

RICHARD REGAN,

Appellant

v.

ST. MARY'S COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 02-36

OPINION

Appellant appeals the use of a Native American team name and mascot ("Braves") at Chopticon High School in St. Mary's County. The local board has filed a Motion to Dismiss maintaining that there is no decision from either the local board or local superintendent from which Appellant can appeal. Appellant has submitted a response in opposition to the local board's Motion.

FACTUAL BACKGROUND

By letter of November 4, 2001, Appellant filed with the local superintendent, Patricia M. Richardson, a civil rights complaint letter concerning the use of a Native American team name and mascot at Chopticon High School. Karen H. Abrams, legal counsel for the local board, responded to Appellant's letter on December 3, 2001, stating as follows:

The Board appreciates your concern, and wishes to assure you that the school system is working diligently to effectuate the process recommended by the State's Resolution regarding this matter. Chopticon students, teachers, parents and other members of the St. Mary's County community are already actively involved in the process and we look forward to an appropriate resolution of the issues within a reasonable time.

Under that process, the principal of Chopticon High School convened a 16-member panel of parents, students, and other interested parties to review all related issues and to receive public input on the use of the "Chopticon Braves" team name and corresponding logo/mascot for the school. The panel was co-chaired by a community leader of Native American descent. After review of all of the information received on the matter, the Native American Name & Emblem Usage Committee found that the school should continue to use the team name and logo. Accordingly, the principal of Chopticon High School, Mr. Joseph North, decided that the "Braves" name and logo would be retained.¹

¹This information was conveyed by the Deputy Superintendent of Schools for St. Mary's County to the State Superintendent of Schools by letter of March 11, 2002.

At the end of March, 2002, Appellant and Ms. Abrams spoke by telephone regarding the status of the Committee's review of the name and logo. Pursuant to that discussion, Ms. Abrams sent Appellant copies of relevant documents and the Native American Name & Emblem Usage Committee decision.

Thereafter, Appellant appealed to the State Board by letter of April 5, 2002. In his appeal, Appellant claims that the local board's promotion of Native American 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 Regan v. Frederick County Board of Education*, MSBE Opinion No. 02-21 (May 22, 2002); *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. Although Appellant sent a letter to the superintendent concerning the use of a Native American name and mascot at Chopticon, he labeled it as a civil rights complaint and asked for information on appeal options. His letter was not treated as an appeal as evidenced by the letter from Ms. Abrams to Appellant dated December 3, 2001. At that time, Appellant did not request that the matter be treated as an appeal, nor did he pursue anything further until the end of March, 2002 when he spoke with Ms. Abrams and inquired about the status of the review conducted by the Native American Name & Emblem Usage Committee. On April 2, Ms. Abrams forwarded Appellant information on the review process and the Committee's decision issued January 23, 2002. Once again, Appellant did not ask the local board or the superintendent to consider his concerns as an appeal; rather he submitted an appeal to the State Board. Therefore, we find that Appellant was not diligent in pursuing his appeal at the local level.

CONCLUSION

We therefore dismiss the appeal for failure to exhaust administrative remedies.
See COMAR 13A.01.01.03J(2)(a).

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July 23, 2002