DONALD LITTLE,	BEFORE THE
Appellant	MARYLAND
v.	STATE BOARD
HARFORD COUNTY BOARD OF EDUCATION,	OF EDUCATION
Appellee	Opinion No. 99-18

OPINION

In this appeal, the father of a student in the eleventh grade at C. Milton Wright High School ("CMW"), challenges the local board's decision to uphold a restitution award of $472.50 to the school system for damage to the computer system at CMW caused by Appellant's son and another student. Appellant argues that his son is not the student responsible for the damage. The local board has filed a Motion to Dismiss or for Summary Affirmance maintaining that the board's decision was not arbitrary, unreasonable or illegal. Appellant has filed a reply opposing the motion.

BACKGROUND

On June 2, 1998, there was an incident involving Appellant's son, Adam, and another student[1] which ultimately compromised the computer system at CMW. Server configuration files were erased or modified. These damages were not able to be repaired. The actions of Adam and student X also resulted in network print services not working; slower overall network performance; decrease of the amount of storage space available for students to save work; and an increased burden upon teachers to spend more time on file maintenance. *See* memo from network technician dated October 5, 1998.

An investigation ensued. Adam admitted that he logged into a computer in order to conceal the fact that student X was logging into another computer through an administrative account on the CMW computer network.[2] Statements from student X, however, indicated that Adam was the one who logged into the administrative account.

The record reveals that substantial amounts of funds were expended in an attempt to identify the problem and repair the damage to the computer system. The network technician

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[1]This student who will be referred to as student X was also suspended and required to pay restitution in the amount of $472.50.

[2]Adam was suspected of destroying portions of the computer system the previous year. *See* Referral for Adam Little by Lynn Golley and May 20, 1997 Memo from Sandy Crouse; Tr. at 32.

from P.C. Supplies, Inc stated the following in his memorandum to the school system:

> In summary, it is quite evident to me, with the nature of the problems I have found on the C. Milton Wright network servers, that persons with malicious intent obviously caused the problems found of the IBM server running Novell Netware 2.x. Based on the information given to me by Lynn Golley and Joanna Hughes, and the problems I found, it is also quite clear that the students in question were the cause of these problems. Only a user with administrative/supervisor rights on the network could have made the changes, which caused the problems. The students admitted using a login name of 'DNI'. Data Networks Inc. (DNI) created this user name. The user name was for the purpose of their technicians having an administrative level login to the network. The DNI login either did not have a password, or the students somehow acquired the password, allowing them access. The user logs on the server clearly show that the user 'DNI' was logged in at the times the students were in the classroom. The logs also show that this was the only admin [administrative] user logged into the network at the time the changes and damages were made. These facts make it very easy to put together what happened to this server, and what caused its problems.

The principal suspended Adam for ten school days and referred the matter to the superintendent for further disciplinary action. He recommended that restitution be part of Adam's school re-entry agreement.

After an investigation by the superintendent's designee, the superintendent upheld the suspension and advised Appellant that he would be required to make restitution related to the action of his son prior to or at the school re-entry conference. Appellant and his son signed the school re-entry agreement on September 22, 1998, in which they agreed to make restitution in the total amount of $472.50. Restitution was made on that same date.

Appellant challenged the superintendent's restitution decision by letter which was received by the superintendent on August 28, 1998, and forwarded to the local board. The local board conducted a hearing on the issue of restitution on October 12, 1998.[3] By letter dated October 13, 1998, Appellant was advised that the local board upheld the superintendent's restitution decision.

Before the State Board, Appellant asserts that the vandalism to the computer system was caused by another student who logged into the administrative account twice on June 3, 1998. Appellant further asserts that the incident report for his son, Adam, consists of hearsay,

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[3]Adam did not testify at that hearing.

exaggerations, lies, and speculations that were generated by the student who allegedly committed the vandalism on June 3, 1998.

