

QUINTON & TAKEELA SAUNDERS,

Appellant

v.

CHARLES COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 04-12

OPINION

This is an appeal of a three-day suspension of the Appellants' daughter, Ciara, from Mattawoman Middle School and reassignment from Spanish class to another class for throwing a paper towel with a piece of ice that struck her teacher in the head. The local board has filed a Motion to Dismiss, or in the alternative, Motion for Summary Affirmance, maintaining that its decisions were not arbitrary, unreasonable, or illegal and that the issues are moot. Appellants have filed a response to the Motion in which they elect not to pursue the appeal of the three-day suspension. They do, however, contend that the removal of Ciara from her Spanish class was arbitrary, unreasonable, and unlawful because Ciara was removed to a French class and because the move was made only to satisfy the teachers' union. The local board filed a reply in further defense of the board's decision.

FACTUAL BACKGROUND

Appellants' daughter, Ciara, was an eighth grade student at Mattawoman Middle School in the Charles County Public Schools ("CCPS") in the 2002-2003 school year. On April 2, 2003, Ciara left Ms. Cavanaugh's Spanish class to go to the nurse for an injured foot. She returned to class with a ziplock bag of ice wrapped in a paper towel for her foot.¹ Towards the end of class, while Ms. Cavanaugh was facing the blackboard, Ciara threw a piece of the paper with ice in it that struck Ms. Cavanaugh in the back of the head. Ms. Cavanaugh was treated for a head contusion by a physician on April 3, 2003.

Ciara admitted throwing the object and apologized to Ms. Cavanaugh, but claimed that she had intended to hit another student. (Statement of April 2, 2003). Ciara was referred to two assistant principals who investigated the matter. As a result of their investigation, Dr. Wise, the school principal, determined that Ciara should receive a three-day suspension to be served on April 3, 4, and 7, 2003.

A suspension conference was held with the Saunders on April 4, 2003, at which time Dr. Wise informed the Saunders that Ciara might be reassigned from Ms. Cavanaugh's classroom

¹The wrapping has been referred to variously as "tissue" or as "paper towel".

upon her return to school on April 8, 2003.² By letter dated April 7, 2003, the Education Association of Charles County wrote a letter to the Superintendent on behalf of Ms. Cavanaugh, requesting that Ciara not be placed back in Ms. Cavanaugh's classroom.

Upon her return to school, Ciara was reassigned out of Ms. Cavanaugh's classroom for the remainder of the school year, some two and one-half months. Ciara was seated in the back of a French class. She was given instructional materials in Spanish and her instruction was supervised by the French teacher.³

Although the suspension was served and the reassignment had taken place, the Saunders appealed to the superintendent. The superintendent's designee, Associate Superintendent Ronald G. Cunningham met with the Saunders on April 24, 2003.⁴ Mr. Cunningham upheld Dr. Wise's decision. (Letter of May 7, 2003). The Saunders appealed Mr. Cunningham's decision to the local board. The local board reviewed all the documents submitted by the parties and decided the matter without an evidentiary hearing. In its decision, the local board determined that whatever her intent, throwing an object that hit a teacher in the head was conduct that merited a three day suspension and removal from the teacher's class. The local board affirmed Mr. Cunningham's decision. This appeal followed.

ANALYSIS

The decision of a local board with respect to a student suspension or expulsion is considered final. Md. Code Ann., Educ. § 7-305. Therefore, the State Board's review is limited to determining whether the local board violated State or local law, policies, or procedures; whether the local board violated the due process rights of the student; or whether the local board acted in an otherwise unconstitutional manner. COMAR 13A.01.01.03(E)(4)(b). *Trimble v. Board of Education of Carroll County*, 7 MSBE Op. 241 (1995).

1. Mootness

Ciara has completed her eighth grade Spanish class at Mattowoman Middle School, a subject in which Appellants concede she "fared well". (Opposition, p. 3). She is now attending high school in Charles County. 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

²This conference was attended by the Saunders, school officials, and Ms. Beth Thorsen, President of the Education Association of Charles County, a union to which Ms. Cavanaugh belongs. It is unclear from the record at whose invitation Ms. Thorsen attended the conference.

³Juvenile charges were also filed against Ciara. The record does not reflect the disposition of these charges.

⁴Appellants' counsel and counsel for the Superintendent also attended this meeting.

which the courts (or agency) can provide.” *In Re Michael B.*, 345 Md. 232, 234 (1997); *see also Bonita Mallardi v. Carroll County Board of Education*, MSBE Opinion No. 00-07, (February 3, 2000); *Walter Chappas v. Montgomery County Board of Education*, MSBE Opinion No. 98-16 (March 25, 1998), *Jonathon Heriot-Fitzsimmons v. New Board of School Commissioners for Baltimore City*, MSBE Opinion No. 02-26 (June 26, 2002).

CONCLUSION

In this case, the State Board cannot provide any relief to Ciara. She successfully completed her Spanish course and in turn, has matriculated to high school. Accordingly, we shall dismiss the appeal as moot. *See* COMAR 13A.01.01.03J(2)(b).

Edward L. Root
President

JoAnn T. Bell
Vice President

Philip S. Benzil

Dunbar Brooks

Calvin D. Disney

Clarence A. Hawkins

Walter S. Levin, Esquire

Karabelle Pizzigati

Maria C. Torres-Queral

February 25, 2004

John L. Wisthoff

