CHRISTINE T. SCHWALM,	BEFORE THE
Appellant	MARYLAND
v.	STATE BOARD
MONTGOMERY COUNTY BOARD OF EDUCATION,	OF EDUCATION
Appellee	Opinion No. 00-10

OPINION

This consolidated appeal challenges the local board's dismissal of two different decisions by the local superintendent regarding matters related to the use of the internet in Montgomery County Public Schools (MCPS). The local board consolidated the appeals and issued one opinion (#1999-13 and 1999-17) on July 13, 1999. Although Ms. Schwalm submitted separate appeals of the two matters to the State Board, they have been consolidated in this opinion because the issues deal with the same subject matter.

Ms. Schwalm contends the dismissal of her appeals is arbitrary, unreasonable and illegal. The local board has moved to dismiss the State Board appeals as improperly submitted and because Appellant lacks standing. Appellant has opposed the local board's Motion to Dismiss.

BACKGROUND

On March 8, 1999, Appellant filed a "Citizen's Request for Reconsideration of Instructional Materials" asking that "internet access be withdrawn from all students in Montgomery County Public Schools" based on (1) the potential for students to have access to objectionable websites; and (2) the fact that all websites available to students had not been evaluated in the same manner and under the procedures for *Evaluation and Selection of Instructional Materials*. Appellant attached to her request a list of what she believes were objectionable websites.

On the same day Appellant also submitted a "Complaint from the Public" in which she requested that MCPS withdraw local board policy and regulation IGT-RA - Appropriate Use of Computer Networks, maintaining that the regulation is too vague in identifying objectionable material, and that the regulation violated the First Amendment rights of students. Appellant further requested that any students who violated the regulation by accessing objectionable material not be punished, that the records of any student previously punished under the regulation be expunged, and that any websites blocked by MCPS be unblocked.

Larry A. Bowers, acting Deputy Superintendent of Schools, responded to Appellant's requests stating the following:

> The objections to the use of the Internet as a medium of instruction and to the use of blocking software are policy matters that are not subject to either of the administrative review mechanisms you have chosen to use. Further, you have no standing to raise issues related to the discipline records of students, other than your own children.

Appellant appealed the decision to the local superintendent who concurred with Mr. Bowers' assessment. The superintendent noted that "[n]ot every disagreement with policy furnishes the legal basis for an appeal."

Thereafter, Appellant appealed the decision on her "Request for Reconsideration of Instructional Materials" as it applied to website evaluations to the local board of education. In his memorandum to the local board, the superintendent explained that the evaluation and selection process for instructional materials did not govern the use of the Internet or approval of websites; rather, those matters were governed by the regulation on the Appropriate Use of Computer Networks. He also noted that Appellant lacked standing and that there was no "controversy and dispute" on appeal.

Appellant separately appealed the decision on her "Complaint from the Public" challenging the computer use policy. In response, the local superintendent submitted a memorandum to the local board which indicated (1) that Appellant's complaint concerned a matter of local educational policy and practice that was inappropriate for resolution through the administrative complaint process; (2) that because there was no live case or controversy involving the application of the challenged regulation to Appellant or to an individual for whom she had legal responsibility, Appellant lacked standing to appeal, and; (3) that a review of the regulation demonstrated that it was specific in providing guidelines for students regarding what is "inappropriate" use of computer facilities and network resources.

The local board issued an opinion on July 13, 1999 in which it dismissed Appellant's appeals. With regard to Appellant's appeal pursuant to the procedures for the *Evaluation and Selection of Instructional Materials*, the board noted that

> [r]egulation IIB-RA regarding instructional materials clearly relates to the *information or content* of instructional materials used in libraries and classrooms. In contrast, Regulation IGT-RA just as clearly relates to appropriate use of a *particular medium* for delivering instructional materials: the school system's computer equipment and computer network. Therefore, the Board concurs with the opinion of the superintendent that Ms. Schwalm's request for consideration of the Board's internet policy under the procedures outlined in *Evaluation and Selection of Instructional Material* is inappropriate. (Emphasis in original).

