

STATE BOARD OF EDUCATION

STATE OF GEORGIA

B. R.,	:	
	:	
Appellant,	:	CASE NO. 2009-22
	:	
vs.	:	
	:	
WHITFIELD COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by B. R. (Student) from a decision by the Whitfield County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him permanently after finding him guilty of hitting a female student, using profanity, and failing to obey instructions. The Student claims that he should have been assigned to a special education class and that progressive discipline should have been used. The decision of the Local Board is sustained.

At a disciplinary tribunal hearing arising from the Student's striking of a female student, the Student admitted that he was guilty of striking another student, refusing to carry out instructions, causing a classroom disturbance, and using profane language. Evidence was presented that the Student was on probation at the time of the incident. After reviewing thirteen pages of disciplinary incidents involving the Student, the tribunal decided to permanently expel the Student. The Local Board upheld the tribunal's decision and the Student appealed to the State Board of Education.

On appeal, the Student claims that the school system was aware that he had been diagnosed as having an emotional behavior disorder at a prior school system and, therefore, should have provided him with special education evaluation and services. The Student also claims that he resides in a foster home and has not had an advocate to raise any issues on his behalf. None of this evidence, however, was presented at the disciplinary tribunal hearing, nor were any of these issues raised at the hearing. In its review, the State Board of Education is confined to the record and cannot consider anything that was not introduced before the tribunal or the local board. O.C.G.A. § 20-2-1160(e). "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, the State Board of Education does not have jurisdiction to review whether the Student should have

been enrolled in special education classes. *See, T. G. v. Floyd Cnty. Bd. of Educ.*, Case No. 2006-38 (Ga. SBE, Mar. 9, 2006).

Based upon the foregoing and a review of the record, it is the opinion of the State Board of Education that the Local Board's decision was supported by the evidence and that the Local Board did not abuse its discretion. Accordingly, the Local Board's decision is
SUSTAINED.

This _____ day of February 2009.

William Bradley Bryant
Vice Chairman for Appeals

Summary

This is an appeal by B. R. (Student) from a decision by the Whitfield County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him permanently after finding him guilty of hitting a female student, using profanity, and failing to obey instructions. The Student claims that he should have been assigned to a special education class and that progressive discipline should have been used. The decision of the Local Board is sustained.