

KEVIN LAWLER,

Appellant

v.

ANNE ARUNDEL COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 01-20

OPINION

In this appeal, a parent objects to the school system's practice of having students "try out" for interscholastic sports teams and be selected for membership to the squad by the team coach. Appellant contends that all students have the right to play on an interscholastic sports team if they so desire. The local board has rejected Appellant's contention and has submitted a motion for summary affirmance maintaining that its decision upholding the practice is not arbitrary, unreasonable or illegal. Appellant has submitted a reply in opposition to the local board's motion.

FACTUAL BACKGROUND

Appellant's daughter is a tenth grade student at Severna Park High School where she tried out for the soccer team but was not selected for team membership. Appellant complained to Mary L. Gable, Principal of Severna Park, stating: "[My daughter] was denied her right to play on her High School Soccer Team along with many other girls. Other students in other sports along with cheerleaders have also been denied their right to the Extracurricular Activities of their interests." In response, Ms. Gable explained as follows:

Based on the historical practice at Severna Park High School and with the Anne Arundel County Public Schools, students who have met all requirements for athletics including academics, residency, attendance, etc. are free to try out for a team. Their membership on the team is a decision made by the coach based on criteria necessary for successful participation in the sport determined by the coach.

See letter from Gable to Lawler dated 9/13/00. Ms. Gable further explained that given the rules and regulations for conducting the interscholastic sports program, there was no basis for making any changes to the procedure for selecting squad membership.

Appellant filed a Level II complaint. Mr. Peter Nicolini, Director of Instruction, upheld Ms. Gable's decision, noting that Appellant's daughter was given the opportunity to participate when she tried out for the soccer team. Appellant then filed a Level III complaint which was denied by Ms. Nancy M. Mann, the superintendent's designee.

Thereafter, Appellant appealed the matter to the local board. The superintendent responded that “while students are entitled to an opportunity to try out for interscholastic athletics and become members of interscholastic athletic teams, they have no right to play a sport or be on a team.” See superintendent’s letter of response to local board. The local board unanimously upheld the decision of the superintendent’s designee, explaining that the determination that students are permitted to try out for a team and that the coach is responsible for selecting students who will be members of that team is consistent with the law.¹

ANALYSIS

Because this case involves a dispute regarding the rules and regulations of a local school system, 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).

It is well settled that student participation in interscholastic athletics or other extracurricular activities is not a constitutionally protected liberty or property interest. See *Denis J. O’Connell High School v. Virginia High School*, 581 F.2d 81, 84 (4th Cir. 1978); *Mitchell v. Louisiana High School Athletic Association* 430 F.2d 1155, 1158 (5th Cir. 1970). Consistent with this principle, the State Board has held that “participation in extracurricular activities is a privilege, not a right.” See *Bloch v. Board of Education of Howard County*, 7 Op. MSBE 388, 390 (1996). Although COMAR 13A.06.03.02D states that “[s]tudents may participate in interscholastic athletic contests. . .”, this language is permissive and does not require that schools allow all interested students to actually become members of interscholastic sports teams. Rather, the emphasis is on “equality of opportunity” to play sports which is satisfied by the student trying out for the team. See *In re: Eric Johnson*, 4 Op. MSBE 177, 178 (1985). Thus, Appellant’s claim that his daughter was denied her right to play sports lacks merit.²

Furthermore, the Anne Arundel County Public School System makes it clear that students are not automatically guaranteed membership on a sports team just because they express interest in or try out for the team. The Anne Arundel County Public Schools Athletic Handbook 2000-2001 states that “[a]ny student who is officially registered and attending that school may try out for a team” and that “[t]he coach of each sport is responsible for determination of squad membership.” See Rules and Regulations for Conducting the Interscholastic Program, Section II.6; see also Guide for Student Athletes and Parents for Anne Arundel County Public Schools for the 2000-2001 School Year, Section V. There is therefore no ambiguity that team membership is determined by the coach of the sport. As the local board noted, this practice is consistent with the law.

¹Two board members did not participate in the decision.

²In his letter of appeal, Appellant asks to speak to the State Board to address the issues in this case. However, we find that this case may be decided without oral argument.

CONCLUSION

Based on our review of the record, we find that there is neither any suggestion nor any evidence that the decision of the local board is arbitrary, unreasonable or illegal. Accordingly, we affirm the decision of the Board of Education of Anne Arundel County.

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May 23, 2001