

DAVID & LINDA S.,  
Appellant

v.

BALTIMORE COUNTY BOARD  
OF EDUCATION,  
Appellee.

BEFORE THE  
MARYLAND  
STATE BOARD  
OF EDUCATION  
Opinion No. 10-40

## OPINION

### INTRODUCTION

In this case, the Appellants appeal the local board's decision dismissing their appeal for failure to appear at the scheduled hearing before the local board. The Baltimore County Board of Education ("local board") has filed a Motion to Dismiss the appeal maintaining that it is moot. The Appellants have responded to the Motion.

### FACTUAL BACKGROUND

Appellants are the parents of A.S., who graduated from Loch Raven High School ("Loch Raven") on June 3, 2009. While A.S. was enrolled at Loch Raven, Appellants filed various complaints with school administrators alleging that A.S. was subjected to harassment, bullying and intimidation by two students at Loch Raven during the 2007-2008 school year. (Tab 2, Attach. 1). The conduct complained of primarily included teasing, name calling, and critical remarks. Appellants' complaints also alleged that school administrators ineffectively handled the incidents and also retaliated against A.S. for filing the complaints. (*Id.*)

Dale Rauenzahn, Executive Director of Student Support Services, conducted an investigation of the Appellants' complaints. (Local Bd's Mtn., Exh. 1). Mr. Rauenzahn made the following findings in his Final Report:

- 1) The four reported incidents did not constitute harassment. The totality of the incidents, however, constituted bullying and intimidation. Yet the incidents did not preclude the student from attending and fully participating in school. His grades and attendance remained consistent throughout the 2007-2008 school year.
- 2) The actions in the four reported incidents were not directed at A.S. due to his disability (deafness). Rather, the incidents were reactions to specific situations and involved comments from A.S. as well as the offenders. For example, one student had an instrument and the other one wanted it, or one student wanted a

particular spot at a table.

- 3) The school investigated each of the four incidents and took action to prevent future incidents. Each investigation resulted in the production of an investigation report. School staff spoke with the offenders in each instance and attempted mediation between the parties for one of the incidents.
- 4) The school should have recognized that the student was a victim of intimidation and bullying as a result of the repeated incidents involving the same students. The incidents involved the same students and only took place during the Marching Band and Symphonic Winds classes.
- 5) The Loch Raven administrators and teachers did not retaliate against A.S. for reporting the incidents. A.S.'s suspension from school for a period of time was for an unrelated matter involving a violation of the telecommunications policy. In addition, issues pertaining to the special education procedures were unrelated and rectified through an administrative hearing.
- 6) The school system did not violate its procedures for investigating complaints of harassment based on a disability.

Mr. Rauenzahn made several recommendations for corrective action. He suggested training staff at Loch Raven on identifying and responding to incidents of harassment, bullying and intimidation; training administrative staff at Loch Raven on investigating, documenting, and intervening in harassment, bullying and intimidation cases; providing classroom management training for the teachers in charge when the incidents took place; and revising the relevant complaint procedures.

On May 28, 2009, Lyle Patzkowsky, Area Assistant Superintendent (Central), adopted Mr. Rauenzahn's Final Report. (Appeal, Tab 3).

Appellants appealed Mr. Patzkowsky's decision to the local Superintendent and requested more time to submit additional information. (Appeal, Tab 4). Dr. Carol Batoff, the Superintendent's Designee, denied the request for an extension based on the Appellants' failure to provide substantial reason or good cause. She also affirmed Mr. Patzkowsky's decision, finding that staff acted reasonably under the circumstances and in accordance with school system procedure. (Appeal, Tab 5).

Appellants appealed Dr. Batoff's decision to the local board. (Local Bd's. Mtn., Exh.2). By letter dated July 31, 2009, the local board's scheduler notified the Appellants that oral argument in the case was scheduled before the local board for October 6, 2009 at 5:00 p.m. (Local Bd's. Mtn., Exh.4). The Appellants failed to attend the scheduled hearing. On October 6, 2009, the local board issued an Opinion and Order dismissing the appeal based on the Appellants' failure to appear for the hearing. (Local Bd's. Mtn., Exh.5).

This appeal followed. In the appeal, the Appellants allege that they did not receive the local board's letter advising them of the date of the hearing, although they received the other correspondence from the board.

