

RICHARD C. and KATHY C.

Appellants

v.

ANNE ARUNDEL COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 12-02

OPINION

INTRODUCTION

This is the Appellants second appeal to the State Board of Education related to an incident involving their daughter (MC) that led to a suspension and a juvenile court proceeding. In the first appeal, the State Board remanded the case to the local Superintendent for a decision on the merits because the local board had not reviewed Appellants' complaint and had not issued a decision that the State Board could review. *Richard C. v. Anne Arundel County Bd. of Educ.*, MSBE OR 11-06 (2011).

The local board has filed a Motion to Dismiss this appeal. It argues that after the State Board's remand, the local Superintendent's designees met with Appellants and successfully resolved all matters raised by Appellants up to the date of the meeting except for payment of attorney's fees. Appellants oppose the Motion to Dismiss arguing that, although the local Superintendent resolved the issue regarding MC's educational records, neither the local Superintendent nor the local board have responded to issues regarding violations of local board policy, State law and federal law raised in their initial State Board appeal.

FACTUAL BACKGROUND

This dispute stems from an incident on November 19, 2009, that resulted in MC's suspension from George Fox Middle School for classroom disruption and nearly striking the assistant principal, Ms. Lee. On or about December 1, 2009, Appellants were served a summons by a school police officer requiring MC to appear in juvenile court in response to a complaint related to the incident.

In early 2010, at the Appellants' request, Assistant Superintendent for School Performance, George Arlotto, agreed to expunge documents from MC's educational record regarding her suspension. Appellants allege that several months later, Ms. Lee delivered MC's

educational records to the juvenile court's State's Attorney. During Appellants' review of the State's Attorney's file, they found two e-mails related to MC's suspension. One e-mail was from the assistant principal to the principal describing the incident that led to the suspension. The second e-mail was from a substitute teacher, stating that MC made a verbal threat against the assistant principal. Appellants allege that the second email was used to convince the State's Attorney to "take this case to trial" and was an act of criminal fraud.

On February 28, 2011, Appellants filed their first appeal with the State Board. Among their allegations were: violation of due process, violation of county and State disciplinary regulations, retaliation in violation of local board rules, and violations of federal, State and local board student record policies. The State Board agreed with the parties that the issues had not been reviewed by the local Superintendent or the local board. Accordingly, the State Board remanded the appeal on April 26, 2011, to the local Superintendent to address the issues raised by Appellants. *Richard C. v. Anne Arundel County Bd. of Educ.*, MSBE OR 11-06 (2011).

After the State Board's remand order, Appellants sought review by the local Superintendent and then noted an appeal to the local board.¹ Before the local board began processing the appeal, the local Superintendent's office contacted Appellants and scheduled a meeting for June 9, 2011. Appellants met with local Superintendent's designees (designees), Assistant Superintendent Arlotto, school system legal counsel, and Assistant Superintendent, Dawn Lucarelli to address all of the issues Appellants had raised in their State Board appeal. (Pritchard Affidavit).

During the June 9, 2011 meeting, Appellants reviewed MC's educational record and verified that documents regarding MC's suspension were expunged. During the meeting the designees redacted a reference to the suspension in an assessment in the record. The designees discussed Appellants' concerns about Ms. Lee's conduct surrounding the suspension but would not disclose what actions were taken against her because it was a personnel matter. The designees explained to Appellants that the local board would not pay attorneys fees. They also advised Appellants how to withdraw the local board appeal based on their belief that all issues, except for attorney's fees, were resolved. (Pritchard Affidavit).

Three days after the meeting, on June 12, 2011, Appellants wrote an e-mail to the local board confirming that all documents related to MC's suspension had been removed from her educational record. Appellants stated, however, "[w]e maintain our complaint about the retaliation and the cover up by altering and falsifying documents and unauthorized control of documents that had been expunged from the school record." (E-mail to Connolly).

On August 3, 2011, Appellants filed this appeal to the State Board. They alleged that neither the local Superintendent nor the local board responded to the Appellants' complaint concerning the unresolved issues previously raised with the State Board. In response, the local

¹ Both the local board and Appellants agree that Appellants sought review of issues from the local Superintendent and noted an appeal to the local board. The record only contains a June 12, 2011 e-mail from the Appellants to the local board setting forth their complaint.

board maintained that the appeal should be dismissed because the substance of Appellants' appeal was "satisfactorily resolved except for the payment of attorney's fees" which is relief the State Board cannot provide. (Local Bd's. Response to Appellants' Reply). The local board further maintained that the issues raised in the July 12, 2011 e-mail were not raised with the Superintendent, were not ripe for review by the local board and, therefore, should not be addressed by the State Board in the absence of a local board decision. (Local Bd's. Response to Appellants' Reply).

LEGAL ANALYSIS

Once again there is no decision of the local board to review on appeal. However, this dispute about the suspension, what documents were in the students record and how those documents were handled at the local school system level has been going on for two years. Before the State Board in this appeal is the Appellants' continuing complaint that the assistant principal gave MC's student record to the State's Attorney in the juvenile court case and that the record contained information about MC's suspension - - information that was supposed to be expunged from the student record. The Appellants want this Board to direct the school system to "report these events to the Juvenile Court, and to the State's Attorney's office as well as the State Attorney General." They also want this Board to direct the local board to pay their attorney's fees.


As to the attorney's fees issue, this Board has no jurisdiction or authority to order payment of attorney's fees. As to what was disclosed to the State's Attorney in the juvenile matter, we agree with the Appellants' that when a suspension is expunged from a student's record, no documents about the suspension should remain in the student's record or be disclosed to outside parties.

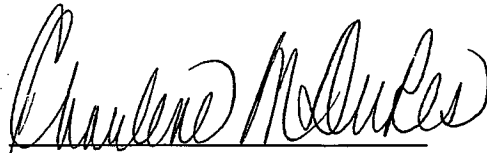
We do not conclude, however, that such disclosure rises to a level of constitutional violation of due process or equal protection as the Appellants allege.

It is our understanding that the juvenile court matter was pursued by the assistant principal individually, not by the school system. The Appellants considered that action retaliation against them and ask this Board to direct the school system to report such action to various law enforcement authorities. We decline. In our view, it is time for this dispute to be over. We shall dismiss this appeal.

CONCLUSION

For all the reasons stated, this appeal is dismissed.

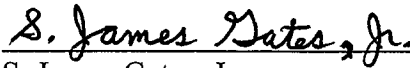

James H. DeGraffenreidt, Jr.
President



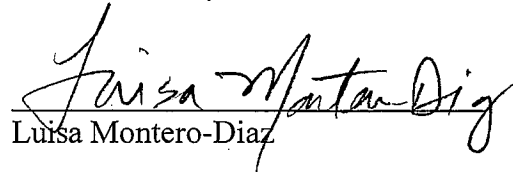
Charlene M. Dukes
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Mary Kay Finan



S. James Gates, Jr.



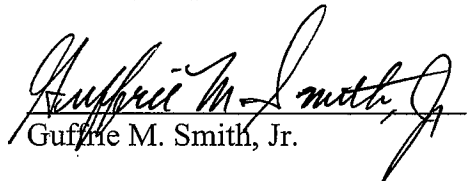
Luisa Montero-Diaz



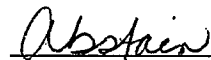
Sayed M. Naved



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Guffie M. Smith, Jr.



Donna Hill Staton



Ivan C.A. Walks



Kate Walsh

January 24, 2012