

RAFAEL Y.,

Appellant

v.

MONTGOMERY COUNTY BOARD OF
EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 07-40

OPINION

INTRODUCTION

In this appeal, Appellant challenges the local board's decision regarding his son's science grade for the third quarter of the 2006-2007 school year. The local board has filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal. Appellant has submitted an opposition to the local board's motion.

FACTUAL BACKGROUND

During the 2006-2007 school year, Appellant's son, D.Y. was enrolled in the 7th grade at North Bethesda Middle School ("North Bethesda"). At the time, D.L. was taking 7th grade science with Ms. Macedonia. In February of 2007, Ms. Macedonia assigned her students a project on the digestive system. Upon reviewing the student work, Ms. Macedonia determined that D.Y. had copied an entire page of his project from a website without attribution. After consulting with the school principal, Mr. Alton Sumner, the teacher gave D.Y. a grade of zero on the project for plagiarism. (Motion, Exhibit 1).

On February 14, 2007, D.Y. e-mailed a letter of apology to Ms. Macedonia in which he acknowledged that he had plagiarized the material in his project. He stated that he had learned from his mistake and that he would not do it again. (Motion, Exhibit 3).¹

¹Appellant states that his son wrote the letter of apology under pressure in hopes that the teacher would change his grade. (Motion, Exhibit 8).

Appellant found out about the incident several weeks later, in March 2007.² He thereafter met with the principal and the Grade 7 Team Leader. During that meeting, they discussed an offer for D.Y. to come in to school early between March 12 and the end of the quarter on March 26th to work on an alternative assignment to replace credit lost on the rejected flip book assignment. (Motion, Exhibit 4). Appellant rejected the offer and offered instead that his son do the assignment at home. The parties reached no agreement on the issue. (Motion, Exhibit 5).

Appellant wrote to the Community Superintendent to express his concerns about the situation. (*Id.*) The Community Superintendent found that the problem was not that Daniel used the internet, but rather that he “turn[ed] in a paper that was not his work” and that he “copied from a source without attribution.” He stated the following:

Mr. Sumner [the principal], in my view, is being fair and is taking the lowest level response to [D.Y.]’s actions. Rather than placing [D.Y.] on suspension and giving him a zero grade, which he could do according to the student discipline policy of the Montgomery County Public Schools, he is providing [D.Y.] with the opportunity to do an alternative assignment in order to earn his grade. His response is consistent with North Bethesda’s discipline policy which has been reviewed with the students and shared with parents. The alternative assignment does require additional work on [D.Y.]’s part as well as your support to [D.Y.]. It is important that he do the alternative assignment under the supervision of the school as the unacceptable work he turned in was done independently. He has an excellent opportunity to learn a lesson that he will be able to apply for a lifetime, as well as recover a grade.

(Motion, Exhibit 7).

On appeal, the Chief Operating Officer (“COO”), acting as the Superintendent’s Designee, assigned the matter to a hearing officer for review. The hearing officer spoke with the Appellant and the principal during his investigation. The principal agreed to allow D.Y. to do an alternative assignment during regular school hours under supervision, rather than coming in early to work in it before the start of the school day. The hearing officer found that this was an acceptable means for D.Y. to earn credit for the science project. He determined that D.Y. should have received a grade of 50 percent rather than zero based on his effort to complete the

²Ms. Macedonia stated that her failure to contact Appellant was an oversight. (Motion, Exhibit 1).

assignment.³ The hearing officer also reported that he had been advised by the principal that the rules for writing a bibliography are taught during the first semester in all Grade 6 classes and that every student is warned about plagiarism through the school's Student Handbook. The COO adopted the findings and recommendation of the hearing officer by letter dated May 3, 2007. (Motion, Exhibit 10). Appellant turned down the offer to have his son complete an alternative assignment during school hours.

On appeal to the local board, Appellant argued that the principal's direction to give D.Y. a zero was inconsistent with the Grading and Reporting Policy; that D.Y. was discriminated against because he was punished for plagiarism when other students who used items from the internet in their projects were not; and that the school did not provide sufficient detail about use of the internet and plagiarism. Appellant also stated that the offer to do an alternative assignment during school hours is equivalent to detention. (Motion, Exhibits 12 & 14).

