

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>S. K.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2007-13</b>
	:	
<b>GWINNETT COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>

This is an appeal by S. K. (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 until the end of the first semester of the 2006-2007 school year, with the option of attending an alternative school during his expulsion period, after finding him guilty of possessing a “look-a-like gun.” The Student claims that the punishment is too harsh, that the disciplinary policies of the Local Board do not comply with state law, and that he is being discriminated against because of his nationality. The Local Board’s decision is sustained.

On May 24, 2006, the Student, a ninth grader, wore a belt with a buckle that looked like a gun. On the backside, the buckle was hollowed out like a mold. The buckle did not have any moving parts and only functioned as a belt buckle. The Student was charged with violating the Local Board’s policy that prohibits the possession of any “toy or look-a-like gun” and with disobeying instructions that prohibit such conduct.

When a student disciplinary tribunal heard the charges, the Student admitted that he had violated the Local Board policies, but claimed that he did not know that he was violating any policy because other students wore similar buckles and he had worn the buckle before without any of his teachers saying anything. The teacher that turned him in was not one of his teachers. An assistant principal testified that the buckle looked like a real gun. The record shows that while the Student has been in high school, he has received two in-school suspensions, one for not following directions, and the other for possessing tobacco on campus. The tribunal decided to expel the Student until the end of the first semester of the 2006-2007 school year with the option of attending an alternative school during his period of expulsion. The Local Board upheld the tribunal’s decision and the Student appealed to the State Board of Education.

The Student claims that he is being discriminated against because of his nationality because an assistant principal asked him what was his nationality and other students wear buckles that look like guns without receiving any punishment. The Student, however, did not raise this issue during the hearing 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). The Student's claim of discrimination, therefore, is without merit.

The Student also claims that the disciplinary policies of the Local Board do not comply with state law. Department of Education Reg. 160-4-8-.15(2)(a) provides that local board policies will provide:

18. Progressive discipline processes designed to create the expectation that the degree of discipline will be in proportion to the severity of the behavior, that the previous disciplinary history of the student and other relevant factors will be taken into account; and that all due process procedures required by federal and state law will be followed....

Reg. 160-4-8-.15(2)(a).

The Student claims that the Local Board has failed to follow the progressive discipline procedures established by the State Board of Education. The rules that the Student violated were included in the record, but the progressive discipline policies were not included in the record since this issue was not raised at the hearing before the tribunal. As previously stated, issues not raised in the initial hearing cannot be raised for the first time on appeal. The Student's claim that the policies do not follow state law, therefore, cannot be addressed.

The Student's final contention is that the punishment was too harsh since he did not intend to violate any rules, the buckle, although shaped like a gun, did not pose any threat to the school, was observed by his other teachers without comment that it could be a violation of any rules, and his discipline record showed that he previously had only had in-school suspension. 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). The Student's final claim, therefore, does not establish any basis for reversal of the Local Board's decision.

Based upon the foregoing, it is the opinion of the State Board of Education that Local Board had the power and authority to expel the Student for one semester for wearing a belt buckle that looked like a gun. Accordingly, the Local Board's decision is SUSTAINED.

This \_\_\_\_\_ day of November 2006.

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William Bradley Bryant  
Vice Chairman for Appeals