

STATE BOARD OF EDUCATION

STATE OF GEORGIA

J. T. G.,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2003-38
	:	
CARROLL COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by J. T. G. (Student) from a decision by the Carroll County Board of Education (Local Board) to uphold the decision of a student disciplinary tribunal to expel him from school for the remainder of the 2002-2003 school year after finding him guilty of assault and battery against another student and possession of a weapon, with the option of attending an alternative school. The Student contends on appeal that he was denied due process. The Local Board’s decision is sustained.

On November 19, 2002, the Student and another student became involved in an altercation in a classroom. The Student obtained a pair of scissors and pressed them to the other student’s throat and threatened him. The Student was charged with assault or battery against another student and possession of a weapon. A student disciplinary tribunal heard testimony from the Student and students who witnessed the incident. The other student who was involved in the incident did not testify. The Student admitted his involvement and the fact that he had placed the scissors to the other student’s throat. The tribunal found him guilty and expelled him for the remainder of the 2002-2003 school year. The Local Board upheld the tribunal’s decision when the Student appealed. The Student then appealed to the State Board of Education.

Upon appeal to the State Board of Education, the Student claims that the teacher was responsible for the incident because she failed to maintain order within the classroom even though she was aware that there was an ongoing feud between the students. In addition, the Student claims that he was denied due process because the charges against him were changed, and because the other student did not testify at the hearing. He also claims that he was denied due process because written statements were introduced at the hearing, the transcript was incomplete, and because the Local Board failed to review the entire record created before the tribunal.

When the Student appeared before the Local Board, he only raised two of the issues that he has raised before the State Board of Education, i.e., that the charges were changed and that the other student did not testify. None of the other issues were raised

before the Local Board.¹ "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). Thus, the Student's claims that the school system was responsible for the incident, that written statements should have been stricken, and that the transcript was incomplete, cannot be considered by the State Board of Education.

The Student claims that the Local Board failed to consider the entire record created before the tribunal. There is, however, no evidence that the Local Board failed to consider the entire record. "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). The Student admitted that he used the scissors to threaten the other Student and that he knew that what he did was wrong. There is, therefore, evidence to support the Local Board's decision.

The Student claims that the charges against him were changed. The record, however, does not support the Student's claim. The record shows that the charge letter that went to the Student's parent says that the Student was charged with assault or battery and weapons possession. There was evidence that the Student was charged criminally with disorderly conduct, but the criminal charges have no impact on the proceedings within the school system. The charges presented to the tribunal were the same as the charges contained in the charge letter that went to the Student's parent and the Student was able to present a defense against the charges. If the charges are sufficient to permit a student to present a defense, then nothing more is required. *See, e.g., Damon v. Cobb Cnty. Bd. of Educ.*, Case No. 1993-9 (Ga. SBE, May 13, 1993). The State Board of Education, therefore, concludes that the Student was not denied due process based on the charges presented to the tribunal.

The Student also claims that he was denied due process because the other student involved in the incident did not testify. The Student, however, did not subpoena the other student and did not attempt to raise any issue about the other student during the hearing before the tribunal. There is no requirement for the school system to have particular witnesses available, provided the school system has the witnesses necessary to prove the charges made against a student. Accordingly, the State Board of Education concludes that the Student was not denied due process because the other student did not testify before the tribunal.

¹ There were other issues raised before the Local Board, but they were not raised on appeal to the State Board of Education.

Based upon the foregoing, it is the opinion of the State Board of Education that there was evidence in the record to support the Local Board's decision and there was no denial of the Student's due process rights. Accordingly, the Local Board's decision is SUSTAINED.

This _____ day of June 2003.

Wanda T. Barrs
Chair, State Board of Education