

STATE BOARD OF EDUCATION

STATE OF GEORGIA

J. W.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2007-60
	:	
MORGAN COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by J. W. (Student) from a decision by the Morgan County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him from school until the beginning of the second semester of the 2007-2008 school year after he pled guilty to possessing and consuming alcohol on school property. The Student claims that he was denied equal protection because other students have not been punished as severely. The Local Board’s decision is sustained.

In his brief on appeal, the Student cites several instances of Morgan County high school students who received less punishment than he received. None of these cases was raised during the hearing before the student disciplinary tribunal so there is no evidence in the record to support the Student’s contentions.

The State Board of Education is required to confine its review to the record. O.C.G.A. § 20-2-1160. The Student’s claim follows the claims made in a recent case where this Board said, “The Student claims that he was denied equal protection because the other students involved in the incident did not receive punishment as severe as his punishment. The record, however, does not contain any information concerning the other students. ‘An equal protection claim arises when an individual contends that he is receiving different treatment from that received by other individuals similarly situated;.... A preliminary step in equal protection analysis is to determine whether persons who are similarly situated are subject to disparate treatment.’ *Spencer et al. v McCarley Moving & Storage Company, Inc. et al.*, 174 Ga. App. 525, 528, 330 S.E.2d 753, 758 (1985). The State Board of Education can only review the evidence presented before the tribunal. *Deiangelo E. v. Coffee Cnty. Bd. of Educ.*, Case No. 1991-21 (Ga. SBE, Sep. 12, 1991). The Student, therefore, has not shown that he is similarly situated to the other students, or that they received treatment different from the treatment he received. The State Board of Education, therefore, concludes that the Student’s claim of a denial of equal protection is without merit.” *K. H. v. Evans County Bd. of Educ.*, Case No. 2007-49 (Ga. SBE, July 12, 2007). The Student has not presented any argument or cited any cases that leads us to a different conclusion in the instant case.

Based upon the foregoing, it is the opinion of the State Board of Education that there is no evidence that the Local Board denied the Student equal protection. Accordingly, the Local Board's decision is SUSTAINED.

This _____ day of August 2007.

William Bradley Bryant
Vice Chairman for Appeals