

STATE BOARD OF EDUCATION

STATE OF GEORGIA

M. R.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2006-43
	:	
HENRY COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by M. R. (Student) from a decision by the Henry County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him for the remainder of the 2005-2006 school year, with the opportunity to attend an alternative school during his expulsion period, after finding him guilty of having a knife at school. The Student claims that the proceedings were unfair. The decision of the Local Board is sustained.

On November 2, 2005, the Student brought a knife to school. He was charged with possessing a weapon while at school and a hearing before a student disciplinary tribunal was scheduled. At the hearing, the Student admitted his guilt and he signed a waiver of his right to have any evidence presented. The tribunal decided to expel the Student for the remainder of the 2005-2006 school year with the option of attending an alternative school during his expulsion period. The Student filed an appeal with the Local Board, but the Local Board upheld the tribunal's decision. The Student then filed an appeal with the State Board of Education.

On appeal, the Student claims that the proceeding was unfair because the attorney for the school board also served as the juvenile court judge before whom the Student appeared before the tribunal hearing. The Student did not raise this as an issue before the tribunal. "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). Additionally, there is no evidence in the record regarding the Local Board's attorney or how the attorney's position as a juvenile court judge had any detrimental effect on the tribunal hearing. The State Board of Education can only consider evidence that was presented during the hearing before the tribunal and must disregard evidence presented for the first time during oral arguments. There is, therefore, no basis for the Student's claim of unfairness.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board's decision was within the Local Board's discretionary authority and there was no evidence that the proceedings violated the Student's due process rights. Accordingly, the Local Board's decision is SUSTAINED.

This _____ day of April 2006.

William Bradley Bryant
Vice Chairman for Appeals