

RICHARD REGAN,

Appellant

v.

WORCESTER COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 02-37

OPINION

Appellant challenges the use of Native American mascots and mascot symbols at Pocomoke Elementary, Middle, and High Schools in Worcester County. The local board has filed a motion to deny the appeal maintaining that Appellant lacks standing. Appellant has submitted a response in opposition to the local board's motion.

FACTUAL BACKGROUND

In response to the State Board's resolution regarding the use of mascots, logos, and team nicknames in schools, Worcester County Public Schools conducted a review of the use of Native American mascots and mascot names in its public schools located in the Pocomoke area. The local superintendent, Jon M. Andes, convened School Improvement Advisory Committees (SIAC's), consisting of parents, students, teachers, and community representatives, to conduct the review. Based on their findings, the SIAC's recommended that the Pocomoke area schools continue to use their mascots and mascot names. The Worcester County Superintendent, Dr. Andes, supported the recommendations of the SIAC's. *See* Andes' letter dated 3/4/02.

By letter of November 4, 2001, Appellant filed with Dr. Andes a civil rights complaint letter concerning the use of Native American mascots and mascot names at Pocomoke Elementary, Middle, and High Schools. The local superintendent explained his position about the use of mascots in the county's public schools to Appellant by letter of March 4, 2002, stating in part:

The SIAC's at each of the Pocomoke area schools have carefully reviewed this matter and recommended that we retain the use of the current mascots. After studying and reviewing this issue, I concur and support the recommendation of the SIAC's from the Pocomoke area schools.

The letter also indicated that if Appellant had further questions he should contact legal counsel for the local board, James W. Almand, Esquire.

Appellant appealed the decision regarding the retention of the mascots and mascot names to the local board. The local board denied the appeal based on Appellant's lack of standing; but

gave Appellant the opportunity for reconsideration of its decision by inviting him to submit specific facts establishing his standing to appeal a decision of the superintendent. See 3/27/02 letter to Appellant from Almand. Appellant did not do so and instead appealed to the State Board.

ANALYSIS

The local board argues that the State Board should dismiss the appeal because Appellant lacks standing. As the State Board noted in *Adams, et al. v. Montgomery County Board of Education*, 3 Op. MSBE 143, 149 (1983), the general rule on standing is that “for an individual to have standing, even before an administrative agency, he must show some direct interest or ‘injury in fact, economic or otherwise’.” See also *Schwalm v. Montgomery County Board of Education*, MSBE Opinion No. 00-10 (February 23, 2000); *Vera v. Board of Education of Montgomery County*, 7 Op. MSBE 251 (1996); *Way v. Howard County Board of Education*, 5 Op. MSBE 349 (1989).

The record discloses that Appellant does not reside in Worcester County or have a child in attendance at any of the schools in Worcester County. Although Appellant maintains that Dr. Andes conferred standing upon him when he responded to Appellant’s complaint, the superintendent’s response is insufficient to confer standing to appeal to either the local board or the State Board. Rather, as stated above, Appellant must show some direct interest or injury in fact. He has not done so.

CONCLUSION

Accordingly, we dismiss the appeal for lack of standing. See COMAR 13A.01.01.03J.

Marilyn D. Maultsby
President

JoAnn T. Bell

Philip S. Benzil

Dunbar Brooks

Reginald L. Dunn

Clarence A. Hawkins

Walter S. Levin, Esquire

Karabelle Pizzigati

Edward L. Root

Walter Sondheim, Jr.

John L. Wisthoff

July 23, 2002