

STATE BOARD OF EDUCATION

STATE OF GEORGIA

B. H.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2005-42
	:	
GRIFFIN-SPALDING COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by B. H. (Student) from a decision by the Griffin-Spalding County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him from regular school until the second day of the first semester of the 2005-2006 school year after finding him guilty of distributing alcohol on campus. The Student requested and appeared for oral argument; the Local Board failed to file a timely brief or appear for oral argument. The Student argues that the punishment is too harsh.

The State Board of Education rules and regulations governing appeals provide that failure to comply with the requirements for filing briefs and making oral argument “may be grounds for dismissal.” State Board of Education Regulation 160-1-3-.04 (4)(d). The State Board of Education has always taken the position that if a student fails to file a brief or request oral argument, then the appeal is deemed to have been abandoned. *See, Chris M. v. McIntosh Cnty. Bd. of Educ.*, Case No. 1995-47 (Ga. SBE, Jan. 11, 1996). Equity would dictate that a similar fate should occur when a local board fails to file a brief or attend oral argument, which would mean reversal of the local board’s opinion. There are, however, no provisions for reversal of a local board’s decision in such a situation. The State Board of Education concludes that it does not have the authority to reverse a local board’s decision in the absence of some statutory or regulatory authority.

In the instant case, the Student appealed to the State Board of Education because he felt 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). "A local board of education ... is charged with the responsibility of managing the operation of its schools, and, in matters of discipline, the State Board of Education cannot substitute its judgment for the judgment of the local board. *See, Boney v. County Board of Education for Telfair County*, 203 Ga. 152, 45 S.E.2d 442 (1947); *Braceley v. Burke County Bd. of Ed.*, Case No. 1978-7." *Joseph M. v. Jasper Cnty. Bd. of Educ.*, Case No. 1981-40 (Ga. SBE, Feb. 11, 1982).

Based upon the foregoing, it is the opinion of the State Board of Education that it does not have the authority to reverse the Local Board's decision based upon its failure to follow the directives concerning briefing and oral argument, nor can the State Board of Education interfere in the degree of punishment. Accordingly, the Local Board's decision is
SUSTAINED.

This _____ day of June 2005.

William Bradley Bryant
Vice Chairman for Appeals