

STATE BOARD OF EDUCATION

STATE OF GEORGIA

J. C.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2004-09
	:	
GWINNETT COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by J. C. (Student) from a decision by the Gwinnett County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him until January 7, 2004, with the option of attending an alternative school during the period of expulsion, after finding him guilty of transmitting marijuana at school, failure to follow written directions, absence from school without permission, and chronic violation of rules. The Student claims that there was no evidence that he was in possession of marijuana and that the punishment was too harsh. Additionally, the Student claims that the tribunal failed to consider that he suffers from attention deficit/hyperactive disorder (ADHD). The Local Board's decision is sustained.

During the lunch hour on April 15, 2003, the Student and another student left the lunchroom without permission and went to an off-limits area of the school property outside the building. A teacher observed the Student giving a pipe to the other student. As the other student put the pipe to his lips, the teacher told the students to come to him. When the students started towards the teacher, the student with the pipe dropped it in the brush. The teacher found the pipe where the students were standing. The pipe was tested and marijuana residue was found. Two small bags of marijuana were also found in the shoes of the other student.

A student disciplinary panel heard evidence regarding the charges made against the Student. The tribunal found the Student guilty of all the charges and decided to expel him from regular school until the end of the first semester of the 2003-2004 school year, with the option of attending an alternative school during the expulsion period. The Local Board upheld the tribunal's decision and the Student filed an appeal to the State Board of Education.

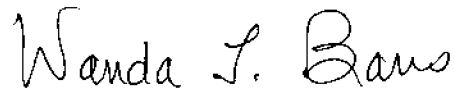
The Student claims that the tribunal failed to consider that he had ADHD. This issue, however, was never raised during the hearing and there is no evidence that the Student is enrolled in special education. "If an issue is not raised at the initial hearing, it cannot be raised for the first time when 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's claim that he suffers from ADHD is without merit.

"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). The Student admitted during the hearing that he had the marijuana pipe in his hand, that he passed it to the other student, and that the incident occurred in an off-limits area outside the lunchroom. There was, therefore, evidence to support the Local Board's decision.

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 to expel the Student. Accordingly, the Local Board's decision is
SUSTAINED.

This 14th day of November 2003.



Wanda T. Barrs
Chairperson - State Board of Education