

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>A. B.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2005-62</b>
	:	
<b>BUTTS COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>

This is an appeal by A. B. (Student) from a decision by the Butts County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to suspend the Student from school during the last month of the 2004-2005 school year after finding her guilty of chronic disrespect and aggressive behavior. The Student claims that the Local Board failed to consider that she is eligible for services under the Individuals with Disabilities Education Act, 20 U.S.C. Secs. 1400 *et seq.* (the "Act" or "IDEA") and the punishment was too severe. The suspension period is over and the State Board of Education cannot provide the Student with any relief. Accordingly, the appeal is dismissed as moot.

On April 20, 2005, the Student, a fifth grader, told her principal that she did not have to talk to the principal when the principal said, "Good morning!" to her. The Student then began waving her arms as she entered her classroom and repeated that she did not have to talk to the principal. Later in the day, the principal decided to assign the Student to an in-school detention program for the remainder of the day and the next day. The Student refused to go to the program and the principal suspended her and charged her with chronic disrespect and aggressive behavior.

During the hearing before a student disciplinary tribunal, evidence was presented of numerous times when the Student refused to follow the directions of the administration and her teachers. There was also evidence that she picked on the students in the special education program. There was, however, no evidence that the Student was eligible for special education services.

The tribunal found the Student guilty of the charges against her and decided to suspend her until the end of the school year. On appeal, the Local Board upheld the tribunal's decision. The Student then appealed to the State Board of Education.

On appeal, the Student claims that she is eligible for special education services and should not have been suspended from school. Additionally, the Student claims that the punishment was too harsh.

As stated above, there was no evidence that the Student was eligible for special education services. This issue was not raised during the hearing before the tribunal and cannot be raised for the first time on appeal to the State Board of Education. *See, 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 also 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. *See, B. K. v. Bartow Cnty. Bd. of Educ.*, Case No. 1998-33 (Ga. SBE, Sep. 10, 1998).

Since the suspension period has passed, the State Board of Education cannot provide the Student with any relief, nor does it appear that the Local Board's decision was in error. Since the State Board of Education cannot provide the Student with any relief, the appeal is moot. Accordingly, the appeal is DISMISSED.

This \_\_\_\_\_ day of September 2005.

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William Bradley Bryant  
Vice Chairman for Appeals