### ANALYSIS

The Appellants ask that their appeal before the local board be reinstated so that they can "appear before an open impartial board and provide for such other and further relief as the nature of this cause may require." (Apps' Resp). They believe that the school system failed to complete an appropriate investigation into their complaints, and that the findings in Mr. Rauenzahn's Final Report are inaccurate. Appellants have listed various specific forms of relief, such as review of the investigation and alleged collusion by school system staff, review and appropriate resolution of conflicts of interest during the local board appeal process, and identification of local policies that undermine State law on harassment, bullying and intimidation, to name a few. (*Id.*).

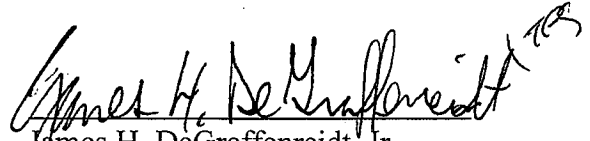
The local board has filed a Motion to Dismiss the appeal maintaining that it is moot. It is well established that a question is moot when "there is no longer an existing controversy between the parties, so that there is no longer any effective remedy which the courts [or agency] can provide." *In Re Michael B.*, 345 Md. 232, 234 (1997); *See also Arnold v. Carroll County Bd. of Educ.*, MSBE Op. No. 99-41 (1999); *Farver v. Carroll County Bd. of Educ.*; MSBE Op. No. 99-42 (1999); *Chappas v. Montgomery County Bd. of Educ.*, 7 Op. MSBE 1068 (1998).

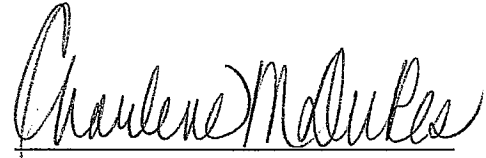
A.S. graduated from Baltimore County Public Schools ("BCPS") in June of 2009. (Local Bd. Mtn., Exh. 8). Thus, he was no longer attending BCPS at the time this appeal was filed with the State Board. Because A.S. is no longer a student in the school system, there is no existing controversy between the parties and no effective remedy that the State Board can provide. *See Vergina W. v. Prince George's County Bd. of Educ.*, MSBE Order No. 09-10 (2009); *Saling v. Montgomery County Bd. of Educ.*, MSBE Op. No. 03-33 (2003). Therefore, this matter is moot.

We note that harassment, bullying and intimidation by students is a serious issue in the schools. In 2009, this Board adopted a Model Policy for school systems to follow to address bullying, harassment, and intimidation. We recognize that teachers and school administrators must be equipped to effectively recognize and deal with these incidents when they occur. The Appellants in this case clearly felt that school staff should have investigated and responded differently to their complaints. While there is no longer anything that can be done in A.S.'s case because he has graduated, Mr. Rauenzahn recommended clarification of harassment, bullying and intimidation issues and procedures within Loch Raven, as well as additional training for staff. His recommendations were adopted by the local school system and have already been implemented.

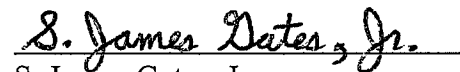
CONCLUSION

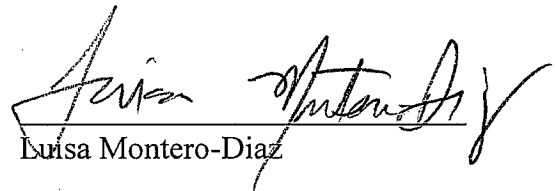
Because this case is moot, we dismiss the appeal.

  
James H. DeGraffenreidt, Jr.  
President

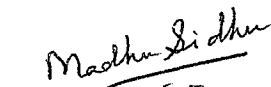
  
Charlene M. Dukes  
Vice President

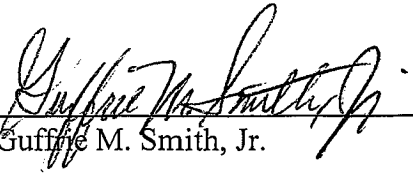
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Mary Kay Finan

  
S. James Gates, Jr.

  
Luisa Montero-Diaz

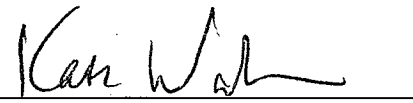
  
Sayed M. Naved

  
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Madhu Sidhu

  
Guffie M. Smith, Jr.

  
Donna Hill Staton

ABSENT  
Ivan C.A. Walks

  
Kate Walsh

September 21, 2010