

SUSAN S. JAMISON,

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 03-36

OPINION

This is an appeal from the Montgomery County Board of Education's decision to retain the book entitled *The House of Spirits* as part of the instructional materials for the 11th and 12th grade International Baccalaureate/Advanced Placement classes. The local board has filed a Motion for Summary Affirmance on the ground that there are no genuine issues of material fact in dispute and further stating that the local board's decision was not arbitrary, unreasonable, or illegal. Although requested to do so, Appellant has not filed a reply to the local board's Motion for Summary Affirmance.

FACTUAL BACKGROUND

For the 2002-2003 school year, Appellant's daughter was enrolled in the 12th grade Advanced Placement English class at Poolesville High School in the Montgomery County Public School System. In July 2002, Ms. Jamison informed her daughter's English resource teacher that she objected to the selection of *The House of Spirits* as required reading for the class because of its discussion of events having an explicit sexual nature. By e-mail of July 3, 2002, the English resource teacher responded with alternative suggestions for instructional materials that the Appellant's daughter could read for the class.¹ On August 25, 2002, Appellant submitted a request for reconsideration of instructional materials asserting that *The House of Spirits* "contained explicit narrative accounts of sexual conduct, sexual excitement and sadomasochistic abuse and obscenities."²

On September 19, 2002, an ad hoc committee was appointed to review the book in light of Appellant's complaint. The committee recommended that the novel be retained for use in the grade 11 and 12 Advanced Placement and International Baccalaureate English classes. On November 14, 2002, the Associate Superintendent for Curriculum and Instructional Programs adopted the recommendation of the committee and allowed the book to remain as an approved text for those classes. Mrs. Jamison appealed that decision to the Superintendent, Dr. Jerry Weast, on December 12, 2002. By letter dated March 26, 2003, the Superintendent informed

¹See Board Attachment 2.

²See Board Attachment 3.

Mrs. Jamison that, after consultation with the Supervisor of Evaluation and Selection of Instructional Materials, the Program Supervisor for Secondary English Instruction, the Director of School Library Media Programs, and other staff at Poolesville High School, he concurred with the Associate Superintendent's decision to retain the book for use with those particular classes. He also informed Mrs. Jamison that students have an option to choose alternative books, after consulting with the teacher, if they object to a particular novel for any reason. *See* Weast letter dated 3/26/03.

By letter dated April 23, 2003, Mrs. Jamison appealed Dr. Weast's decision to the local board. After reviewing materials submitted by both parties in closed session on May 27, 2003, the local board issued a decision on June 10, 2003, affirming by a vote of 6-1 the Superintendent's decision to retain the book. On July 9, 2003, Mrs. Jamison appealed the local board's decision to the State Board reiterating her initial complaint.

ANALYSIS

This is a controversy over a decision of a local board involving a local policy; therefore the standard of review is that the decision of the local board shall be considered *prima facie* correct and the State Board may not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. COMAR 13A.01.01.03E(1).

The State Board has previously found local board decisions on use of instructional materials reasonable when those decisions were consistent with reasonable recommendations of advisory committees. *See Christine T. Schwalm (Schwalm IV) v. Montgomery County Board of Education*, MSBE Op. No. 99-5 (1999) (upheld placement of One Hundred Years of Solitude for use in AP English and Spanish classes and in high school library media centers); *Christine T. Schwalm v. Montgomery County Board of Education*, 7 Op. MSBE 1309 (1998) (upheld retention of Love in the Time of Cholera in high school libraries for use as free choice reading); *Michael Hethmon v. Board of Education of Prince George's County*, 6 Op. MSBE 646 (1993) (upheld placement of two books, The Origin of African Civilization and The Destruction of Black Civilization in media center); and *Joy Fox v. Board of Education of Anne Arundel County*, 2 Op. MSBE 188 (1980) (upheld adoption of two course materials and one teacher textbook as part of curriculum). Here the ad hoc committee which reviewed the initial request followed the prescribed procedures and evaluation criteria as set forth in the local board's policy.

As the local board notes, courts have declined to interfere in the assigning or maintaining of books by school systems with themes that might be offensive to some, for fear that such interference would have a "chilling effect" on a school district's willingness to assign such books, and hinder the function of education itself: "to stimulate thought, to explore ideas," and "to engender intellectual exchanges." *Monteiro v. Tempe Union High School*, 158 F.3d 1022 (9th Cir. 1998).

Here, the local board dismissed the appeal on the basis that, after having reviewed the materials, the Superintendent's decision was reasonable. The determination was consistent with the ad hoc committee's recommendation for retention of the book for the 11th and 12th grade AP classes.

CONCLUSION

Based upon our review of the record and relevant legal principles, we find that Appellant has not met her burden of proving that the local board's decision was arbitrary, unreasonable, or illegal. We therefore affirm the decision of the Montgomery County Board of Education.

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Maria C. Torres-Queral

John L. Wisthoff

October 28, 2003