

MALINDA KURZ, ET AL.,

Appellant

v.

BOARD OF EDUCATION OF  
FREDERICK COUNTY,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 13-38

## OPINION

### INTRODUCTION

In this appeal, Appellants challenge the decision of the Board of Education of Frederick County (local board) regarding the 2013-14 academic calendar for Frederick County Public Schools (FCPS). Appellants argue that the local board's decision was arbitrary and ask that the State Board overturn it. The local board filed a Motion to Dismiss and/or for Summary Affirmance arguing that Appellants lack standing to bring the appeal and that the State Board has no jurisdiction over the appeal. Appellants filed a Response opposing the Motion. The local board replied.

### FACTUAL BACKGROUND

FCPS formed a Calendar Committee (the Committee) during the 2012-13 school year to research, study, and recommend an academic calendar for the local board's consideration for the 2013-14 school year. (Motion, Ex.1 attachment at 1). The Committee was comprised of members of the PTA Council of Frederick County, the Frederick County Administrative and Supervisory Association, the Frederick Association of School Support Employees, parents, principals, teachers, student council members, curriculum specialists and staff from the Research, Development and Accountability Department. *Id.*

The Committee identified its main goal in developing the calendar as maximizing instructional time. It also created a list of other considerations to keep in mind. *Id.* The Committee met twice a month for four months. *Id.* At its meetings, the committee reviewed examples of school calendars from other counties, reviewed recent school calendars throughout the United States, and examined many research-based studies about school calendars. Based on this research, the Committee presented two options for the local board's consideration for the 2013-2014 school year: Calendar 'A' or Calendar 'B.' *Id.* at 2-3.

Calendar 'A' and Calendar 'B' have many similar features. (Motion, Ex. 1 at 1). In both options, students attend school 180 days and teachers work 190 days; parent-teacher conferences are scheduled for fall only and would only include elementary and middle school students; Thanksgiving break is November 27-29; winter break is December 23- January 2; spring break is April 14-April 22; and there are 5 snow days built into the calendar. *Id.*

The primary difference between the two calendars is that Calendar ‘A’ has teachers reporting August 13 and students reporting August 19 with the last day of school for students being June 10 and for teachers June 11. In contrast, Calendar ‘B’ has teachers reporting August 20 and students reporting August 26 with school ending for students on June 18, and June 19 for teachers. *Id.*

At the local board’s meeting on January 2, 2013, the Committee recommended that the local board adopt one of these two options as the academic calendar for the 2013-14 school year. *Id.* The local board heard public comment on the calendar at its January 2 meeting and at its January 23 meeting. (Motion, Ex. 3 at 3.) In between the two meetings, the local board solicited public feedback through email and online comments. *Id.* Of these comments, 464 indicated a preference for calendar ‘B,’ 106 indicated a preference for calendar ‘A,’ and 106 indicated no preference. *Id.* at 2.

The local board voted on the calendar options at its January 23, 2013 meeting. Although the local board considered the public feedback in making its decision, it ultimately chose Calendar ‘A’ by a vote of 5-2. (Appeal, Ex. I). This appeal followed.

Appellants argue that the local board’s decision was arbitrary based on the fact that the public feedback showed a preference for Calendar ‘B.’ (Appeal at 2). They allege that the local board treated the public’s feedback as a formality rather than actually taking it into consideration. *Id.* Appellants also list many reasons why they believe Calendar ‘B’ was the better choice, most of which relate to interferences with family matters rather than educational or instructional issues. *Id.* at 3-5. Appellants ask the State Board to overturn the local board’s decision for Calendar ‘A’ and replace it with Calendar ‘B.’ *Id.* at 5.

## STANDARD OF REVIEW

This case involves the local board’s decision regarding the academic calendar for the 2013-14 school year. Because this decision was made through a quasi- legislative process, the State Board’s review is limited to deciding only if the local board acted within the legal boundaries of state or federal law and will not substitute its judgment “as to the wisdom of the administrative action.” *Stanmore v. Montgomery County Bd. of Educ.*, MSBE Op. No. 12-43 (2012).

## LEGAL ANALYSIS

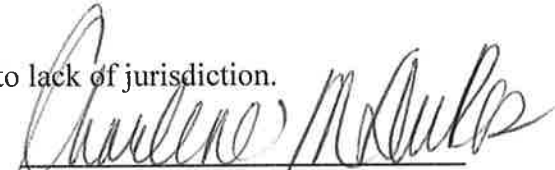
This case is a direct appeal to the State Board of the local board’s quasi- legislative decision adopting the 2013-14 academic calendar. As such, the State board’s jurisdiction over the case rests on §2-205 of the Education Article. *Stanmore v. Montgomery County Bd. of Educ.*, MSBE Op. No. 12-43 (2012). The State Board’s jurisdiction under §2-205 is limited, however, to matters that involve State education law or regulation, or matters of statewide educational policy. *Id.*

In this case, Appellants contest the calendar decision as it relates to the effect it will have on individuals who work for or have children attending FCPS. For example, Appellants argue

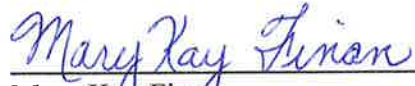
that the early start date will disrupt family vacation plans and give less time for summer jobs. None of the issues raised by Appellants are violations of State education law or regulation, or matters of statewide education policy. Thus, given our previous decisions on the extent of our authority to review local board policy decisions made through a quasi-legislative process, we conclude that the State Board does not have jurisdiction to address the issues in this case.

CONCLUSION

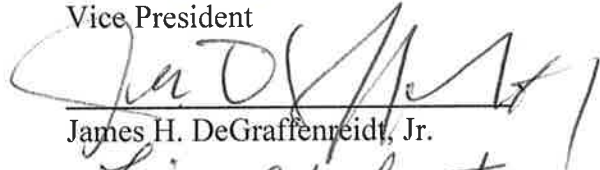
For these reasons, we dismiss the case due to lack of jurisdiction.



Charlene M. Dukes  
President



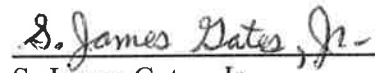
Mary Kay Finan  
Vice President



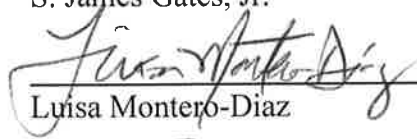
James H. DeGraffenreidt, Jr.



Linda Eberhart



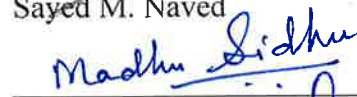
S. James Gates, Jr.



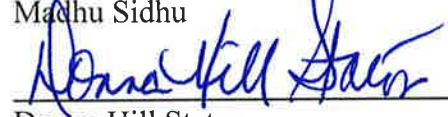
Luisa Montero-Diaz



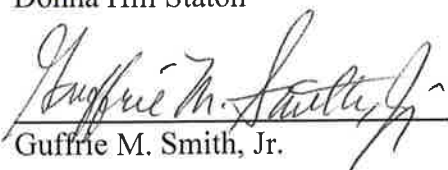
Sayed M. Naved



Madhu Sidhu



Donna Hill Staton



Guffie M. Smith, Jr.

July 23, 2013