

ERIC WHITE,
Appellant

v.

BALTIMORE CITY
BOARD OF SCHOOL COMMISSIONERS,
Appellee

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION
Opinion No. 04-18

OPINION

In this appeal, Appellant, on behalf of his daughter Cheryl, maintains that the school system wrongfully denied Cheryl the opportunity to attend and receive awards and recognition in the end of year Athletic Awards Program and Banquet for the 2002-2003 school year at Western High School. The local board has filed a Motion to Dismiss maintaining that the relief requested by Appellant has either been awarded, is inappropriate, or is moot. Appellant has submitted an opposition to the local board's motion.

FACTUAL BACKGROUND

Appellant's daughter, Cheryl, attends Western High School in Baltimore City. During the 2002-2003 school year, Cheryl was a member of the swim team at Western. Swimming is a winter sport with the swim season beginning in the middle of November and continuing on through the winter months. During the swim season, Western issued its first semester (or second quarter) report card on February 4, 2003. Based on Cheryl's grades which demonstrated that she was failing more than one class, she was declared academically ineligible to participate in swimming and was removed from the swim team for the remainder of the season.

Near the end of the school year, the Western athletic department organized and sponsored an Athletic Awards Program and Banquet for the school's student athletes which was held at Parkville Heritage Gardens on June 12, 2003. Students who chose to attend paid a fee which was applied to the cost of the banquet.¹ Cheryl submitted a permission slip and paid the fee in order to attend. One day before the banquet, David Lang, Western's athletic director, reviewed the list of attendees and discovered Cheryl's name on it. That same day, Mr. Lang advised Cheryl that she would not be allowed to attend the awards banquet since she had been removed from the swim team for academic ineligibility. *See* Affidavit of David Lang.

On the day of the awards banquet, Appellant met with Landa McLaurin, principal of Western High School. Appellant maintained that Mr. Lang's decision to exclude Cheryl from the banquet was unauthorized and unfair. Ms. McLaurin decided to allow Cheryl to attend the banquet due to the late notification by Mr. Lang, but indicated that Cheryl would not be

¹The program cost was also subsidized by the school's athletic department.

recognized at the dinner and would not receive any awards such as a certificate or varsity letter because she had been removed from the swim team for academic ineligibility. *See* Affidavit of Landa McLaurin. Cheryl did not attend the banquet.

On or about July 1, 2003, Appellant met again with Ms. McLaurin to discuss Cheryl's exclusion from receiving any awards or recognition at the awards banquet. Prior to the meeting, Appellant had requested documentation of Western's eligibility requirements for sports awards. Western did not have any distinct eligibility criteria for sports awards programs. Ms. McLaurin referred Appellant to the school's handbook, the BCPSS Information Guide, and the BCPSS Rules on Athletics.

Thereafter, Appellant filed what he termed a "class action appeal" with Dr. Patricia Welch, Chair of the City Board, and Dr. Bonnie S. Copeland, Chief Executive Officer. By letter of July 31, 2003, Dr. Copeland affirmed Ms. McLaurin's decision. That letter states the following, in pertinent part:

Cheryl was initially a member of the swim team at Western High School during the 2002-03 school year. However, in February 2003, she was declared academically ineligible for having failed more than one class in the first semester. The several criteria for eligibility, including academics, are found in the BCPSS's "Rules on Athletics" (see pages 5-10). Once your daughter was declared academically ineligible, she necessarily was removed from the swim team. Her removal from the team logically precluded her eligibility for a year-end athletic award.

Appellant further appealed to the local board.² Appellant requested the awarding of a varsity letter and other performance recognition awards, letters of apology, disciplinary action against the principal and athletic director at Western High School, overturning of the awards ceremony based on a determination that the procedure followed was unapproved, implementation of a new procedure, and conducting a new awards ceremony. *See* 10/13/03 letter of appeal to local board.

On behalf of the local board, Judith B. Donaldson, Board Executive, advised Appellant of the local board's decision by letter dated October 28, 2003. The local board did not find it appropriate to overturn the awards ceremony decision or to take disciplinary action against the principal and the athletic director. With regard to the other issues, the decision letter states, in pertinent part:

²Although Appellant submitted the appeal on behalf of his daughter and "Class Action Appellants Jane Does," the local board indicated that because Appellant lacked authority to raise a class action appeal on behalf of "Jane Does," it would only consider the appeal as it pertained to Appellant's daughter.

Please be advised that by copy of this letter, the Board is requesting Dr. Bonnie Copeland, Interim Chief Executive Officer, to review your daughter's eligibility to receive a varsity letter and other performance recognition awards and to award all varsity letters and recognition awards for which your daughter meets the eligibility requirements, with regard to the 2002-2003 school year.

By copy of this letter, the Board is directing the principal and athletic director to review their compliance with all BCPSS policy requirements concerning the issuance of varsity letters, recognition awards and the conduct of awards ceremonies. The principal and athletic director are directed to modify their procedures to bring themselves into compliance with the policy requirements, as appropriate.

See 10/28/03 letter from Donaldson.

