

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>D. W.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2003-23</b>
	:	
<b>FAYETTE COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>

D. W. (Student) appeals from a decision by the Fayette County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal that found him guilty of assault on a staff member and suspended him from regular school until the end of the first semester of the 2002-2003 school year. The Student claims that the evidence did not support the charge, the Local Board improperly made a decision based upon an incomplete transcript, and the punishment was too harsh. The Local Board’s decision is sustained.

On August 28, 2002, the Student wrote in another student’s agenda (a booklet that contained the student rules and other information) “kill Hazelwood,” “kill everyone,” “kill all,” and “spill blood.” The Student’s teacher, Ms. Hazelwood, found the agenda and took it to the principal. The Student admitted that he wrote the statements and apologized in a letter he wrote to the teacher. The principal charged the Student with assault on a faculty or staff member.

A student disciplinary tribunal found the Student guilty of assault and suspended through the end of the first semester of the 2002-2003 school year with the option of attending summer school during the suspension period. The Local Board upheld the tribunal’s decision on appeal. The Student then appealed to the State Board of Education.

The Student claims the evidence does not support the charge because there was no showing of malice or intent on his part to harm the teacher. "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, Ransom 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). The rule does not require malice or intent to do harm; it merely prohibits verbal, written, or implied threats of bodily harm to a faculty or staff member. The Student admitted that he

wrote the message "kill Hazelwood." He also wrote a letter and apologized to the teacher. There was, therefore, evidence to support the finding that the Student threatened the teacher.

The Student also claims that the Local Board erred in making a decision when there was an incomplete transcript. This issue, however, was not raised before the Local Board. "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).

Finally, the Student claims that the punishment was too harsh. 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).

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board had evidence to support its decision, the decision was not arbitrary or capricious, and was within the Local Board's authority. Accordingly, the Local Board's decision is  
SUSTAINED.

This \_\_\_\_\_ day of March 2003.

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Wanda Barrs  
Chairperson, State Board of Education