

OKORIE N.,

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR07-04

ORDER OF DISMISSAL

In this appeal, Appellant challenges the local board's affirmance of the decision of Larry Bowers, Chief Executive Officer (CEO), denying Appellant's request to transfer his son to another second grade class. In January of 2007, Appellant requested that his son be transferred to another class based on his view that his son's poor classroom performance was "due to the teacher's lack of patience, interest and desire in helping [his son]." Appellant maintained that his son was in a classroom that was "hostile, unfriendly and unproductive to him . . ." (Letter to Superintendent, 1/16/07). The Principal of Sherwood Elementary School (Sherwood) denied Appellant's request stating that Appellant's son was making good progress in second grade and was performing on grade level. (Letter from Principal Perlet, 1/9/07). Appellant appealed this decision through a Complaint From the Public, which was reviewed and denied by the CEO, acting as the Superintendent's Designee.

On further appeal, the request was denied by the local board. The local board found insufficient evidence to support Appellant's assertion that staff at Sherwood Elementary School fabricated his son's school data which showed that he was within the acceptable range for his grade level. The local board found the results of the classroom observation and record review conducted by two impartial former elementary school principals to be compelling evidence of the student's progress. The local board refused to disturb the professional judgment of the administrators and CEO in the absence of a showing that the decision to deny the request was arbitrary or capricious. (Local Board Decision).

On May 9, 2007, the Appellant filed this appeal to the State Board. The local board has filed a Motion to Dismiss the appeal based on mootness because in March 2007 the teacher began maternity leave, and because the 2006-2007 school year is over now and Appellant's son has completed the second grade. In addition, the teacher does not teach the third grade at Sherwood so there is no chance that Appellant's son will have her next 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 v.*

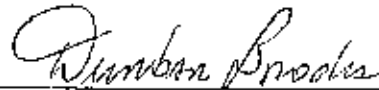
Carroll County Board of Education; MSBE Opinion No. 99-42 (September 22, 1999); *Chappas v. Montgomery County Board of Education*, 7 Op. MSBE 1068 (1998). Because the school year is over and there is no possibility that Appellant's son will be assigned to the teacher's classroom for the third grade, there is no existing controversy between the parties and no effective remedy that the State Board can provide.

Therefore, it is this 24 day of July, 2007, by the Maryland State Board of Education,

ORDERED, that the appeal referenced above be and the same is hereby dismissed because it is moot. See COMAR 13A.01.05.03C(1)(b).

MARYLAND STATE BOARD OF EDUCATION

By:



Dunbar Brooks
President