ANALYSIS

The standard of review in a case that involves a local policy or dispute regarding the rules and regulations of the local board 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).³

Appellant contends that the school system wrongfully denied Cheryl the opportunity to attend the Western High School end of year Athletic Awards Program and Banquet for the 2002-2003 school year. 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 Arnold v. Carroll County Board of Education*, MSBE Opinion No. 99-41 (September 22, 1999); *Farver*

³As a preliminary matter, in its Motion to Dismiss, the local board maintains that Appellant has failed to provide a statement of facts necessary to an understanding of the appeal and has failed to identify any issues or charges for which the appeal is being taken as required by COMAR 13A.01.01.03B which sets forth the required contents of an appeal to the State Board. Based on the totality of Appellant's submissions to the State Board, we believe that there is sufficient detail for understanding the appeal, as well as identifying the issues and charges for which the appeal has been brought.

Another preliminary matter is that Appellant maintains in his Answer to Motion to Dismiss that the local board has failed to provide an accurate record in this case. This is a mere allegation as Appellant has failed to explain or provide any details regarding this claim. Accordingly, we find no reason to believe that the record in this case is deficient.

v. Carroll County Board of Education; MSBE Opinion No. 99-42 (September 22, 1999); *Chappas v. Montgomery County Board of Education*, 7 Op. MSBE 1068 (1998). Because Ms. McLaurin gave Cheryl permission to go to the awards banquet which was already held on June 12, 2003, there is no controversy between the parties and no effective remedy that the State Board can provide. This claim is therefore moot.

Appellant also maintains that the school system wrongfully denied Cheryl awards and recognition at the banquet. Pursuant to the local board decision, the issue of whether Cheryl should have received awards and recognition, such as a varsity letter, for her participation on the swimming team is being investigated by Dr. Copeland's designee, Mr. Robert Wade. See Affidavit of Robert Wade. Thus, the matter is premature for review by the State Board. Additionally, if after its investigation, the school system determines that Cheryl is entitled to awards or recognition of some type, the issue of whether they should have been presented at the awards banquet is moot since the awards banquet already took place.

Appellant further asserts that Mr. Lang should be disciplined for his decision regarding the awards banquet and should be required to write a letter of apology to Cheryl. The State Board has repeatedly held that an individual who is not a party in interest does not have standing to challenge personnel matters regarding an employee of the school system. *Tompkins v. Montgomery County Board of Education*, 7 Op. MSBE 475 (1996) (Parent of student lacks standing to challenge local board's decision regarding discipline of English teacher); *Edler v. Board of Education of Prince George's County*, 7 Op. MSBE 304 (1996) (Teacher did not have standing to challenge school system's determinations regarding either the suspension or expulsion of a student or the discipline of an employee other than himself); *Schlamp v. Board of Education of Howard County*, 7 Op. MSBE 27 (1995) (Parent of student lacked standing to demand that local superintendent take disciplinary action against a principal). Based on this precedent, we find that Appellant lacks standing to request any particular disciplinary action against Mr. Lang.

Moreover, the local board did not deem it appropriate to overturn the decision regarding awards or recognition or to discipline Mr. Lang. Ms. McLaurin's reason for giving Cheryl permission to attend the banquet was due to the last minute notice by Mr. Lang. Ms. McLaurin agreed with the underlying determination that Cheryl was not eligible to receive awards or recognition at the banquet due to her ineligibility for academic failures. There is no evidence that the record in this case supports disciplinary sanctions pursuant to 6-202 of the Education Article, Annotated Code of Maryland, or any other legal provision.⁴

⁴Section 6-202 sets forth the grounds for suspension or dismissal of teachers, principals, and other professional personnel. These grounds are: immorality, misconduct in office, insubordination, incompetency, or willful neglect of duty.

Finally, in its October 28th decision, the local board directed Western’s principal and athletic director “to review their compliance with all BCPSS policy requirements concerning the issuance of varsity letters, recognition awards, and the conduct of awards ceremonies. The principal and athletic director are directed to modify their procedures to being themselves into compliance with the policy requirements, as appropriate.” Ms. McLaurin and Mr. Lang have already begun to create a set of written criteria that will govern any future awards and recognition programs at Western.⁵ They have done this in cooperation with the School Improvement Team, whose involvement was suggested by Appellant in his requested remedy. *See* Affidavit of Landa McLaurin. Thus, Appellant’s request that Western implement a new awards recognition criteria and eligibility policy is moot.

CONCLUSION

For all of these reasons, we dismiss the appeal because all viable claims are moot. *See* COMAR 13A.01.01.03J(2)(b).

Edward L. Root
President

JoAnn T. Bell
Vice President

Philip S. Benzil

Dunbar Brooks

⁵Prior to this, Western did not have any written criteria in place for sports awards. As explained by Ms. McLaurin, “we had not felt the need for any additional criteria other than those already laid out in the [BCPSS] Rules on Athletics handbook,” which spells out eligibility rules based on several criteria, including but not limited to, attendance, academics, age, and amateur status. The handbook also states the following in Section VII, Awards and Recognition:

Any award system that a school chooses to adopt is the prerogative of respective schools. Individual schools can establish a school-based award system. Criteria must be made available in writing.

See Affidavit of Landa McLaurin.

Calvin D. Disney

Clarence A. Hawkins

Walter S. Levin, Esquire

Karabelle Pizzigati

Maria C. Torres-Queral

John L. Wisthoff

March 31, 2004