

STATE BOARD OF EDUCATION

STATE OF GEORGIA

J. W.,	:	
	:	
Appellant,	:	CASE NO. 2011-47
	:	
vs.	:	
	:	
CARROLL COUNTY	:	
BOARD OF EDUCATION,	:	DECISION
	:	
Appellee.	:	

This is an appeal by J. W. (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 regular school until the end of the 2010-2011 school year, with the option of attending alternative school during the period of expulsion, after finding him guilty of being in possession of drugs. Appellant claims that the tribunal improperly ignored the results of a drug test, there was no evidence that he possessed any drugs, and the disciplinary tribunal panel was improperly constituted. The Local Board's decision is **SUSTAINED**.

On November 29, 2010, the Student admitted to school administrators that he had been smoking marijuana on his way to school. The Student's admission came while he was being questioned about marijuana usage after a teacher detected the odor of marijuana in the area where the Student had been. The Student was charged with possession of drugs and a student disciplinary tribunal was convened to consider the charge.

During the tribunal hearing, the Student denied he had smoked marijuana, but, instead, had told the administrators that he had smoked marijuana because he was angry about being questioned by them. Two assistant principals and the school nurse testified that the Student admitted he had been smoking marijuana, that he had mood swings, his blood pressure was elevated, and he appeared to be under the influence of drugs. A female student, who rode to school with the Student, testified that the Student smoked a marijuana cigarette on the way to school. The tribunal found the Student guilty and expelled him for the remainder of the 2010-2011 school year, with the option of attending an alternative school during his expulsion period and graduating with his class upon satisfactory completion of his tests.

The Local Board adopted the tribunal's decision when the Student appealed. The Student then appealed to the State Board of Education. On appeal, the Student claims that there was no evidence that he smoked marijuana, that the tribunal improperly ignored a

negative drug test he submitted in support of his claims, and that the tribunal was biased because one of the tribunal members was married to the teacher who initially reported the odor of marijuana.

"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). In the instant case, the testimony from three witnesses that the Student admitted he had been smoking marijuana and the testimony of the female student that the Student smoked a marijuana cigarette on the way to school was sufficient evidence to support the tribunal's and the Local Board's decision.

The result of the drug test was admitted into evidence and it cannot, therefore, be claimed that the tribunal did not consider it. The weight to be given the report was for the tribunal to decide.

The Student did not raise any issue about the relationship of one of the tribunal members to the teacher who initially reported the marijuana odor. "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 Student's claim that the tribunal was biased is without merit.

Based upon the foregoing and a review of the record, it is the opinion of the State Board of Education that there was evidence to support the Local Board's decision and the Student was not denied due process. Accordingly, the Local Board's decision is **SUSTAINED**.

This _____ day of May 2011.

MARY SUE MURRAY
VICE CHAIR FOR APPEALS