

STATE BOARD OF EDUCATION

STATE OF GEORGIA

S. C.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2004-20
	:	
FLOYD COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by S. C. (Student) from a decision by the Floyd County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to assign him to an alternative school for the first semester of the 2003-2004 school year after finding him guilty of inappropriate behavior and repeated violation of school rules. The Student claims that the school system failed to provide him with the proper due process procedures, the school system failed to follow Georgia law regarding discipline, there was no evidence to support the charges, and the punishment was too severe. The Local Board's decision is sustained.

On the last day of regular instruction during the 2002-2003 school year, the Student gave an oral presentation in his English class. During the presentation, the Student called a student in the class anorexic and he indicated that a female student in the class had large breasts. The teacher immediately removed the Student from the classroom and took him to the principal's office. The Student was charged with disrupting the classroom and repeated violations of school rules. The charge of repeated violations of school rules resulted from previous disciplinary encounters by the Student during the year.

A student disciplinary tribunal met and heard the evidence. At the conclusion of the hearing, the tribunal voted to assign the Student to an alternative school for the first semester of the 2003-2004 school year. When the Student appealed to the Local Board, the Local Board upheld the tribunal's decision. The Student then filed a timely appeal to the State Board of Education.

On appeal to the State Board of Education, the Student claims that the school system failed to provide him with due process and failed to follow the law concerning chronic disciplinary problem students, O.C.G.A. § 20-2-765. Neither of these issues was raised before the disciplinary tribunal and, consequently, cannot now be raised before the State Board of 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). Due process requires a hearing, the right to cross-examine witnesses, and an opportunity to present a defense. *See, Dixon v. Alabama St. Bd. of Educ.*, 294 F.2d 150 (5th Cir., 1961). In the instant case, the Student was provided with a hearing and was given notice of the charges. In addition, he was given the right to cross-examine witnesses and to present a defense to the charges.

The Student claims that he was unable to talk with the principal as provided for in the Student Handbook. The Student Handbook was not introduced into evidence, but from the language quoted by the Student, it appears that the ability to contact the principal is available when a parent disagrees with punishment rendered without a hearing and is part of the process of reaching a hearing.

There is no requirement that a student has to qualify as a chronic disciplinary problem student before being charged with repeated violations of school rules. There was, therefore, no need to contact the Student's parents under the provisions of O.C.G.A. § 20-2-765.

The Student also claims that there was no evidence in the record that he committed any of the earlier incidents that formed the basis for the charge of repeated violations. The Student's own admissions during the hearing and at the time of the incidents was sufficient evidence to support the charges; the school system was not required to present any additional evidence.

The Student claims that the punishment was too harsh. The State Board of Education, however, cannot adjust the level or degree of discipline imposed by a local board of education. *B. K. v. Bartow Cnty. Bd. of Educ.*, Case No. 1998-33 (Ga. SBE, Sep. 10, 1998).

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 February 2004.

William Bradley Bryant
Vice Chairman for Appeals