

ALLEN DYER,

Appellant

v.

HOWARD COUNTY BOARD
OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 09-36

OPINION

INTRODUCTION

Allen R. Dyer, a member of the Howard County Board of Education, has petitioned this Board, in his capacity as a "citizen and a public official" for several declaratory rulings on the legality of certain actions of the Howard County Board of Education (local board). The local board has filed a Motion to Dismiss or for Summary Affirmance. Mr. Dyer has responded.

FACTUAL BACKGROUND

In Mr. Dyer's Petition, he requests two declarations: (1) that the Howard County Board policy dealing with copyrights and royalties is illegal; and (2) that the Howard County Board is without legal authority to suppress publication of legal memoranda requested by Mr. Dyer.

In its Motion to Dismiss, the local board seeks dismissal on the grounds that Mr. Dyer lacks standing to request a declaration on the Royalties Policy. The local board seeks summary affirmance on the issue of disclosure of legal memoranda.

STANDARD OF REVIEW

A party may file for a declaratory ruling on the interpretation of "a public school law or regulation of the State Board that is material to an existing case of controversy." COMAR 13A.01.05.03. The State Board uses its "independent judgment on the record before it in the explanation and interpretation of public school laws and State Board regulations." COMAR 13A.01.05(E).

LEGAL ANALYSIS

Before reaching the local board's standing issue, we consider first the jurisdiction of this Board to hear this case at all. Under our own rules, in order for this Board to issue a declaratory ruling, the law to be interpreted and applied through the declaration must be an education law or

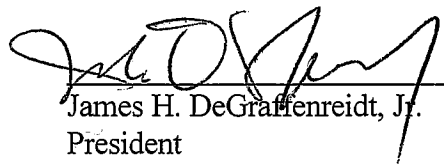
regulation. COMAR 13A.01.05.03 and .05. As the Court of Special Appeals explained, a ruling by the State Board under its declaratory procedures must relate to the applicability of a rule, order, or statute enforceable by the State Board. *McIntyre v. Board of Education of Kent County*, 55 Md. App. 219, *passim* (1983).


In his petition, Mr. Dyer requests declarations concerning the local board's application and use of the federal copyright laws, the constitutionality of using a copyright on public documents, the creation of a monopoly by the use of copyrights on public documents. A ruling on copyright laws and their use or applicability to public documents is far beyond the legal purview of this Board. Copyright law is not a law enforceable by this Board.

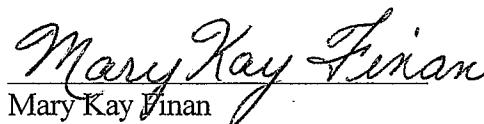
The same analysis applies to Mr. Dyer's request for a declaration on the power of the local board to prevent an individual member from releasing a legally privileged and confidential memorandum. That issue does not involve education law.

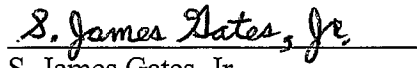
CONCLUSION

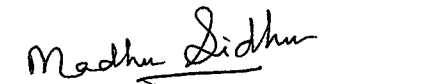
For these reasons, we dismiss the Petition.


James H. DeGraffenreidt, Jr.
President


Charlene M. Dukes
Vice President


Mary Kay Finan


S. James Gates, Jr.


Madhu Sidhu

Guffrie M. Smith, Jr.
Guffrie M. Smith, Jr.

Donna Hill Staton
Donna Hill Staton

Ivan C.A. Walks
Ivan C.A. Walks

Kate Walsh
Kate Walsh

October 27, 2009