

CORNELL GLASCOE,

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 99-46

OPINION

In this appeal, Appellant objects to several aspects of his son's 2-day suspension.¹ He claims that (1) the suspension was not properly investigated and lacks appropriate documentation; (2) his due process rights were violated; (3) the school system failed to comply with its own disciplinary procedures by not imposing a more severe penalty against his son as mandated by school policy; and (4) documentation regarding the characterization of the incident should be expunged from his son's record. Appellant also raises concerns about other items that are not part of the suspension decision. He claims that his son was unfairly treated by the assistant principal with regard to other disciplinary matters, and that certain information relating to a complaint of sexual harassment against his son is not contained in his son's record. The local board has filed a Motion to Dismiss for failure to present a justiciable issue, or alternatively, a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable, or illegal. Appellant has filed a response in opposition to the local board's motion.

BACKGROUND

During the 1998-99 school year, Appellant's son, Justin, was in the eleventh grade at John F. Kennedy High School in Montgomery County. On December 23, 1998, Justin was suspended for two days for a "physical attack on a student." The suspension letter indicated that Justin "shoved a girl up against the wall and pinned her arms over her head." The teacher who witnessed the incident stated:

Prior to 7th period, I was monitoring the hallway when I saw a gentleman grab a young lady and pin her against the wall so she could not move her arms. He then proceeded to lift her shirt above her head. When I told him to leave her alone and get his hands off of the girl he basically said she was his girl and he could do what he

¹The documentation submitted by Appellant in this appeal is confusing, making it difficult to identify what aspects of the local board's decision Appellant contests. It is clear, however, that Appellant does not contest the aspects of the local board's decision that grant his request to transfer his son from Kennedy to Einstein High School for the 1999-2000 school year.

wants, grabbed her, and walked away. At that point, security came and broke them up. (Statement of Teacher, 12/22/98).

Appellant appealed the 2-day suspension. On January 28, 1999, Appellant and his son attended a conference with the field office supervisor to review the suspension. Also present at that conference were two assistant principals from Kennedy High School, a pupil personnel worker, and a school system human relations representative. After completing her investigation of the incident, the field office supervisor advised Appellant of her decision to uphold the 2-day suspension by the principal.

Appellant appealed the field office supervisor's decision to the local superintendent. In support of the appeal, Appellant emphasized that he was not disputing the suspension because his son's behavior was inappropriate; however, he was seeking to expunge certain information about the suspension from his son's discipline records. Appellant also indicated that he was seeking a school transfer for his son. Additionally, he complained that Justin was being harassed and criticized by a school administrator.

The matter was assigned to the superintendent's designee. As explained in the local board's memorandum, believing that the suspension itself had not been challenged, the designee focused on the other aspects of Appellant's complaint. Based on his investigation, the designee confirmed that Appellant's request to change his sons's guidance counselor was granted. Further, the designee recommended that Appellant's transfer request for the 1998-99 school year be denied based on lack of a unique hardship that would override the concerns about grade level capacity at the requested school as well as its timing mid-year.

On March 12, 1999, the superintendent adopted the recommendations of his designee. By letter of that same date, Appellant requested a transfer for the 1999-2000 school year, and asked that the wording of the suspension letter be expunged from his son's record. He also made complaints about information relating to a complaint by another student that she was sexually harassed by his son. The local superintendent did not respond to this correspondence.

Appellant appealed to the local board of education. In addition to granting the transfer for the 1999-2000 school year, the board reviewed the suspension decision for due process violations, but found none. No other matters were considered by the board.

ANALYSIS

A decision of a local board with respect to a student suspension or expulsion is considered final. Md. Code Ann., Educ. § 7-305. Therefore, the State Board's review is limited to determining whether the local board violated State or local law, policies, or procedures; whether the local board violated the due process rights of the student; or whether the local board acted in an otherwise unconstitutional manner. COMAR 13A.01.01.03(E)(4)(b). Although Appellant requests a meeting with the State Board concerning this appeal, neither a hearing nor an in-person meeting is warranted at the State level.

Appellant argues that the incident for which his son was suspended was not properly investigated and lacked appropriate documentation.² Contrary to this assertion, the record contains the statements given to school officials as part of the investigation by the teacher who observed the incident, by Appellant's son, and by the other student involved. The record also contains the decisions of the principal and the field office supervisor, as well as the objections submitted by Appellant to those individuals. Thus, we find that the incident was properly examined and documented.

Appellant further contends that his due process rights were violated. The suspension in this case was for two days. Under *Goss v. Lopez*, 419 U.S. 565, 581 (1975), for a suspension of 10 days or less, due process requires that the student be given oral or written notice of the charges against him and if he denies them, an opportunity to present his side of the story. The local board reviewed the suspension decision and determined that there were no due process violations. Based upon our review of the record, we concur. In addition to the meeting with the assistant principal, Appellant and his son attended a conference with the field office supervisor to address the suspension. Appellant and his son were advised of the basis for the suspension, and Appellant's son had the opportunity to present his side of the story. This is all that due process requires.

Appellant also requests an amendment of his son's student disciplinary records to expunge any reference in the suspension materials to his son committing a sexual or physical attack. We believe that an amendment of such records would be improper given our decision upholding the local board decision regarding the suspension.³

Additionally, Appellant mentions matters unrelated to the suspension. Although Appellant raised concerns about the treatment of his son by the assistant principal in his initial appeal letter to the State Board, other information from both Appellant and the school system indicates that this matter has been successfully resolved. Another peripheral matter involves Appellant's claim that the school system failed to file an incident report regarding the investigation of a complaint by another student that she was sexually harassed by Appellant's son. The record discloses that the matter was appropriately handled through an investigation and follow-up action.

²Appellant also attempts to challenge the disciplinary process by arguing that the school system should have punished his son more severely according to school policy. This argument speaks for itself.

³Moreover, the record discloses that it is the school system's practice to remove any reference to the suspension from the student's disciplinary records two years from the date of the incident.

CONCLUSION

For the reasons noted above and finding no due process violation or other illegality in the proceedings, we affirm the decision of the Board of Education of Montgomery County.

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October 27, 1999