

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>B. D.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2001-35</b>
	:	
<b>HENRY COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>

This is an appeal by B. D. (Student) from a decision by the Henry County Board of Education to remand for another hearing a decision by a disciplinary hearing officer to suspend him until the end of he 2000-2001 school year after the Student claimed that the hearing officer was biased. The Local Board's decision is sustained.

On November 28, 2000, the Student grasped a female student's breasts while they were in class. A disciplinary hearing officer found the Student guilty of physically abusing another student and expelled him until the end of the 2000-2001 school year. The Student appealed to the Local Board and argued that the hearing officer was biased. On January 29, 2001, the Local Board remanded the case for another hearing officer to consider. The Student appealed the Local Board's decision to the State Board of Education, claiming that the Local Board exceeded its authority and was subjecting him to double jeopardy.

Another hearing was held before another disciplinary hearing officer, who also found the Student guilty of the charges. The Local Board then upheld the decision to expel the Student. The Student did not file an appeal from the Local Board's February 15, 2001 decision.

The Local Board has moved for dismissal of the Student's appeal on the grounds that it did not make an appealable decision when it remanded the case for a different hearing officer to consider and the Student failed to file an appeal from its February 15, 2001 decision to uphold the decision of the second disciplinary hearing officer.

The Local Board informed the Student that he had the right to appeal its January 29, 2001 decision to the State Board of Education. Despite the Student's appeal to the State Board of Education, the Local Board proceeded with the rehearing and entered a decision on February 15, 2001 that affirmed the decision to expel the Student until the end of the 2000-2001 school year. Since the Local Board informed the Student that he could file the appeal from its January 29, 2001 decision and the Student followed these

instructions, the Local Board cannot now claim that the Student improperly filed an appeal from its January 29, 2001 decision.

The Student claims that the Local Board did not have the authority to remand the case for another hearing. O.C.G.A. § 20-2-754(d) provides for review of a disciplinary hearing officer's decision by the local board of education. It further provides that the local board "may take any action it determines appropriate, and any decision of the board shall be final." The Local Board argues that since it can take any action it determines appropriate, it has the authority to remand for consideration by a different hearing officer when the Student complained about the first hearing officer. The State Board of Education concludes that the Local Board had the authority to order a remand upon the Student's claim of bias on the part of the hearing officer.

The Student claims that the Local Board's decision to remand the case to be heard by a different hearing officer subjects him to double jeopardy. Hearings before local boards of education, however, are civil proceedings and not criminal. Consequently, the concept of double jeopardy is inapplicable since jeopardy relates only to loss of life or limb. *See, Brown v. Ohio*, 432 U.S. 161, 164, 97 S.C. 2221, 53 L.Ed.2d 187 (1977).

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board had the authority to remand the case and its decision to remand for an additional hearing did not subject the Student to double jeopardy. The Local Board's decision, therefore, is  
SUSTAINED.

This \_\_\_\_\_ day of May 2001.

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Bruce Jackson  
Vice Chairman for Appeals