ANALYSIS

This is the first appeal before the State Board concerning restitution for the damage or destruction of school property by a student. Section 7-305 (g) of the Education Article provides authority for the imposition of restitution. It states as follows:

> (g) Restitution for damage to school property.--(1) This subsection does not apply if the student is referred to the Department of Juvenile Justice.
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> (2) If a student violates a State or local law or regulation and during or as a result of the commission of that violation damaged, destroyed, or substantially decreased the value of school property or property of another that was on school property at the time of the violation, as part of a conference on the matter with the student, the student's parent or guardian and any other appropriate person, the principal shall require the student or the student's parent to make restitution.
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> (3) The restitution may be in the form of monetary restitution not to exceed the lesser of the fair market value of the property or $2,500, or the student's assignment to a school work project, or both.

A restitution decision by the local board is appealable to the State Board. *See* Md. Educ. Code Ann., § 4-205 (c). The local board's decision shall be considered prima facie correct, and the State Board may not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable or illegal. COMAR 13.A.01.01.03E.

A review of the record discloses that the school's policies referencing restitution for damage to school property are consistent with the statute quoted above. The Business Education Department classroom routines and procedures document advises students to "[n]ever tamper with the equipment or the computer programs." Procedures at I.D.6. The school discipline policy provides that ". . . the school principal has the right and authority to discipline students including suspension and referral to the Superintendent of Schools for further action for other behaviors including but not limited to . . . vandalism/destruction of property, and refusal to obey school rules." The policy further provides that the principal shall require the student or the student's parent to make restitution if the student damaged or destroyed school property in the course of violating discipline policies or school regulations.

Based on the record in this case, it is reasonable to conclude that Adam either compromised or assisted in compromising the computer system at CMW causing substantial

damage. Thus, the imposition of restitution for Adam's actions was warranted based on the local board's findings.

With respect to the conflicting statements referred to by Appellant, the local board weighed the information before it and made certain credibility decisions. For example, Adam stated that "[w]e decided to explore [the DNI account]" and student X "told me to go make sounds with the other server while he put in the password, and I did so." Adam also admitted that approximately three months prior to the incident he was involved with the discovery of the DNI account and the fact that it had administrative access. Additionally, student X implicated Adam in the events that occurred on June 2, 1998 in which the students were "fooling around on the mail server", and indicated that Adam was the one who discovered administrative access through a DNI account. Thus, the local board's finding of Adam's culpability is reasonable.

In an effort to support his contention that the damage was done on June 3, 1998 by another student, Appellant requested the computer server logs from the school to demonstrate that there was still student user access on June 3. As previously noted, he argues that the damage was caused by student X who logged into an administrative account twice on June 3. The local board indicates that no logs could be produced when the request was made due to the damage done to the school computer network. The board also notes that provision of such logs would have improperly disclosed confidential personally identifiable information relating to other students. *See* Response to Appeal.

While Appellant did not receive the logs from the school, we find that any information from those records would not be dispositive in light of all of the evidence which disclosed that substantial components of the computer system had failed or been compromised as a result of the actions of Adam and student X on June 2, 1998. *See* Superintendent's Exhibits 4, 5, and 6.

The record also reveals that the amount of restitution is reasonable. The server is not reparable and a new one will cost approximately $6000.00.[4] Rather than including that cost in the restitution amount, the school only charged Appellant $472.50; half of the total labor cost of $945.00. The other student involved was responsible for the other half of the labor amount. There was also additional time spent by the technician from P.C. Supplies which was not included in the restitution charge. Tr. 23-24.

At the hearing before the local board, Appellant argued that he should not have to pay for work done on the system by two business education teachers at the school. The principal testified that the charge for the time spent by teachers attempting to fix the system is equal to the amount that it would have cost the school if that portion of the repair had been completed by P.C. Supplies. Tr. at 17. The teachers, Ms. Golley and Ms. Hughes, spent approximately twenty hours repairing the system so that business could be conducted for the end of the school year. The school was advised by P.C. Supplies that those repairs were necessary. Tr. at 17. The inclusion of the labor cost for their time is therefore entirely reasonable.

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[4]Many services and a large number of software packages on the server are not reparable because the software is no longer available from the company that makes it and the school's copy is defective. A new server is now necessary. Tr. at 22.

CONCLUSION

Based on our review of the record, we find that the local board's decision is not arbitrary, unreasonable, or illegal. We therefore affirm the decision of the Board of Education of Harford County.

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March 30, 1999