student claims that the evidence did not support the charges. The Local Board's decision is sustained.

On December 14, 2000, the Student and three others surrounded and beat another student in the boys' restroom in the middle school where they were enrolled. The Student was charged with physically abusing another student. A disciplinary hearing officer found him guilty of the charges and suspended him until the end of the 2000-2001 school year with the opportunity of attending an alternative school during his suspension. The Local Board upheld the hearing officer's decision when the Student appealed. The Student then appealed to the State Board of Education.

On appeal, the Student claims that the evidence was contradictory and that he did not participate in actually beating the victim.

"The standard for review by the State Board of Education is that if there is any evidence to support the decision of the local board of education, then the local board's decision will stand unless there has been an abuse of discretion or the decision is so arbitrary and capricious as to be illegal. *See, Ransum v. Chattooga County Bd. of Educ.*, 144 Ga. App. 783, 242 S.E.2d 374 (1978); *Antone v. Greene County Bd. of Educ.*, Case No. 1976-11 (Ga. SBE, Sep. 8, 1976)." *Roderick J. v. Hart Cnty. Bd. of Educ.*, Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). "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). In the instant cast, there was testimony from two witnesses that the Student participated in beating the victim. It was the duty of the hearing officer to decide whether to accept such testimony, or to believe the Student's testimony that he did not participate in the beating.

The Student also complains that the hearing was improperly conducted because a witness was allowed to testify after the hearing was closed. The Student did not raise any objections at the hearing. "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). The Student also has not shown that he was harmed by the re-opening of the hearing for the additional witness.

Based upon the foregoing, it is the opinion of the State Board of Education that there was evidence to support the Local Board's decision. Accordingly, the Local Board's decision is
SUSTAINED.

This _____ day of May 2001.

Bruce Jackson
Vice Chairman for Appeals