

RICHARD REGAN,

Appellant

v.

WASHINGTON COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 03-13

OPINION

Appellant appeals the use of Native American mascots and mascot symbols at Boonsboro High School and Conococheague Elementary School in Washington County. Counsel for the local board has submitted a Motion to Dismiss maintaining that Appellant lacks standing to appeal. Alternatively, the local board has submitted a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable, or illegal.

FACTUAL BACKGROUND

On January 5, 2002, Appellant filed a complaint with the Washington County Public School System regarding the use of American Indian mascots and mascot names at Pleasant Valley Elementary School. The Interim Superintendent responded on January 31, 2002, indicating that the use of the nickname “Braves” had been voluntarily eliminated at Pleasant Valley.

On February 17, 2002, Appellant filed an appeal to the local board. Prior to any response from the local board, Appellant filed a complaint on February 22, complaining of the use of American Indian mascots by Boonsboro High School and Conococheague Elementary School. The Interim Superintendent denied Appellant’s complaint by letter of May 7, 2002, stating:

There is no indication from your communications that either you or your family resides in Washington County, or that you have children who attend Washington County Public Schools. Furthermore, there is no indication from your communications that suggests that you personally have suffered any specific harm or injury. Given the complete lack of standing on your part, there is no cognizable controversy or dispute for me to decide and your appeal is denied.

Thereafter, Appellant appealed to the State Board. Because Appellant failed to exhaust his administrative remedies, the matter was remanded to the local board for its consideration. *See* MSBE Opinion No. 02-42 (August 27, 2002). On October 15, 2002, the local board voted unanimously to affirm the decision of the superintendent denying Appellant’s appeal. The local board found Appellant’s claims regarding Pleasant Valley Elementary moot given the mascot

name change, and denied Appellant's appeal regarding Boonsboro High School and Conococheague Elementary School for lack of standing. Alternatively, the local board found that Appellant failed to present any evidence that any student in the school system suffered any harm, was denied educational opportunities, or was deprived of any right as a result of the use of American Indian mascot names.

Appellant has appealed to the State Board claiming that the local board's promotion of Native American mascots and mascot symbols in its schools violates the requirements of COMAR 13A.04.05 on Education That Is Multicultural, and that the use of the mascots "contradicts the main mission of an educational institution which is to transcend racial and cultural boundaries and encourage respectful relations among all people who live and work in that school environment."¹

ANALYSIS

The local board argues that the State Board should dismiss this appeal because Appellant lacks standing. As the State Board noted in *Adams, et al. v. Montgomery County Board of Education*, 3 Op. MSBE 143, 149 (1983), the general rule on standing is that "for an individual to have standing, even before an administrative agency, he must show some direct interest or 'injury in fact, economic or otherwise'." See also *Regan v. Harford County Board of Education*, MSBE Opinion No. 02-28 (June 26, 2002); *Regan v. Worcester County Board of Education*, MSBE Opinion No. 02-37 (July 23, 2002); *Schwalm v. Montgomery County Board of Education*, MSBE Opinion No. 00-10 (February 23, 2000); *Vera v. Board of Education of Montgomery County*, 7 Op. MSBE 251 (1996); *Way v. Howard County Board of Education*, 5 Op. MSBE 349 (1989).

The record in this case discloses that Appellant does not reside in Washington County. Further, Appellant does not have a child in attendance at any of the schools at issue in this case, nor at any other Washington County Public School. As stated above, Appellant must show some direct interest or injury in fact. Based upon our review of the record, we find that Appellant has not done so.

CONCLUSION

For these reasons, we dismiss the appeal for lack of standing. See COMAR 13A.01.01.03J(1).

Marilyn D. Maultsby
President

¹Appellant does not appeal the local board's determination that Appellant's claims regarding the use of American Indian mascots at Pleasant Valley Elementary School are moot.

JoAnn T. Bell

Philip S. Benzil

Dunbar Brooks

Clarence A. Hawkins

Walter S. Levin, Esquire

Karabelle Pizzigati

Edward L. Root

Walter Sondheim, Jr.

John L. Wisthoff

Reginald L. Dunn participated in the deliberations on this appeal and voted to dismiss the appeal for lack of standing, but passed away prior to the issuance of this opinion.

February 26, 2003