

C. SCOTT STONE

Appellant

v.

CARROLL COUNTY
BOARD OF EDUCATION

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR09-04

ORDER OF DISMISSAL

Appellant, a former member¹ of the Carroll County Board of Education (local board), challenges the local board's December 10, 2008 decision to change the Carroll County Public Schools' (CCPS) calendar and close schools on the first day of the Jewish holidays of Rosh Hashanah and Yom Kippur when these holidays fall on regular school days. Appellant argues that the local board's decision is illegal because it violates the Establishment Clause of the First Amendment to the United States Constitution.

The local board has filed a Motion to Dismiss the case asserting that Appellant lacks standing to appeal the decision to the State Board.²

In appeals before the State Board of Education, the general rule on standing is that an individual "must show some direct interest or 'injury in fact, economic or otherwise.'" *Taylor v. Montgomery County Bd. of Educ.*, MSBE Op. No. 07-32 (2007), quoting *Adams, et al. v. Montgomery County Bd. of Educ.*, 3 Op. MSBE 143, 149 (1983); *Regan v. Washington County Bd. of Educ.*, MSBE Op. No. 03-13 (2003).

Appellant maintains that he has standing to appeal the local board's decision to the State Board because he has a direct interest in the local board's decision by virtue of the fact that he is a former member of the local board and Carroll County citizens continue to seek his advice and guidance on local board decisions, policies and procedures. With regard to the local board's decision on the school calendar, he explains that citizens have sought his guidance in order to understand why the local board rendered its decision.

While Carroll County citizens may turn to Appellant for advice on educational matters affecting CCPS, we do not believe that Appellant's status as a past member of the local board who is knowledgeable about educational issues gives him a direct interest or injury in fact sufficient to confer standing here. The fact that individuals seek out Appellant as a resource on issues pertaining to the school system does not give him any more of an interest in the local

¹ Appellant served as a member of the local board from January 1993 through December 2006.

² Alternatively, the local board has filed a Motion for Summary Affirmance maintaining that the local board had legitimate secular reasons for closing schools on the first day of these holidays.

board's decision than any other citizen in Carroll County. If the State Board were to expand its concept of standing to allow someone with extensive experience on a matter, but no independent stake in the appeal, to challenge a local board decision it would open the door for community leaders and experts to appeal decisions simply on the basis of their expertise.

Appellant also asserts that he has standing to appeal the local board's decision because he is a legal resident of Carroll County and he pays County taxes which are used, in part, to fund CCPS.

While taxpayer standing has been recognized by Maryland courts, in order for an individual to have taxpayer standing the individual must allege and prove some special damage, or show a special interest which is distinct from that of the general public. *Citizens Planning and Housing Assn. v. County Executive of Baltimore Cnty.*, 273 Md. 333, 339 (1974). This has been interpreted as requiring "a showing that the action being challenged results in pecuniary loss or an increase in taxes." *Id.*, citing *Stovall v. Secretary of State*, 252 Md. 258, 263 (1964).

Although a portion of Appellant's taxes are directed towards supporting CCPS, Appellant has not shown that the decision to close schools on the first day of Rosh Hashana and Yom Kippur will increase his taxes or cause him to suffer any pecuniary loss. In fact, the local superintendent has explained that school closures on these two days are budget neutral and have no fiscal implications for the school system. (Eckerd Affidavit). The number of class days for students and the number of duty days for faculty and staff remain the same. *Id.* Thus we do not believe that Appellant has demonstrated that he has standing based on his status as a taxpayer.

Finally, Appellant asks the State Board to make an exception to the standing requirement in this case because he feels that many local education agencies struggle with the same question, and a written opinion would provide needed guidance. Despite Appellant's contentions, there does not appear to be a need for guidance on this issue as the State Board has not received any other appeals or requests to address similar matters.

Therefore, it is this 21st day of July, 2009, by the Maryland State Board of Education,

ORDERED, that the appeal referenced above is hereby dismissed for lack of standing pursuant to COMAR 13A.01.05.03(C)(2).³

³ Because the Board has dismissed the appeal for lack of standing there is no reason to address the substantive issues raised in this case.