

WILLIAM & PENNY C.,

Appellants

v.

CALVERT COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 09-22

OPINION

INTRODUCTION

In this appeal, the Appellants challenge the Calvert County Board of Education's decision affirming the Local Superintendent's suspension of their son from school for ten days. Specifically, the Appellants maintain that the suspension was excessive and seek to have the matter expunged from their son's school record. The local board has filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal.

FACTUAL BACKGROUND

During the 2007-2008 school year, Appellants' son, A.C. was an 11th grade student at Northern High School (Northern). (Incident Report Form). On May 29, 2008, A.C. and Student B were involved in a fight involving the use of profanity, threats, and physical conduct in the school hallway in during a class change. (*Id.* at 2; Welsh Memorandum, 8/19/08). Several teachers broke up the fight and escorted the students to the school office. In the office, A.C. and Student B exchanged additional remarks and positioned themselves to start fighting when two teachers stepped in to prevent another fight. After the exchange in the office, the Vice Principal called the police who charged A.C. with second degree assault and school disruption. (Incident Report Form).

After the incident, A.C. provided a written statement about the fight and met with the school safety advocate. (Welsh Memorandum, 8/19/08). Witnesses to the fight also provided statements, including the teachers who broke up the fight, two students and the Vice Principal. The two student statements indicate that the dispute between A.C. and Student B began at lunch when A.C. was passing notes about Student B with a mutual friend. (Statement Forms). Student B became increasingly angry about the notes and confronted A.C. about it in between classes. *Id.* The two students exchanged some words and began fighting. *Id.*

After conducting an investigation and reviewing the written statements, the Principal suspended A.C. from school for ten days for fighting on school property and for school disruption. (Notification of Pupil's Suspension). Thereafter, A.C.'s father met with the Principal to request a reduction of A.C.'s suspension, but the Principal denied the request. (Superintendent's Memorandum).

Appellants subsequently filed an appeal with the Local Superintendent. Kim Roof, the Superintendent's Designee, investigated the matter. After reviewing all of the information and discussing the incident with the administration at Northern, Ms. Roof affirmed the Principal's decision to suspend A.C. (Roof Letter, 6/13/08).

The Appellants then filed an appeal with the local board. (Appeal Information Form, 07/28/08). Appellants alleged that the suspension was excessive, and that a student involved in a similar incident received only a three day suspension. After a review of the record, the local board affirmed the Superintendent's decision regarding A.C.'s punishment. The local board determined that the punishment was not excessive in light of A.C.'s behavior in the hallway and again in the office, and explained that there was a difference in the circumstances of this case and the matter involving another student that led to a lesser penalty in the other case. (Local Board Decision).

This appeal followed.

STANDARD OF REVIEW

In student suspension and expulsion cases, the decision of the local board is considered final. Md. Code Ann., Educ. §7-305(c). Therefore, the State Board may not review the merits of the suspension or expulsion. COMAR 13A.01.05.05G(2). The State Board will, however, review the local board's decision if the Appellant makes "specific factual and legal allegations" that the local board failed to follow State or local law, policies, or procedures; violated the student's due process rights; acted in an unconstitutional manner; or that the decision is otherwise illegal. COMAR 13.01.05.05G(2) & (3).

ANALYSIS

In the appeal to the State Board, Appellants challenge the merits of the suspension decision. They claim that their son's punishment was too severe given that he is a good student with a good attendance record. As stated above, the State Board does not review the merits of suspension or expulsion cases. The decision of the local board on the merits is considered to be correct unless it is based on an illegality. COMAR 13A.01.05.05G. *See also Edward A. v. Carroll County Bd. of Educ.*, MSBE Op. No. 09-09 (2009); *A.J. v. Prince George's County Bd. of Educ.*, MSBE Op. No. 07-01 (2007).


The only allegation of illegality Appellants attempt is an argument that their son was treated more harshly than other students at Northern who were involved in similar disciplinary incidents. Although Appellants, in their appeal to the local board, name a particular student who received a three

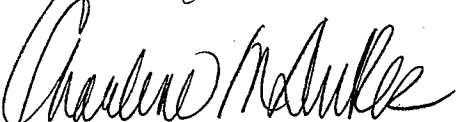
day suspension for a different disciplinary incident, the local board and local superintendent have explained that, unlike A.C., the other student did not continue to engage in further disruptive behavior endangering the safety of others once the teachers intervened. Thus, the student's penalty was not as severe as A.C.'s. (Local Board Decision). Appellants have not presented any further information concerning that incident.

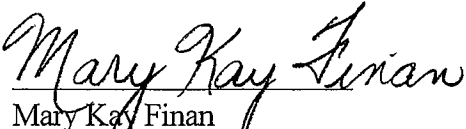
CONCLUSION


Because we do not find any due process violations or other illegalities in the proceedings, we affirm the local board's decision upholding the ten day suspension.


James H. DeGraffenreidt, Jr.
President


Dunbar Brooks



Charlene M. Dukes



Mary Kay Finan


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June 30, 2009