

RICHARD REGAN,

Appellant

v.

FREDERICK COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 02-21

OPINION

Appellant appeals the use of American Indian mascots and mascot symbols at Linganore High School and Yellow Springs Elementary School in Frederick County. The local board has filed a Motion to Dismiss for failure to exhaust administrative remedies. Appellant has submitted a response in opposition to the local board's motion.

FACTUAL BACKGROUND

By letter of January 13, 2002, Appellant filed with the local superintendent, Dr. Jack D. Dale, a civil rights complaint letter concerning the use of American Indian mascots and the mascot name used by Linganore High School. In his letter, Appellant requested acknowledgment of receipt of the letter and information concerning his appeal options. Dr. Dale responded to Appellant's letter on February 11, 2002, indicating receipt of Appellant's letter and providing information regarding local board Policy 103.4 which outlined Appellant's appeal rights. Dr. Dale also stated in his letter, "I have no reason to believe that the use of the Linganore High School mascot has created a hostile learning environment or has been viewed as offensive by the school community."

Appellant wrote to Ron Peppe, Jr., President of the Frederick County Board, indicating that he was appealing Dr. Dale's letter of February 11. Mr. Peppe replied by letter dated February 20 that he was referring the matter to the local superintendent and requesting Appellant to contact Dr. Dale by telephone to arrange a meeting.

Thereafter, Appellant appealed to the State Board by letter of February 23, 2001. In his appeal, Appellant claims that the local board's promotion of American Indian mascots and mascot symbols in its schools violates the requirements of COMAR 13A.04.05 on Education That Is Multicultural in that the use of the mascots "contradicts the main mission of an educational institution which is to transcend racial and cultural boundaries and encourage respectful relations among all people who live and work in that school environment"; and "suggests not only an insensitivity to another race and culture but an urge to dominate that culture by controlling them through misidentification, misappropriation and misrepresentation."

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). 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. In a letter to Appellant dated March 7, 2002, Dr. Dale states as follows:

It is obvious from your letter to the State [Board] that there has been some misunderstanding of your interpretation of Mr. Peppe's February 20, 2002, letter to you indicating receipt of your appeal and referring the matter to me. That letter indicated that you were to contact me to arrange a meeting at my level to specifically discuss your complaint with Frederick County Public Schools.

Please accept this letter as clarification that it was our intention to set up a meeting with you to allow you an opportunity to discuss your specific complaint with Frederick County Public Schools prior to rendering an official decision. If you are not satisfied with the results of the decision at my level, then your avenue of appeal would be to write a letter to Mr. Peppe, President of the Board of Education, indicating your desire to appeal my decision. If the matter is not resolved to your satisfaction at the local board level, it may then be appealed to the Maryland State [Board] of Education.

While we can understand Appellant's confusion based on Dr. Dale's February 11th letter as to whether Dr. Dale had ruled on his complaint, Mr. Peppe's February 20th letter should have clarified any misunderstanding on Appellant's part that Dr. Dale had not yet rendered a final decision. Despite Appellant's claims to the contrary, we believe that the local school system is trying to provide Appellant the opportunity to address his concerns. As noted above, Appellant must avail himself of that opportunity and await a final decision from the local superintendent and then from the local board prior to appealing the matter to the State Board if he is not satisfied with the local board's decision.

CONCLUSION

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

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Walter Sondheim, Jr.

John L. Wisthoff

May 22, 2002