

RICHARD REGAN,

Appellant

v.

WASHINGTON COUNTY  
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 02-42

### OPINION

Appellant appeals the use of Native American mascots and mascot symbols at Boonsboro High School and Connocheague Elementary School in Washington County. Counsel for the local board has submitted correspondence which we are treating as a motion to dismiss, maintaining that there is no decision from the local board from which Appellant can appeal. Appellant has submitted a reply in opposition to the local board's motion.

### FACTUAL BACKGROUND

On January 5, 2002, the Appellant alleges that he filed a complaint with the Washington County Public School System regarding the use of American Indian mascots and mascot names at Boonsboro High School and Connocheague Elementary School. The Interim Superintendent responded on January 31, 2002, and Appellant filed an appeal to the local board on February 17, 2002. The Interim Superintendent denied Appellant's complaint by letter of May 7, 2002.<sup>1</sup>

Thereafter, Appellant appealed to the State Board claiming 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, and 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

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<sup>1</sup>The record contains only the May 7<sup>th</sup> letter from the Interim Superintendent. That letter makes reference to the three previous letters.

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 by the local board. In his reply to the local board's motion to dismiss, Appellant maintains that he appealed directly to the State Board because he believed the May 7, 2002 response from Interim Superintendent Elizabeth Morgan, was on behalf of the local board. The May 7 letter states, "[t]his is in response to the above- dated appeal that you addressed to Washington County Board of Education President W. Edward Forrest. " Counsel for the local board has telephoned our office and has agreed that the wording of the Interim Superintendent's letter may have created some confusion and that the matter should be remanded for appropriate handling by the local board.

#### CONCLUSION

Accordingly, we are remanding this matter to the Board of Education of Washington County for its consideration.

Marilyn D. Maultsby  
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August 27, 2002