

STATE BOARD OF EDUCATION

STATE OF GEORGIA

B. M.,	:	
	:	
Appellant,	:	CASE NO. 2011-66
	:	
vs.	:	
	:	
COLUMBIA COUNTY	:	
BOARD OF EDUCATION,	:	DECISION
	:	
Appellee.	:	

This is an appeal by B. M. (Student) from a decision by the Columbia 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 first semester of the 2011-2012 school year, with the option of attending alternative school during the period of expulsion, after finding him guilty of possession of drugs at school. The Student claims that the hearing officer exceeded his authority by expelling him and that there was disparate treatment because another student was permitted to return to school. The Local Board’s decision is **SUSTAINED**.

On March 11, 2011, the Student, along with three other students, smoked a marijuana cigarette on the school campus before the start of the school day. The incident was reported to the school authorities. The students admitted their involvement in the incident upon questioning. The Student was charged with possession of drugs. At a student disciplinary hearing, the Student admitted that he smoked the marijuana cigarette. The other students involved in the incident also testified that the Student smoked the cigarette. The hearing officer expelled the Student until the end of the first semester of the 2011-2012 school year with the option of attending an alternative school during his expulsion period. When the Student appealed to the Local Board, the Local Board upheld the tribunal decision. The Student then appealed to the State Board of Education.

The Student claims that the hearing officer exceeded his authority in expelling him. The claim is apparently made because the Local Board and the hearing officer referred to the expulsion as a “long-term suspension”. A long-term suspension, however, is defined in O.C.G.A. § 20-2-751(2) as a suspension not beyond the current school semester. An “expulsion of a student from a public school beyond the current school ... semester” is defined as an “expulsion”. O.C.G.A. § 20-2-751(1). Under the provisions of O.C.G.A. § 20-2-752, however, local boards of education are given the explicit authority to provide that tribunals can impose expulsion as a punishment. The hearing officer, therefore, did not exceed his authority in imposing expulsion as the punishment for smoking marijuana on campus. If there was any error, it was an error of mischaracterization in referring to an expulsion as a long-term suspension. The Student has failed to show how the possible mischaracterization of the punishment results in the hearing

officer exceeding his authority. The State Board of Education concludes that the punishment of expulsion was within the authority of the hearing officer and the Local Board of Education.

The Student also claims that there was disparate treatment because the student who brought the marijuana to school was permitted to return to school at the end of the 2010-2011 school year. There is, however, nothing in the record to support this contention. The State Board of Education can only review evidence that was presented before the original hearing tribunal. *See, Deiangelo E. v. Coffee Cnty. Bd. of Educ.*, Case No. 1991-21 (Ga. SBE, Sep. 12, 1991).

Based upon the foregoing and a review of the record, it is the opinion of the State Board of Education that the punishment was within the authority of the hearing officer and the Local Board. The Local Board's decision, therefore, is **SUSTAINED**.

This 10th day of August 2011.

MARY SUE MURRAY
VICE CHAIR FOR APPEALS