

STATE BOARD OF EDUCATION

STATE OF GEORGIA

T. T.,	:	
	:	
Appellant,	:	CASE NO. 2009-60
	:	
vs.	:	
	:	
HENRY COUNTY	:	
BOARD OF EDUCATION,	:	DECISION
	:	
Appellee.	:	

This is an appeal by T. T. (Student) from a decision by the Henry 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 2009-2010 school year, with the option of attending alternative school during the period of expulsion, after finding him guilty of disobeying a teacher and attempting to forcibly enter her classroom. The Student argues that the punishment is too harsh, the hearing officer was biased, and that prior disciplinary records were improperly introduced. The Local Board’s decision is sustained.

On May 6, 2009, the Student was late for class. Under the Local Board’s policies, students who are late for class are supposed to go to the central office to obtain a tardy slip before they enter class. When the Student attempted to enter the class without a tardy slip, the teacher told him he could not enter and to go to the central office. The teacher attempted to pull the door shut, but the Student put his hand on the door and prevented the teacher from shutting it. The Student and the teacher argued about her letting him into the classroom while they engaged in a tug-of-war with the door, with the teacher telling the Student to let go of the door and to go to the central office. The Student finally let go of the door and left the area.

The administration charged the Student with making intentional physical contact with school personnel, disrupting school operations, behavior detrimental to learning, being disrespectful, and insubordination. At a student disciplinary tribunal hearing, the student admitted to all the charges except the charges relating to intentional physical contact with school personnel. The tribunal’s hearing officer found the Student guilty based on the testimony of the teacher, the Student, and some students who observed the incident.

The tribunal’s hearing officer expelled the Student until the end of the first semester of 2009-2010 school year, with the option of attending an alternative school during his expulsion term. The Local Board upheld the tribunal’s decision when the Student appealed and the Student then appealed to the State Board of Education.

The Student claims that the punishment rendered was too harsh because of the nature of the offense. 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). The State Board of Education, therefore, concludes that the degree of the punishment in this case does not establish any basis for overturning the Local Board's decision.

The Student also claims that the tribunal's hearing officer was biased because the hearing officer formerly taught at the alternative school. The fact that the hearing officer was a teacher at the alternative school does not establish bias on the part of the hearing officer. The record does not contain any evidence of bias and the issue of bias was not raised at the hearing. The State Board of Education, therefore, concludes that the Student's claim of bias is without merit.

The Student also claims that his prior disciplinary record should not have been introduced at the hearing. The Student's disciplinary record was not introduced until after a decision was made that the Student was guilty of the charges. The Student did not object to the introduction of any prior history during 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).

The admission of a student's prior disciplinary history, after a decision has been made concerning the student's guilt or innocence of charges made against the student, does not violate a student's due process rights. Even in a criminal proceeding, where the due process rights of an accused establish stricter standards than are available in a school disciplinary hearing, prior convictions can be introduced during the sentencing phase of a trial. *See, e.g., Carswell v. The State*, 263 Ga. App. 833, 589 S.E.2d 605 (2003).

Based upon the foregoing and a review of the record, it is the opinion of the State Board of Education that the Local Board did not deny the Student any of his due process rights and that the decision was within the authority of the Local Board. Accordingly, the Local Board's decision is
SUSTAINED.

This _____ day of September 2009.

William Bradley Bryant
Vice Chairman for Appeals