

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

**M. W.,** :  
 :  
 **Appellant,** :  
 :  
 **vs.** : **CASE NO. 2007-43**  
 :  
 **DOUGLAS COUNTY** :  
 **BOARD OF EDUCATION,** :  
 : **DECISION**  
 **Appellee.** :

This is an appeal by M. W. (Student) from a decision by the Douglas County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him from regular school until August 2008 and assigning him to an alternative school after finding him guilty of creating a disruption at school. The Student claims that he was denied due process because (1) the school system failed to give him the names of several witnesses, (2) the tribunal was directed not to consider the merit of his explanation for his absences, (3) the appeal had to be submitted to the Local Superintendent, who is biased. Additionally, the Student claims that the evidence did not support the charges. The Local Board's decision is sustained.

On January 19, 2007, the Student confronted another student in the admittance office of the school and created such a commotion that additional police help was called in to control the situation. The Student was charged with disrupting the orderly environment of the school. A student disciplinary tribunal heard testimony from the clerks present at the scene, the principal, and two police officers. The tribunal decided to expel the Student from regular school until August 2008, with the option of attending an alternative school during his period of expulsion. The Local Board upheld the tribunal's decision when the Student appealed and the Student then filed an appeal to the State Board of Education.

The Student claims that he was denied due process because the school system did not provide him with a complete list of the witnesses who testified for the school system. He also claims that he was denied due process because he was not able to present evidence to explain the many absences that appeared in his record. Neither of these issues was raised by the Student at the hearing. "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). There was no evidence in the record concerning witness identification and no objections

were raised when the witnesses testified. The Student claims that because his attorney was late for the hearing and did not arrive until after the witnesses testified, he did not have an opportunity to raise an objection. The Student, however, did not request a continuance because his attorney was not present and the attorney did not explain her lateness. The Student has not presented any argument that justifies his failure to raise the witness issue at the tribunal hearing. The Student discussed the absence issue with the hearing officer, who gave him an opportunity to present his evidence, but the Student elected against presenting the evidence and failed to preserve any objections to the procedures followed. The State Board of Education, therefore, concludes that the Student's claims of a denial of due process because of the witnesses who testified and his election not to present evidence concerning his absences are without merit.

The Student also claims that he was denied due process because of the involvement of the Local Superintendent in the process. The Student fails to identify how the Local Superintendent has any involvement in the process that results in a denial of due process. Apparently, the Student objects to having to submit his appeal to the Local Board through the Local Superintendent, which is a mere administrative function and does not involve the Local Superintendent's involvement in the decision process that would affect the Local Board's decision. The State Board of Education concludes that there is no merit in the Student's claim of any denial of due process because the Local Superintendent performed an administrative function and forwarded the Student's appeal to the Local Board.

The Student also claims that there was no evidence to support the charges. "The standard for review by the State Board of Education is that if there is any evidence to support the decision of the local board of education, then the local board's decision will stand unless there has been an abuse of discretion or the decision is so arbitrary and capricious as to be illegal. *See, Ransum v. Chattooga County Bd. of Educ.*, 144 Ga. App. 783, 242 S.E.2d 374 (1978); *Antone v. Greene County Bd. of Educ.*, Case No. 1976-11 (Ga. SBE, Sep. 8, 1976)." *Roderick J. v. Hart Cnty. Bd. of Educ.*, Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). Testimony was given by two clerks that the Student confronted the other student and was responsible for the commotion that followed. This evidence, alone, was sufficient to support the tribunal's decision.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board did not deny the Student due process and there was evidence to support the Local Board's decision. Accordingly, the Local Board's decision is **SUSTAINED**.

This \_\_\_\_\_ day of June 2007.

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William Bradley Bryant  
Vice Chairman for Appeals

### SUMMARY

This is an appeal by M. W. (Student) from a decision by the Douglas County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him from regular school until August 2008 and assigning him to an alternative school after finding him guilty of creating a disruption at school. The Student claims that he was denied due process because (1) the school system failed to give him the names of several witnesses, (2) the tribunal was directed not to consider the merit of his explanation for his absences, (3) the appeal had to be submitted to the Local Superintendent, who is biased. Additionally, the Student claims that the evidence did not support the charges. The Local Board's decision is sustained.