

WILLIAM MACE,

Appellant

v.

HARFORD COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 01-15

OPINION

This is an appeal of a 20-day suspension of Appellants' son from North Harford High School for violating local board policies regarding *Harassment* (Code 703) and *Disturbance* (Code 705). Appellants argue that the evidence lacked sufficient credibility to implicate their son, and the suspension was, therefore, inappropriate.

The local board has submitted a Motion to Dismiss, or, alternatively, for Summary Affirmance, maintaining that Appellants do not raise due process issues but argue solely on the merits. Therefore, it is improper for the State Board to substitute its judgment for that of the local board. Appellants have filed a response in opposition to the local board's motion.

FACTUAL BACKGROUND

During the 2000-2001 school year, Appellants' son, William Vincent ("Vincent"), was an eleventh grade student at North Harford High School. The record discloses that on October 4, 2000, Mr. Michael Thatcher, Assistant Principal at North Harford High School, received information about a student parading a white scarf resembling a Ku Klux Klan hood---described as "a white cloth with holes cut out for the eyes on its head"¹---before an African-American female student, along with another student's unfurling of a Confederate flag and shouts of "White Power."²

An investigation ensued, and Vincent was identified as one of the students wearing the hood.³ During an initial interview with Mr. Thatcher, Vincent admitted to wearing the hood.

¹Transcript at 20.

² Transcript at 6.

³Vincent was identified as one of the students wearing the hood by the African-American student and by another student involved in the occurrence. Two other students who participated in the incident named Vincent among the students involved. Tr. at 13-14. The student who unfurled the flag was also suspended.

Subsequently, Vincent prepared a written statement that acknowledged wearing the item.⁴ The police were contacted, and the matter referred to the School System Office of Equity & Cultural Diversity. On October 5, 2000, Mr. Thatcher suspended Vincent for ten days and referred the matter to the Superintendent of Schools.

On October 12, 2000, Mr. Thurmond Doolittle, designee for the Superintendent, held a conference with Appellants and Vincent. At the conference Vincent admitted to putting the hood on his head and then handing it to another student who subsequently wore the scarf. As a result of his investigation, Mr. Doolittle recommended that the Superintendent uphold Mr. Thatcher's ten-day suspension and add an additional ten days. The Superintendent accepted Mr. Doolittle's recommendation.⁵

By letter dated October 26, 2000, Appellants appealed to the local board and requested an evidentiary hearing.⁶ Superintendent of Schools, Mrs. Jacqueline C. Haas, responded to the appeal, recommending that the local board uphold the suspension. On December 12, 2000, the board affirmed the suspension. This appeal followed.

ANALYSIS

Appellants have raised no issue in their appeal to the State Board alleging that the local board violated due process or otherwise acted in an illegal manner; rather they disagree with the local board's decision on the merits.⁷ The local board correctly asserts that a decision of a local board with respect to a student suspension or expulsion is considered final. Md. Code Ann., Educ. § 7-305. Therefore, the State Board's review is 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

⁴Ex. 4. The statement reads: "In the morning[,] there was a white hanky sitting by a door[.] I picked it up and put it on my head, then took it off immediately [be]cause I didn't want any trouble[.]" The statement of another student, however, indicates that Vincent had brought the hood to school: "Vince Mace brought the mask in and told me he had made it at home." *Id.*

⁵The suspension period beyond ten days was modified by an Individualized Education Program ("IEP") team on November 3, 2000 for IDEA compliance reasons, and not because of a manifestation problem. Vincent was returned to school promptly and was offered compensatory services for lost time, which he accepted.

⁶Appellants challenged both the initial ten-day suspension and the additional ten-day suspension, which was later modified during the November 3rd IEP team meeting.

⁷Appellants argue that this "appeal is based on the fact that this suspension was inappropriate for the action." They further challenge the credibility determinations of the trier of fact.

manner. COMAR 13A.01.01.03(E)(4)(b). Since there are no due process issues or other illegalities, the State Board may dismiss the appeal on this basis.

Moreover, upon consideration of the merits of this case, we do not find that Appellants' appeal can be sustained. The record in this case reveals that Vincent admitted wearing the mask resembling a KKK hood. There is corroborating evidence from other students supporting this admission. Further, the African-American student who observed Vincent wearing the hood perceived it as representing the Ku Klux Klan. Harford County Public Schools policy concerning *Harassment* and *Disturbance* 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 . . . harassment . . . inciting or participating in a disturbance. . ." We believe under the facts as set out above there was a sufficient basis to impose discipline.

Moreover, we find that Appellants' challenge to the credibility of the evidence implicating Vince is without merit. Determinations concerning witness credibility are within the province of the local board as trier of fact. *See, e.g., Board of Trustees v. Novik*, 87 Md. App. 308, 312 (1991), *aff'd*, 326 Md. 450 (1992) ("It is within the Examiner's province to resolve conflicting evidence. Where conflicting inferences can be drawn from the same evidence, it is for the Examiner to draw the inferences."); *Board of Educ. v. Paynter*, 303 Md. 22, 36 (1985) ("[N]ot only is it the province of the agency to resolve conflicting evidence, but where inconsistent inferences from the same evidence can be drawn, it is for the agency to draw the inferences.").

On the issue of credibility, the State Board may not substitute its judgment for that of the local board unless there is independent evidence in the record to support the reversal of a credibility decision. *See Dept. of Health & Mental Hygiene v. Anderson*, 100 Md. App. 283, 302-303 (1994); *accord Kaleisha Scheper v. Baltimore County Bd. of Educ.*, 7 Op. MSBE 1122 (1998); *Corey Williamson v. Bd. of Educ. of Anne Arundel County*, 7 Op. MSBE 649 (1997); *Mecca Warren v. Bd. of Educ. of Baltimore County*, 7 Op. MSBE 328 (1996). Based upon our review of the record, we find that Appellants have provided no basis for reversing the credibility determinations made by the local board.

CONCLUSION

Finding no due process violations or other illegalities in the proceedings, we affirm the suspension decision of the Board of Education of Harford County. *See Margaret Wading & Gary Struble v. Montgomery County Board of Education*, MSBE Op. 00-14 (February 23, 2000) (upholding a student suspension for involvement in a bomb threat incident.)

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