

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>S. M.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2006-60</b>
	:	
<b>GWINNETT COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	<b>DECISION</b>
<b>Appellee.</b>	:	

This is an appeal by S. M. (Student) from a decision by the Gwinnett County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him for one year after finding him guilty of possessing stolen property, being absent from class without authorization, and lying to administrators. The Student claims that the punishment is too harsh. The Local Board's decision is sustained.

During October 2005, teachers confiscated two electronic devices from the Student. On November 15, 2005, a coach discovered the Student near the locker room of the gymnasium when he was supposed to be in a class. The Student had a large sum of cash on him and the administrators thought that he was responsible for a series of thefts from the clothing of other students left unattended while the students engaged in physical education. During an investigation, the administrators learned that the Student had stolen one of the electronic devices from the home of another student. The Student had also called an assistant principal and impersonated his grandmother in an attempt to recover the device without his father's knowledge.

Although there was insufficient evidence that the Student stole any money from the locker room, he was charged with being absent from class without permission, lying, and possessing stolen property on the school campus. At a hearing before a student disciplinary tribunal, the Student admitted he was guilty of all the charges. The tribunal expelled him for one year with the opportunity of returning at the beginning of the fall semester of the 2006-2007 school year by completing 40 hours of community service. The tribunal also gave him the opportunity of attending an alternative school during his expulsion period. The Local Board upheld the tribunal's decision when the Student appealed. The Student then filed an appeal to the State Board of Education.

The Student claims that he did not steal the electronic device; that he merely borrowed it from the other student. The Student, however, did not make this claim before the tribunal. Instead, the Student testified that he surreptitiously stole the device when the other student left him alone for a few moments. "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). The Student's claim that the device was not stolen, therefore, is not supported by the record.

The Student also claims that the punishment is 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 the Local Board acted within its authority. Accordingly, the Local Board's decision is SUSTAINED.

This \_\_\_\_\_ day of May 2006.

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William Bradley Bryant  
Vice Chairman for Appeals