Concerning the appeal challenging the validity of Regulation IGT-RA on computer use, the local board found that Appellant lacked standing because she "failed to demonstrate a direct interest or injury, distinct from that of the general public" and that "[t]here have been no specific decisions regarding use of the school's computer systems, a student's access to the internet, or discipline of a student for violation of policy IGT-RA, which directly affected or injured Ms. Schwalm, or any child of hers."

ANALYSIS

Evaluation of Websites as Instructional Materials

The standard of review in an appeal concerning a controversy regarding a local board's policy 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. *See* COMAR 13A.01.01.03E(1)(a). For the following reasons, we agree with the local board's assessment that MCPS Regulation IGT-RA - Appropriate Use of Computer Networks applies in this case, and not the procedures described in the *Evaluation and Selection of Instructional Materials*.

A review of Regulation IGT-RA discloses that it regulates the type and content of information a student may access via that network. This would include any information on websites accessed by a student while using a school computer. The regulation lists examples of network infractions, and prohibits the use of the network for anything other than educational purposes, i.e., "purposes directly related to an MCPS assignment, project, job or function for which the student is responsible." *See* Regulation IGT-RA at 1. Additionally, the regulation states that "MCPS limits access to objectionable material, and forbids the importation of such information or material into any computer or network within MCPS." The regulation also states that "MCPS does not condone the use of or access to" systems outside of MCPS that contain "defamatory, inaccurate, abusive, obscene, profane, sexually oriented, threatening, racially offensive, or illegal material." *See* Regulation IGT-RA at 2.

As explained by the local superintendent in his memorandum to the local board:

> The evaluation and selection process was never meant to be used to approve websites on the Internet: the process was developed at a time when the Internet did not exist. The use of websites on the Internet is governed by the *Appropriate Use of Computer Networks* regulation and the process for appeal that applies is the *Complaint from the Public* process.

Furthermore, we believe that a requirement to apply the evaluation and selection process to every piece of information accessed by students through the Internet would be unreasonable; it is not only impractical and overburdensome, but also impossible to administer. *See generally Degren v.*

State, 352 Md. 400, 418 (1999) (statutes should be construed in a manner the results in an interpretation that is reasonable and consonant with logic and common sense). Accordingly,

because Appellant's request for review of website access under the procedures in *Evaluation and Selection of Instructional Materials* is inappropriate, we dismiss her appeal on this basis.

MCPS Policy: Appropriate Use of Computer Networks

Appellant's other appeal challenges the validity of MCPS Policy and Regulation IGT-RA - Appropriate Use of Computer Networks. For the following reasons, we find as a threshold matter that Appellant lacks standing to challenge the policy. As the State Board noted in *Adams, et al. v. Montgomery County Board of Education*, 3 Op. MSBE 143, 149 (1983) the general rule is "for an individual to have standing, even before an administrative agency, he must show some direct interest or 'injury in fact, economic or otherwise'." *See also Cristina v. Vera v. Board of Education of Montgomery County*, MSBE Opinion No. 96-2 (January 31, 1996); *Maria Way v. Howard County Board of Education*, 5 Op. MSBE 349 (1989).

Here Appellant does not allege that she is a parent of a student at a Montgomery County public school or that she has any other direct interest or injury with respect to application of the regulation. There have been no decisions regarding use of the school's computer systems, a student's access to the internet, or discipline of a student for violation of policy IGT-RA, that directly affected or injured Ms. Schwalm or any child of hers. She claims standing solely on the fact that she is a Montgomery County citizen, taxpayer, and voter. Thus, under traditional principles, she lacks standing to pursue the appeal.

More importantly, however, we have reviewed the policy on Appropriate Use of Computer Networks and find that it represents a reasonable and thoughtful exercise of the local board's administrative authority.

CONCLUSION

For these reasons, we affirm the decisions of the Board of Education of Montgomery County.

Edward Andrews
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