

RODNEY H.
Appellant

v.

PRINCE GEORGE'S COUNTY
BOARD OF EDUCATION
Appellee

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION
Order No. OR13-05

ORDER

Appellant filed an appeal with the State Board challenging the decision of the Superintendent's designee denying Appellant's appeal of his son's retention in the 1st grade for the 2012-13 school year based on lack of standing and untimeliness. Appellant requests that the State Board promote his son to the 3rd grade for the 2013-2014 school year. The local board has filed a Motion to Dismiss the case maintaining that the Prince George's County Board of Education (local board) has no record of Appellant appealing to the local board and that there is no local board decision for the State Board to review.

Appellant's son initially completed the 1st grade at Barack Obama Elementary School during the 2011-12 school year. On May 21, 2012, the school principal decided to retain the child in the 1st grade for the 2012-13 school year because his performance in reading remained at the emergent level despite interventions and because he demonstrated a lack of mastery of names and sounds of letters and simple blending skills. The child's mother, who has legal custody of the child and is the lawful education decision-maker, had input in the principal's decision and consented to the grade retention decision. (Price Letter, 2/12/13).

On September 27, 2012, Appellant requested that his son be promoted to the 2nd grade. (*Id.*). On October 10, 2012, Appellant participated in a conference call with the retention team and the child's mother. Some decisions were made about retesting the child and watching his progress. (*See* Appeal and Email Stream Attached to Response to Motion).

Appellant appealed the grade retention decision to the Office of Appeals on October 22, 2012. The Superintendent's designee, Aaron E. Price, Sr., issued a decision explaining that Appellant lacked standing to appeal the grade retention decision because he did not have legal education decision-making authority with regard to this son. He also explained that Appellant's appeal of the grade retention decision was filed beyond the fifteen day appeal deadline.¹ (Price Letter, 2/12/13).

Mr. Price advised the Appellant that he could further appeal to the local board by submitting his request in writing to Ms. Lori Anderson, the local board's administrative secretary, within 10 days of the date of Mr. Price's decision. Appellant included in his State Board appeal a copy of his letter to Ms. Anderson, dated February 17, 2013, which was within the stated time frame. The local board did not specifically address this letter in its filings in this

¹ Appellant maintains he was not timely notified of the principal's decision.

case, although it maintains that there is no record of Appellant filing an appeal with the local board.

We have reviewed Appellant's letter to Ms. Anderson. On the face of it, the contents do not appeal the grade retention decision. The letter states that "it is too late [to] petition the board to consider [Appellant's] request to appeal [his] son's retention in the first grade for SY 2012-2013." Although Appellant requests the opportunity to address the local board, he indicates that he has "larger concerns" which suggest a "systemic problem" in the school system with regard to the manner in which the matter was handled and his treatment by the school system based on his status as the non-custodial parent, including an apparent lack of communication about the grade retention decision accepted by the child's mother. Assuming Appellant submitted the letter to the local board, in our view, it does not necessarily constitute an appeal of the grade retention decision.

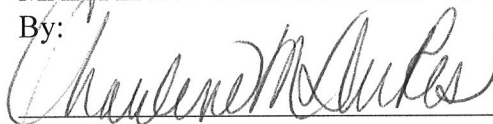
Because there is no local board decision for the State Board to review, in the usual case, we would have likely remanded such a matter back to the local board for it to reach its own conclusion as to the legal effect of Appellant's February 17 letter. There is no point in doing so here, however, because any appeal of the grade retention decision is now moot. The 2012-13 school year is over and Appellant's son completed the school year in the 1st grade.

In addition, to the extent that Appellant seeks to have his son promoted to the 3rd grade for the 2013-14 school year, Mr. Price denied Appellant's appeal based on lack of standing because Appellant has no legal education decision-making authority with regard to his son. Appellant has not provided any information to the contrary in his appeal to the State Board.

Because there is no local board decision to review and because the grade retention issue is moot, it is this 27th day of August, 2013, by the Maryland State Board of Education, ORDERED, that the appeal is hereby dismissed. COMAR 13A.01.05.03C.

MARYLAND STATE BOARD OF EDUCATION

By:



Dr. Charlene M. Duker

President