

RICHARD REGAN,

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 03-05

OPINION

In this appeal, Appellant objects to the depiction of American Indians on the website maintained by Westover Elementary School in Montgomery County. The local board has submitted a motion to dismiss maintaining that there is no dispute of material fact; Appellant lacks standing; and the subject matter of the appeal is outside the scope of Section 4-205(c) of the Education Article. Despite the opportunity to do so, Appellant has not submitted a reply to the local board's motion.

FACTUAL BACKGROUND

Appellant submitted a complaint to the superintendent objecting to the depiction of American Indians on the Westover Elementary School website which contained pictures and text highlighting a fourth grade instructional unit. The pictures showed a "Native American Wax Museum" staged by fourth graders in the school's media center. Visitors were permitted to tour the "wax museum," as students representing Native American figures recited their researched pieces pertinent to the assigned tribe. The website also contained some text written by two fourth graders who described what they learned about Native Americans in Maryland during the 1600's from a historian who came to school to speak to the students. Appellant alleged that the depiction of American Indians in this way violated local board policy ACA on Human Relations and COMAR 13A.04.05, Education that is Multicultural. Appellant requested that the material, which he deemed offensive, be removed from the website and that an apology be issued.¹

Acting as the superintendent's designee, the deputy superintendent referred the matter to hearing officer Jonathan Jones for further investigation. Mr. Jones recommended that the complaint be denied, stating as follows:

The concerns regarding the content and focus of the web page are without foundation. The material on the site is consistent with the spirit, design, and focus of the program of study that schools are

¹Appellant also maintained that the principal of Westover failed to respond to his civil rights complaint outlined in a letter dated March 19, 2002. The superintendent's designee determined that no letter was ever received by the principal or by the school. See letter to Regan from Williams.

required to follow as they implement the fourth-grade unit on Native Americans. Additionally, the unit is consistent with the Maryland State Department of Education Outcomes and Standards. The specific Maryland Learning Outcomes are (1) MLO 2.1 - analyze the social, economic, and political characteristics of societies native to North America, and (2) MLO 6.3 - describe how cultures have developed and changed, and analyze ways in which diverse groups of people adapt to the environment and modify culture over time. Mr. Regan asserts that the “learning activities reinforced to students the stereotype of the ‘savage Indian.’” None of the text or pictures found on the web pages characterizes Native American behavior or daily life as being war-like or savage. On the contrary, text and pictures highlight modes of dress, customs, use of their environment, descriptions of homes, and implements used for hunting. Much of the text is composed of comments by students regarding the presentation made by a historian from the Maryland Historic Society.

The deputy superintendent concurred with the hearing officer’s recommendation and denied the relief requested by Appellant.

On further appeal to the local board, Appellant’s complaint was dismissed by unanimous vote. The local board determined that Appellant lacked standing to challenge the content of the website because he was an unaffected individual, and the appeal process was not the proper mechanism by which to direct the manner in which the school’s website is used.

Appellant further appealed to the State Board maintaining that the depiction of American Indians on the website violates local board policy ACA on Human Relations and COMAR 13A.04.05, Education that is Multicultural.

ANALYSIS

The local board maintains that the appeal should be dismissed because Appellant lacks standing and because an appeal under § 4-205(c) of the Education Article is not the appropriate legal procedure by which to challenge the curriculum, policy, or procedure of the local board. We believe it is unnecessary to determine the standing of Appellant given that the appeal may be properly dismissed on jurisdictional grounds.

We find that what Appellant sets forth in his appeal is a generalized grievance or complaint which calls into question, or seeks to modify curriculum, policies, or procedures utilized by MCPS, even though his appeal is focused on the content of the Westover Elementary School website. We agree with the local board that the appeal process is the inappropriate vehicle to effect the desired changes. *See Regan v. Mont. Cty. Bd. of Ed.*, MSBE Op. 02-48;

Regan v. Mont. Cty. Bd. of Ed., MSBE Op. 02-29; *Astrove v. Mont. Cty. Bd. of Ed.*, MSBE Op. 02-14 (attempt to change existing policy is quasi-legislative matter not subject to 4-205 appeal process).

Moreover, the website simply highlights an activity that supplements a fourth grade instructional unit taught at the school to recognize the history, lifestyle, and contributions of Native Americans in our nation's cultural history. The objectives for the unit are based on the Maryland Content Standards. Based upon our review of the record, we find that Appellant has provided no evidence supporting his assertion that the State Board regulation on multicultural education or the MCPS policy on human relations was violated.

CONCLUSION

For these reasons, we dismiss this appeal on jurisdictional grounds. *See* COMAR 13A.01.01.03J(2)(c).

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January 29, 2003