In a written opinion dated June 25, 2007, the local board affirmed the decision of the COO. The board stated the following in its Decision and Order:

[Appellant's] Complaint from the Public stems from his contentions that [D.Y.] did not plagiarize with respect to the science projects and that [D.Y.] has not been properly or sufficiently instructed regarding plagiarism and how to write a bibliography. However, the record indicates that [D.Y.] submitted an unsolicited letter of apology to his science teacher admitting that he had been appropriately punished for his action. Furthermore, it is clear that the North Bethesda Middle School student handbook provides information regarding plagiarism and the rules for writing a bibliography. The school also instructs students concerning writing a bibliography in the sixth grade. The Board understands that [D.Y.] received a grade of 50 percent for the assignment at issue. The record indicates that the principal offered [D.Y.] the opportunity to prepare another assignment during school hours under supervision that could take the place of the original assignment so that [D.Y.] would not suffer a severe grade penalty. This alternative assignment was refused by [Appellant] who contends that [his son] should have been permitted to repeat the original assignment at home. However, the Board concludes that based on the facts and circumstances in this case, the staff at North Bethesda Middle School acted appropriately and that the principal's offer to allow [D.Y.] to complete an alternate science

³The principal agreed to make this adjustment.

project during school hours under supervision should be upheld.

(Motion, Exhibit 15).

This appeal to the State Board followed.

STANDARD OF REVIEW

It is well settled that the State Board will not review the merits of student grade decisions. As stated in *Crawford v. Washington County Board of Education*, 4 Op. MSBE 890 (1997), “the merits of students’ grades ‘should be kept within the school building,’ and are to be made by the persons most able to evaluate the situation from personal knowledge.” See also *Fisher v. Montgomery County Board of Education*, MSBE Opinion No. 99-43 (1999); *Chase v. Carroll County Board of Education*, 7 Op. MSBE 915 (1997); *Mai v. Montgomery County Board of Education*, 7 Op. MSBE 752 (1997); *Tompkins v. Montgomery County Board of Education*, 7 Op. MSBE 475 (1996). The State Board will only accept appeals regarding academic grades if there are specific allegations that the local board failed to follow proper procedure or violated a student’s due process rights. In such cases, the local board’s decision is considered prima facie correct, and the State Board may not substitute its judgment for that of the local board unless the decision is found to be arbitrary, unreasonable, or illegal. COMAR 13A.01.05.05.

LEGAL ANALYSIS

Appellant argues that the principal “violated the rules and procedures of the Montgomery County Educational System when he ordered the science teacher to give [D.Y.] a “0” for the science project.” This argument is moot given that during the course of this appeal the principal changed that grade to 50 percent. He also offered Appellant’s son the opportunity to prepare another assignment during school hours to replace the original assignment so that he could earn full credit.

Appellant also argues that Ms. Macedonia violated local procedure when she failed to inform him of his son’s plagiarism in February. While it appears that this was an oversight on Ms. Macedonia’s part, Appellant ultimately found out about the incident within one month and had the opportunity to challenge the determination. The record reveals that Appellant’s claims were fully investigated and reviewed by the superintendent’s designee and by the local board. Moreover, as already stated, the original grade was changed and an alternative assignment was offered. Thus any procedural error that may have occurred from the late notification has been cured. See *West & Bethea v. Board of Commissioners of Baltimore City*, 7 Op. MSBE 500 (1996); *Harrison v. Somerset County Board of Education*, 7 Op. MSBE 391 (1996).

Appellant maintains that his son should not have been penalized because he did not intend to plagiarize, and he therefore should have received an A in science for the third quarter of

the 2006-2007 school year. The record discloses that the rules for writing a bibliography are taught during the first semester in all 6th grade science classes at North Bethesda.⁴ The North Bethesda Middle School Handbook, which is distributed to all students, designates plagiarism as a disciplinary offense and states that it is the “[t]aking and using another’s findings, interpretations, or texts, and presenting them as one’s own without proper attribution.” Penalties include detention, completion of an alternative assignment, parental notification and suspension. (Motion, Exhibit 2). Ms. Macedonia determined that D.Y.’s project contained one full page of information from the internet without citation. Moreover, D.Y. admitted to committing the offense. (Motion, Exhibit 3). Thus, Ms. Macedonia’s finding of plagiarism and the affirmance of that determination by the COO and the local board do not appear to be arbitrary, unreasonable or illegal.

Finally, Appellant requests that disciplinary action be taken against the principal and other school system personnel for their actions during the course of this appeal. The State Board has previously held that parents lack standing in an appeal before the State Board to request disciplinary action against school system personnel. *See Schlamp v. Howard County Board of Education*, MSBE Opinion No. 04-04 (2004); *Schlamp v. Howard County Board of Education*, 7 Ops. MSBE 27 (1995).

CONCLUSION

Accordingly, we affirm the decision of the local board because it is not arbitrary, reasonable or illegal.



Dunbar Brooks
President



Beverly A. Cooper
Vice President

⁴Appellant believes that North Bethesda should provide more instruction in plagiarism and bibliography writing. This appeal, however, is an appeal of D.Y.’s science grade. A quasi-judicial appeal before the State Board is not the appropriate vehicle for effectuating a change in local curriculum. *See Regan v. Montgomery County Board of Education*, MSBE Opinion No. 03-05 (2003).

Senik

Lelia T. Allen

Albert

J. Henry Butta

Albert

Charlene M. Dukes

Blair G. Ewing

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October 30, 2007