

DIANN AND BRYAN S [REDACTED],

Appellant

v.

CARROLL COUNTY  
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 04-05

### OPINION

This is an appeal of a three-day suspension of Appellants' daughter, S [REDACTED], from Liberty High School for fighting with another student on May 14, 2003. The local board has filed a Motion for Summary Affirmance on grounds that there were no due process or other violations, and that its decision was not arbitrary, unreasonable, or illegal. Appellants have submitted a response in opposition to the local board's motion.

### FACTUAL BACKGROUND

On May 14, 2003, S [REDACTED] was involved in an altercation with another student at Liberty High School. The penalty imposed upon S [REDACTED] and the other student for their involvement in the altercation was suspension for three days for both students.

By letter dated May 22, 2003, the S [REDACTED]s appealed the three-day suspension to the Superintendent. The S [REDACTED]s met with the Superintendent's designee, Richard Simmons, on May 30, 2003. Mr. Simmons also met with Mrs. Oliver and Mr. Pawlicki, the Principal and Vice Principal, respectively, of Liberty High School. On June 11, 2003, the Superintendent's designee issued a written decision upholding the three-day suspension imposed upon S [REDACTED], citing equal involvement of both students.

By letter dated June 13, 2003, the S [REDACTED]s appealed the decision to the local board requesting an oral evidentiary hearing on the issue that the three-day suspension was discriminatory because the rules were not applied fairly to their daughter based upon an earlier suspension of S [REDACTED] for an altercation that occurred on March 20, 2003. The local board upheld the decision of the Superintendent's designee, without an oral evidentiary hearing, finding that the appeal could be decided based upon a review of the written material in the record. The local board's rationale for unanimously upholding the underlying suspension was that the facts warranted the three-day suspension for both students.

Appellant appealed the local board's decision to the State Board arguing that S [REDACTED] was being discriminated against because the rules were not applied equally to S [REDACTED]'s case for the May 14, 2003 as they were applied to another student who engaged in a fight with S [REDACTED] previously on March 20, 2003.

## ANALYSIS

It is well established that the decision of a local board with respect to a student suspension or expulsion is considered final. Md. Code Ann., Educ. §7-305. Therefore, the State Board's review is limited to determining whether the local board violated State or local law, policies, or procedures; whether the local board violated the due process rights of the student; or whether the local board acted in an otherwise unconstitutional manner. COMAR 13A.01.01.03E(4)(b).

Appellant requested an evidentiary hearing at the local board level to be able to contradict and question student witnesses who made statements to the Principal and Vice Principal of Liberty High School regarding the May 14, 2003 altercation.<sup>1</sup> The local board reviewed the appeal on the record, i.e., based upon documentation submitted by both parties. Moreover, the S██████s do not dispute that fighting occurred on May 14, but assert that S██████ did not initiate the fight.

Under *Goss v. Lopez*, 419 U.S. 565 at 581 (1975), the United States Supreme Court has held that for a suspension of 10 days or less, due process only requires that the student be given oral or written notice of the charges against him or her and if the student denies them, an opportunity to present his or her side of the story. The suspension in this case was for three days. Due process therefore does not entitle Appellant to a full evidentiary hearing before the local board or the State Board. See *Black v. Carroll County Board of Education*, MSBE Op. No. 02-24 (2002) and *Ali v. Howard County Board of Education*, MSBE Op. No. 00-15 (2000), citing *Goss v. Lopez*. A review of the record in this matter discloses that the school system investigated the incident; and the Superintendent's designee met with Appellants who were given an opportunity to respond and to present their side of the story. We therefore find no due process violation.

Appellants further argue that S██████ was discriminated against by the imposition of the three-day suspension for the May 14, 2003 fight because in a previous altercation with another student on March 20, 2003, S██████ was suspended but the other student was not. The local board argues that the Appellants have not alleged any discrimination based upon membership in a protected class. We agree. See *Black v. Carroll County Board of Education*, MSBE Op. No. 02-24 (2002) and *Anderson and Blake v. Board of Education of Prince George's County*, 5 Op. MSBE 415 (1989).

Moreover, had the Appellants not deemed the former suspension for the March 20, 2003 altercation appropriate, they could have appealed that decision at that time. For these reasons, we agree with the local board that the three-day suspension for both students for the May 14 incident was imposed well within the parameters of COMAR 13A.08.01.11C(1) which provides for

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<sup>1</sup>A local board has no statutory authority to subpoena witnesses.

suspension of a student when that student's behavior is disruptive and detrimental to the operation of the school. The local board's finding that students engaged in fighting warrant a suspension is well within the local board's authority and in line with the State Board's regulations on student discipline.

Based on the local board's determination following review of the underlying investigation, we find sufficient record evidence to support the local board's decision to uphold S██████'s three-day suspension.

CONCLUSION

For these reasons and finding no due process violations or other illegalities in the proceedings, we affirm the decision of the Board of Education of Carroll County.

Edward L. Root  
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January 28, 2004