

LYNN SACHS,
Appellant

v.

HOWARD COUNTY
BOARD OF EDUCATION,
Appellee

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION
Opinion No. 03-16

OPINION

This is an appeal of a decision by the local school system that the Appellant's daughter was ineligible to participate in fall cheerleading because she did not satisfy the grade requirements set out in the local board's academic eligibility policy. The local board has submitted a Motion to Dismiss and/or for Summary Affirmance on grounds that the appeal is moot because Appellant's daughter is eligible for, and now participating in, cheerleading. Appellant has filed a response opposing the Motion.

FACTUAL BACKGROUND

In May, 2002, Appellant's daughter, Shalise, a then 8th grader, tried out for the cheerleading squad for Glenelg High School. At the time of the tryouts, Shalise met the eligibility requirements - she was passing her core subjects with a grade of "C" or better and was maintaining a 2.0 G.P.A.

On August 13, 2002, the Glenelg assistant principal reviewed the eligibility policy and procedures at the mandatory fall meeting and emphasized that the students must produce their final 8th grade report card prior to the first day of practice. Shalise's coach did not submit her cheerleading team roster until September 3, 2002. When the assistant principal and the athletic director reviewed the report cards of the students listed on the roster, Shalise was deemed ineligible because her 4th quarter grades included two core courses with grades lower than "C"; and her 4th quarter G.P.A. in core subjects was 1.6. *See* affidavit of Linda Wise, Principal of Glenelg High School.

Shalise's mother, the Appellant, appealed the ineligibility determination and requested that her daughter be allowed to continue to participate on the cheerleading squad at Glenelg High School. The Administrative Director of Secondary Schools and Superintendent's designee, Mrs. Alice Haskins, denied Appellant's request, confirming that Shalise was ineligible to participate since she did not meet the policy requirement of receiving a final grade of "C" or better in the core subjects or the 2.0 G.P.A. requirement for participation in extracurricular activities.

Appellant appealed the decision to the local board arguing that Shalise started to turn her life around by being involved with cheerleading and that the Board should consider waiving the

policy requirement in order for Shalise to participate in cheerleading. Appellant also argued that she had no knowledge of the Board's policy regarding academic eligibility upon entering the ninth grade. The Board of Education of Howard County, by a vote of 4-1, upheld the denial of Shalise's cheerleading participation citing:

- Board Policy #2060-Grading, Reporting, Promotion, and Acceleration which states that a student's academic performance in grade 8 shall determine his/her eligibility for participation in extracurricular activities during the first marking period/fall sports in grade 9;¹
- Board Policy #10124-Academic Eligibility for Extracurricular Activities states that a full-time student earns academic eligibility to participate in extracurricular activities by passing all authorized courses for the marking period which governs the student's specific activity and maintaining a 2.0 grade point average with no failing grades for that marking period.

The local board further stated that in May 2002 during cheerleading tryouts, Shalise was given a handout stating that freshman were ineligible to participate if they had failing grades in any core subject in the fourth quarter of the 8th grade and that parents were required to sign an Athletic Participation Form which contains the freshman academic eligibility policy.² Moreover, the local board explained that Shalise had tried out for and earned a spot on the winter cheerleading team and could participate on that team after the first marking period if she met the academic eligibility requirements.

Appellant appealed the local board's decision to the State Board requesting an apology from the Howard County School Board.

ANALYSIS

Mootness

The local board has filed a Motion to Dismiss based on mootness. 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 Fromille v. Harford County Board of Education*, MSBE Opinion 02-33 (July 23, 2002); *Arnold v. Carroll County Board of Education*, MSBE Opinion No. 99-41 (September 22, 1999); *Farver v. Carroll County Board of Education*; MSBE

¹Howard County Board Policy #2060, Section II(D)(7).

²In her affidavit the Director of Secondary Schools stated that the Appellant acknowledged being aware of and receiving notice of the academic eligibility rules. *See Haskin's affidavit*, pp. 3 & 4.

Opinion No. 99-42 (September 22, 1999); *Chappas v. Montgomery County Board of Education*, 7 Op. MSBE 1068 (1998); *Pickett v. Montgomery County Board of Education*, 7 Op. MSBE 1302 (1998).

Appellant has now met the academic eligibility requirements and is currently participating on the Glenelg High School cheerleading squad.³ There is thus no effective remedy that the State Board can provide. *See e.g., Pickett v. Montgomery County Board of Education*, 7 Op. MSBE 1302 (1998). Accordingly, we find that the appeal is moot.

Merits

This case involves a local policy or dispute regarding the rules and regulations of a local school system. Therefore, the State Board may not substitute its own judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. *See* COMAR 13A.01.01.03E(1)(a). If the State Board were to decide this appeal on the merits, we would find that the decision of the local board was reasonable.

It is well settled that student participation in interscholastic athletics or other extracurricular activities is not a constitutionally protected liberty or property interest. *See Denis J. O'Connell High School v. Virginia High School*, 581 F.2d 81, 84 (4th Cir. 1978); *Mitchell v. Louisiana High School Athletic Association* 430 F.2d 1155, 1158 (5th Cir. 1970). Consistent with this sentiment, the State Board has held that "participation in extracurricular activities is a privilege, not a right." *See Bloch v. Board of Education of Howard County*, 7 Op. MSBE 388, 390 (1996).

The Howard County Public School System's policy on grading, reporting, promotion and acceleration makes it clear that a student's academic performance in grade 8 shall determine his/her eligibility for participation in extracurricular activities during the first marking period for fall sports in grade 9. (Howard County Board Policy #2060). In addition, the local board's policy on academic eligibility for extracurricular activities clearly states that a student is eligible to participate in extracurricular activities if the student passes his/her core courses for the marking period governing the specific activity and maintains a 2.0 grade point average with no failing grades for that marking period. (Howard County Board Policy #10124).

Based upon a review of Appellant's 4th quarter grades in her core subjects in 8th grade, we find that, for the time complained of, Shalise did not meet the academic eligibility requirements to participate on the Glenelg High School cheerleading squad, but has since met those requirements and is now participating in that extracurricular activity. We therefore find that there is neither any suggestion nor any evidence that the local board decision was arbitrary, unreasonable, or illegal. Accordingly, we would affirm the decision on its merits.

³See Affidavit of Linda Wise, Principal of Glenelg High School.

CONCLUSION

For the reasons noted above, we dismiss this appeal on the basis of mootness. *See* COMAR 13A.01.01.03J(2)(b).

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March 25, 2003