

CHRISTINE T. SCHWALM,
(SCHWALM IV)

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 99-5

OPINION

In this case, the local board dismissed and/or declined to grant an appeal of a decision by the local superintendent approving a book for use by Advanced Placement English classes and Advanced Placement Spanish classes, and in high school library media centers for free choice reading. The book is *One Hundred Years of Solitude* by Gabriel Garcia Marquez. Appellant argues that the local board's decision was arbitrary and unreasonable. The local board has filed a Motion for Summary Affirmance, maintaining that Appellant has not met her burden in this case. Appellant has filed a reply.

BACKGROUND

On January 4, 1998, Appellant submitted a Citizens' Request for Reconsideration of Instructional Materials in which she requested that the Montgomery County Public School System (MCPS) reevaluate the book, *One Hundred Years of Solitude*, by Gabriel Garcia Marquez and remove it from all of the County's public school libraries. Appellant claimed that "the overall theme of incest, sex with children, bestiality, prostitution of children, and amoral acts" were objectionable, and that there was nothing a student under age eighteen could learn from the text.

In response to Appellant's request, an ad hoc committee convened to reevaluate the book. After reviewing the pertinent material in accordance with the Montgomery County Public School manual on the evaluation and selection of instructional materials, the committee recommended that the MCPS "[r]etain [the book] in Advanced Placement English Literature classes and AP Spanish and Spanish Literature classes" and "expand its use to IB English and Spanish classes and English 12 honors classes."

Based on the recommendation of the committee, on input from Dr. Roberta M. Haines, Director of School Library Media Programs, and on her own review of the materials, Associate Superintendent for Instruction and Program Development, Mary Helen Smith, determined that *One Hundred Years of Solitude* should "be retained in Advanced Placement English classes and AP Spanish classes." Ms. Smith did not recommend expanding use of the book in IB classes or English 12 honors classes as the committee had suggested. In a letter to Appellant dated March 25, 1998, Ms. Smith indicated that each of Appellant's objections was considered.

An appeal of this decision was taken to the local superintendent of Schools, Paul L. Vance, who upheld the decision. He stated:

I asked Ms. Elizabeth Boone, who is a hearing officer and my designee, to review your appeal. After considering your letter, reviewing the documents constituting the record and consulting with Dr. Smith, Ms. Boone has advised me that the actions taken to respond to your request to reevaluate the book, *One Hundred Years of Solitude* by Gabriel Garcia Marquez, were thorough and appropriate. Based on the information available to me, I find that the text is appropriate for assigned reading in Advanced Placement English classes and Advanced Placement Spanish classes. It also should continue to be approved for high school library media centers for free choice reading. In addition, Ms. Boone investigated your concern regarding the assignment of the book for summer reading at Gaithersburg High School and found that the book was not assigned but was included only as part of a list of books from which students could make choices.

Appellant further appealed to the local board of education. The local board rendered a decision on July 29, 1998, in which it declined to grant the appeal to the extent that it was a matter of educational policy and dismissed the appeal because Appellant lacked standing. The decision did state, however, that the local board “has carefully reviewed the materials submitted by the superintendent and by Ms. Schwalm and has concluded that the policy decision to make the book in question available in Advanced Placement English and Spanish classes, and in high school media centers was reasonable and should not be disturbed.” The board noted that the decision to retain the novel was based on the ad hoc committee’s assessment that the

‘novel offers a rich foundation in literary traditions as well as magical realism, and it addresses a variety of themes, including solitude as the primary theme, power, war, the destruction of civilization, the creative process, and the circularity of time. The work relies on strong narrative techniques, poetic language, allusions, and symbolism to observe life carefully and with lyrical beauty. The novel has proved successful in challenging advanced students and inspiring their creativity.’

This appeal followed.

ANALYSIS

Because this is a controversy over a decision of a local board involving a local policy, the standard of review is that the decision of the local board 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 13A.01.01.03E(1).

Although the local board dismissed the appeal on the basis of lack of standing, its decision also indicates that it had reviewed the materials and that the superintendent's decision was reasonable and should be upheld.¹ This determination is consistent with the advisory committee's unanimous recommendation for use of the book in AP English Literature classes, and AP Spanish and Spanish literature classes.² The State Board has previously found local board decisions reasonable when those decisions were consistent with the recommendations of advisory committees. See *Michael Hethmon v. Board of Education of Prince George's County*, 6 Op. MSBE 646 (1993) (upholding placement of two books in media center); *Joy Fox v. Board of Education of Anne Arundel County*, 2 Op. MSBE 188 (1980) (upholding adoption of two course materials and one teacher textbook as part of curriculum). Here, the committee followed the prescribed procedures and evaluation criteria as provided in the evaluation and selection manual.³ Appellant has presented no evidence to support her contention that the board's decision is arbitrary or unreasonable.

¹In *Schwalm I*, the State Board rejected the local board's contention regarding Mrs. Schwalm's lack of standing and the inappropriateness of applying the appeal procedures set forth in Md. Code Ann. Educ. 4-205(c) to her case. See *Christine Schwalm v. Board of Education of Montgomery County*, MSBE Opinion No. 98-50 (Sept. 24, 1998). However, the State Board did rely on the fact that the local board had also reviewed the materials and found the superintendent's decision to be reasonable.

²The review committee consisted of a coordinator, a high school English resource teacher, a high school media specialist, a high school foreign language resource teacher, a high school English teacher and a public librarian.

³Appellant seems bothered by the fact that the concerns raised in her request for reconsideration were not specifically addressed point by point by the ad hoc committee. However, there is nothing in the procedures that requires the committee to do so. The committee's recommendation was based on a review of the entire book which includes the pages listed in the attachment to Appellant's request.

CONCLUSION

For these reasons, we affirm the decision of the Montgomery County Superintendent of Schools.

Walter Sondheim, Jr.
President

Edward Andrews
Vice President

Raymond V. Bartlett

ABSTAIN*
JoAnn T. Bell

Philip S. Benzil

George W. Fisher, Sr.

Morris Jones

ABSTAIN*
Marilyn D. Maulsby

Judith McHale

Adrienne L. Ottaviani

John Wisthoff

* Ms. Bell and Ms. Maulsby are newly appointed members of the State Board of Education and did not participate in the review of this appeal.

January 26, 1999