

MARGARET WADDING AND
GARY STRUBLE,

Appellants

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 00-14

OPINION

In this appeal, the parents of a student at Rocky Hill Middle School in Montgomery County contest the local board's upholding of the superintendent's decision to suspend their son for the remainder of the school year based on Jacob's involvement in a bomb threat incident. Appellants disagree with the local board decision. The local board has filed a Motion to Dismiss maintaining that the argument on appeal is solely on the merits, therefore it is inappropriate for the State Board to substitute its judgment for that of the local board. Appellants have not submitted a response to the motion.

BACKGROUND

Jacob was in the seventh grade at Rocky Hill Middle School during the 1998-99 school year when an incident occurred involving a false bomb threat to another school. As explained by the local board in its decision:

On April 15, 1999, a half-day for Rocky Hill Middle School students, Jacob's bus did not come and he and several other boys stayed home since they did not have a way to school. During the course of the day, Jacob and two other students ended up at the home of one of the boys. While there, the boy who lived in the house made several prank phone calls, including a bomb threat made to Neelsville Middle School. The police arrested the student on April 20, 1999, and a second student on April 21, 1999. Initially, neither of the boys implicated Jacob. However, the boy who made the bomb threat admitted at his expulsion hearing that Jacob was present when the call was made.

See Local Board Decision at 1. Although Jacob was present when the false bomb threat was made, he did not immediately report it to school officials. On April 22, 1999, seven days after the bomb threat, Jacob and his mother reported to Rocky Hill's Assistant Principal, Steve Whiting,

that Jacob was present when the bomb threat was made.¹ Jacob maintains that he did not know the student was going to make a bomb threat, and that he left the premises soon after the student made the phone call.

Based on the information that Jacob was present at the time of the bomb threat, by letter dated May 20, 1999, the principal of Rocky Hill Middle School, Alan L. Stein, informed Appellants that Jacob was suspended from school for ten days² with a recommendation for expulsion for his involvement with a bomb threat incident to Neelsville Middle School. An investigative conference was held on May 26, 1999. Appellants were present with their attorney.³ As a result of the conference, the Supervisor of Pupil Services, Richard C. Pottinger, found:

Three (3) boys were together when a bomb threat was made to a school. A manifestation ARD was held on Jacob to determine if his behavior during the incident was a manifestation of his learning disability. The meeting determined that Jacob's learning disability was not a factor.

Immediately following the manifestation ARD, an investigative conference was held. At this conference, on the advice of his attorney, Jacob made no statements.

Mr. Pottinger upheld the ten day suspension and recommended that the Acting Deputy Superintendent expel Jacob from Montgomery County Public Schools ("MCPS").

The matter was assigned to a hearing officer who held a conference on June 2, 1999. Based on the conference, as well as his review of the record, the hearing officer recommended that:

[t]he ten day suspension is warranted and should stand. The recommendation for expulsion should be held in abeyance. Rather, Jake's suspension should be extended through the end of the 1998-99 school year. He should be permitted to make up all school work given during his period of suspension in order for him to successfully complete the seventh grade. However, before the next school year begins, Jake and his parents should be required to attend an intake conference at Rocky Hill Middle School and sign a

¹Jacob's mother claims that Jacob told her what happened on April 15, and that she made the decision not to inform school officials until a later time.

²The ten day suspension was from May 20 through June 3.

³Appellants are not represented by an attorney in their appeal to the State Board.

strictly worded code of conduct contract. Failure to meet the terms of this contract could result in expulsion.

The hearing officer's recommendations were adopted by the Acting Deputy Superintendent of Schools.

Appellants appealed the decision to extend the suspension through the end of the 1998-99 school year in lieu of expulsion to the local board. In a memorandum to the local board, the superintendent explained the following in response to concerns raised by Appellants: (1) that even though the incident happened off school grounds and the bomb threat was not directed at Rocky Hill Middle School, Mr. Stein was responsible for the ensuing investigation because the student who made the bomb threat was enrolled at Rocky Hill Middle School; (2) that in recommending the expulsion be held in abeyance and the suspension be extended through the end of the school year, the Acting Deputy Superintendent took into consideration the fact that Jacob was present when the bomb threat was made but did not come forth immediately to tell school authorities what happened; (3) that Jacob and his mother did report to an assistant principal that Jacob was present when the bomb threat was made, but that the report was not made until April 22, 1999, seven days after the bomb threat; and (4) that the issue was not whether Jacob came forward, but when he did and what information was and was not reported. The local board upheld the decision to suspend Jacob through the end of the 1998-99 school year.

ANALYSIS

The decision of a local board with respect to a student suspension or expulsion is considered final. Md. Code Ann., Educ. § 7-305 (a)(7). The State Board's review is therefore 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.01.01.03E (4)(b).

Appellants have raised no issue in their appeal to the State Board alleging that the local board acted in an illegal manner, rather they disagree with the local board's decision. To the extent that Appellants' question about the principal's involvement in the investigation could be considered a claim of illegal procedure, we believe that this issue was adequately addressed by the superintendent and the local board. Moreover, as Jacob's principal, Mr. Stein was the appropriate individual to institute any school related disciplinary action against Jacob.

With regard to the circumstances of the suspension decision, these matters are essentially a credibility dispute left to the trier of fact. The local board found that the disciplinary action imposed on Jacob was "highly appropriate" given the record in this case. Additionally, we find the requirement that Jacob sign a code of conduct contract prior to his return to school is reasonable under the circumstances.

CONCLUSION

Because we find no due process violation or other illegality in the proceedings, we affirm the decision of the Board of Education of Montgomery County.

Edward Andrews
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February 23, 2000