

ERNIE M.,

Appellant

v.

CARROLL COUNTY BOARD OF
EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 08-27

OPINION

INTRODUCTION

Appellant challenges the decision of the Carroll County Board of Education (“local board”) dismissing his appeal on the grounds of mootness and lack of standing. In Appellant’s appeal to the local board, he alleged discriminatory action by the coach of the field hockey team at Liberty High School (“Liberty”) for failing to select his daughter, K.M., for the team in her senior year. He also sought disciplinary action against the team trainer for sharing information about his daughter’s injury with the coach, and against the coaching staff for sharing information about the injury with another parent. The local board has filed a Motion to Dismiss the appeal for mootness and lack of standing. Alternatively, the local board has filed a Motion for Summary Affirmance. Appellant has submitted a reply to the local board’s Motion.

FACTUAL BACKGROUND

K.M. is a senior at Liberty High School. She was a member of the Liberty field hockey team from ninth grade through the eleventh grade. In the eleventh grade, K.M. injured her anterior cruciate ligament (“ACL”) at a field hockey game. The injury and resulting surgery caused K.M. to miss the remainder of the 2006 season. (Local Board Decision, p.2).

K.M. tried out for the team during the summer of 2007, but was not selected. During try outs, four different fitness tests and three skills tests were given. Out of twenty people, her rankings were as follows:

Fitness Tests: Pro Agility	15 th
Dropstep	19 th
40 Yard Dash	18 th
Mile Run	19 th

Skills Tests:	Box Drill	19 th
	50 Yard Dribble	18 th
	Illinois Dribble	9 th

(Bream Letter).

Appellant complained to the school principal, Dwayne Piper, that K.M.'s failure to make the team was based on discrimination due to her injury and possible future surgery. Appellant also complained that the team trainer, Stacy Maxwell, improperly shared information about K.M.'s medical condition with the coach, Susan Speck, and that the coaching staff improperly shared information about the injury with a parent. These concerns were reviewed by the school principal who found no discrimination or breach of confidentiality. She stated that K.M. did not make the team because she did not demonstrate the speed and endurance that other students demonstrated during tryouts based on her fitness and skill tests during tryouts. She also stated that it was necessary for the trainer to share information about K.M.'s medical condition with the coach, and that no confidential information was shared with another parent. (Piper Letter). On appeal, the local board's Director of Secondary Schools, Sherrie-Le Bream, acting as the Superintendent's Designee, upheld the principal's decision. (Bream Letter).

On further appeal to the local board, Appellant disagreed with Ms. Breams finding of no discrimination. He also requested that the coach and trainer be removed from their positions at Liberty, and that letters of warning be given to other involved employees, based on the alleged improper disclosure of confidential information.

On December 12, 2007 the local board issued a decision dismissing the case. With regard to the discrimination claim, the local board found that because the field hockey season was already over, the appeal was moot as there was no relief that could be provided. With regard to imposing discipline because of the sharing of information, the board found that Appellant lacked standing to seek and obtain any kind of personnel action against an employee through the appeals process. (Local Board Decision).

This appeal to the State Board followed.

ANALYSIS

The local board maintains that the appeal is moot with regard to the claim of discrimination because the field hockey season ended in the fall of 2007. We agree.

It is well established that a question is moot when "there is no longer an existing controversy between the parties, so that there is no longer any effective remedy which the courts [or agency] can provide." *In Re Michael B.*, 345 Md. 232, 234 (1997); *See also Farver v. Carroll County Board of Education*; MSBE Opinion No. 99-42 (1999); *Arnold v. Carroll County*

Board of Education, MSBE Opinion No. 99-41 (1999); *Chappas v. Montgomery County Board of Education*, 7 Op. MSBE 1068 (1998). The filed hockey season is over. Thus there is no existing controversy between the parties and no possibility of any relief that the State Board can provide.

As for the request to impose disciplinary action against the employees involved in this matter, Appellant lacks standing to seek such action in an appeal to the State Board. The State Board has consistently held that an individual who is not a party in interest does not have standing to challenge personnel matters regarding a school system employee. *See Schlamp v. Howard County Board of Education*, MSBE Op. No. 04-04 (2004); *Gartner v. Howard County Board of Education*, MSBE Opinion No. 01-41 (December 5, 2001); *Tompkins v. Montgomery County Board of Education*, 7 Op. MSBE 476 (1996); *Edler v. Prince George's County Board of Education*, 7 Op. MSBE 304 (1996).

Conclusion

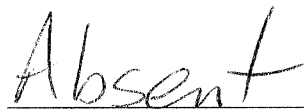
Because we find that the appeal is moot as to Appellant's claim of discrimination, and because we find that Appellant lacks standing to request disciplinary action against school system employees, we dismiss the appeal. *See* COMAR 13A.01.05.03C(1)(b) & (c).



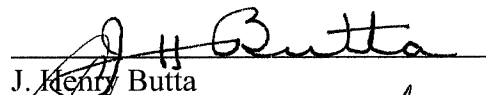
Dunbar Brooks
President



Beverly A. Cooper
Vice President



Lelia T. Allen



J. Henry Butta



Charlene M. Dukes

Mary Kay Finan

Mary Kay Finan

Blair G. Ewing

Blair G. Ewing

Rosa M. Garcia

Rosa M. Garcia

Richard L. Goodall

Richard L. Goodall

Absent

Karabelle Pizzigati

David F. Tufaro

David F. Tufaro

May 28, 2008