

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>C. W.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2004-42</b>
	:	
<b>WALKER COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>

This is an appeal by C.W. (Student) from a decision by the Walker County Board of Education (Local Board) that upheld the decision of a student disciplinary tribunal to expel him from regular school through the end of the 2004-2005 school year and assign him to an alternative school during the 2004-2005 school year after finding him guilty of being under the influence of drugs in class, disrupting class, failing to perform his work, disrespectful behavior, and disruption on a bus. The Student claims that he is being punished twice for the charges and was, therefore, denied his right not to be placed in double jeopardy. The Local Board's decision is sustained.

On February 19, 2004, the Student was charged with being under the influence of drugs while in school, classroom interference, disregard of directions, disrespectful behavior, failure to do work, and misbehavior on a bus. A student disciplinary tribunal hearing was held on February 25, 2004. The Student pleaded guilty to all of the charges made against him. After receiving evidence of the Student's disciplinary record, the tribunal decided to expel him from school until the end of the 2004-2005 school year and assigned him to an alternative education school during the 2004-2005 school year. The Local Board upheld the tribunal's decision when the Student appealed and the Student then filed an appeal to the State Board of Education.

On appeal to the State Board of Education, the Student claims that he has been subjected to double jeopardy in violation of the federal constitution because he is being punished twice for the same infractions. The record, however, does not support the Student's contentions.

The record shows that the Student was enrolled in an alternative school. On February 4, 2004, a teacher suspected the Student of being under the influence of drugs. The Student denied he had taken any drugs and he was allowed to continue his class. Later in the day, the Student became belligerent with another teacher and was disruptive in class. The Student's parent agreed to have the Student tested for drugs. On the following day, February 5, 2004, the Student's parent reported that the drug test was

positive. The Student then admitted that he had taken a prescription drug. The Student returned to class two days later after receiving a warning that any further infractions would result in a referral to a disciplinary tribunal.

On February 12, 2004, the Student's principal decided to refer him to a disciplinary tribunal because he had failed to complete his school work and failed to report to a silent break period. The charges made on February 19, 2004, were based on the drug test and the Student's belligerent action in a class on February 4, 2004 and the Student's failure to complete his school work and attend the silent break period.

In *Clark v. State*, 220 Ga. App. 251, 469 S.E.2d 250 (1996), the Court pointed out that a sanction does not always constitute a punishment that bars subsequent punishment. The Court held that a short-term suspension was not punishment but was a remedial action that did not prevent subsequent criminal sanctions.

The record in the instant case does not indicate that the Student received any punishment based on his actions from February 4, 2004 through February 12, 2004. Although the Student claims he lost "points" after each of his infractions, he has not shown that the loss of points is so severe that it constitutes punishment such that his subsequent expulsion from school would be deemed double jeopardy. The loss of points are remedial in nature and do not serve to bar subsequent disciplinary action.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board did not subject the Student to double jeopardy and there was evidence in the record to support the Local Board's decision. Accordingly, the Local Board's decision is  
SUSTAINED.

This \_\_\_\_\_ day of July 2004.

---

William Bradley Bryant  
Vice Chairman for Appeals