

MICHELE DITCHEY,

Appellant

v.

ANNE ARUNDEL COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 02-19

OPINION

In this appeal, Appellant requests the State Board's assistance with enrolling her son in public school in Anne Arundel County. The local board has filed a Motion to Dismiss for failure to exhaust administrative remedies as well as for mootness. Appellant has submitted a response to the local board's motion.

FACTUAL BACKGROUND

Appellant's son Daniel attended Anne Arundel County Public Schools ("AACPS") from 1995 through 1999. Thereafter, he attended private school at Archbishop Spalding High School. On the night of January 18, 2002, Daniel and two other students were involved in a trespassing and vandalism incident at Old Mill Senior High School in Anne Arundel County.¹ All three students were arrested and are currently awaiting further proceedings. As a result of this incident, Appellant withdrew her son from Spalding in lieu of expulsion.

On February 1, 2002, Appellant attempted to enroll Daniel in public school in Anne Arundel County. School system personnel referred Appellant to Leslie A. Mobray, Director of Student Services for AACPS, to inquire about the steps she needed to take to get Daniel enrolled in school. Appellant wrote to Dr. Mobray requesting Daniel's admission to school. Dr. Mobray advised Appellant by letter of February 11, 2002, that he was referring her request to Raymond Herbert, Readmissions Specialist, to schedule a conference with her and her son to discuss the terms under which Daniel might be considered for enrollment. The letter also stated:

I understand that you have had telephone conversations with Dr. Huntley Cross, Special Assistant for Alternative Programs, and Mr. Kenneth Lawson, Interim Superintendent of Schools, regarding your request. You were informed that the school system considers Daniel's involvement in the incident at Old Mill Senior High School to be a very serious matter. In fact, the Anne Arundel County Public School's student who was involved in the incident

¹One of the other students attended school with Daniel. The other, who attended public school in Anne Arundel County, was disciplined by the school system for his involvement in the break-in.

has received a disciplinary sanction.

Meanwhile, at the same time Appellant was corresponding with Dr. Mobray, she initiated her appeal to the State Board. Nevertheless, Mr. Herbert contacted Appellant to schedule an appointment to discuss her son's situation. Appellant advised Mr. Herbert that Daniel was enrolled in and attending private school in Baltimore. See memorandum of 2/19/02 from Herbert to Mobray.

ANALYSIS

State law and regulations of the State Board require that a matter must first be decided by the local superintendent and the local board of education before it is submitted to the State Board on appeal. See Md. Code Ann., Educ. § 4-205(c) and COMAR 13A.01.01.03J. Accordingly, the State Board has consistently held that an appellant must pursue and exhaust statutorily prescribed administrative remedies in the appropriate manner. See *Kemp v. Montgomery County Board of Education*, MSBE Opinion No. 01-14 (April 24, 2001); *Stewart v. Board of Education of Prince George's County*, 7 Op. MSBE 1358 (1998); *Jackson-Nesmith v. Board of Education of Charles County*, 7 Op. MSBE 1320 (1998); *Peacock v. Baltimore County Board of Education*, 7 Op. MSBE 1287 (1998); *Hopkins v. Board of Education of Montgomery County*, 4 Op. MSBE 370 (1986).

The record in this case discloses that the issues raised by Appellant have not yet been reviewed at the local level by either the local superintendent or the local board. See letter of 2/19/02 from Lawson. At the time Appellant initiated her appeal with the State Board, the issue of Daniel's enrollment was still being reviewed by local school system personnel. The next step was for Appellant to meet with the Readmissions Specialist to discuss the circumstances under which Daniel might enroll given that he was involved in a serious trespassing and vandalism incident at one of the Anne Arundel County Public Schools. Although Appellant may have discussed Daniel's enrollment with various individuals at the local level, there is no evidence of any formal or final decision on his enrollment by the local superintendent or local board.²

As to Appellant's claim that Mr. Liverman, Principal of Old Mill High School, acted illegally by faxing a copy of the police report to the private school attended by her son and one of the other students involved in the incident, there is nothing in law or regulation which would have prohibited Mr. Liverman from doing so. Thus, Appellant has failed to state a claim on this issue.

²The local board maintains that this appeal should also be dismissed for mootness because Appellant's son is enrolled in and attending private school in Baltimore. It is well established that a question is moot when "there is no longer an existing controversy between the parties, so that there is no longer any effective remedy which the courts [or agency] can provide." *In Re Michael B.*, 345 Md. 232, 234 (1997); See also *Walter Chappas v. Montgomery County Board of Education*, 7 Op. MSBE 1068 (1998). Although Daniel is now enrolled at Mount St. Joseph's Academy, he is only a junior. Because Appellant may want to enroll Daniel in public school for his senior year, we do not find that the matter is moot.

CONCLUSION

For all of the above reasons, we dismiss the appeal based on Appellant's failure to pursue the administrative remedies that were available to her. *See* COMAR 13A.01.01.03J.

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May 22, 2002