

COLIN AND LORI W.,

Appellant

v.

FREDERICK COUNTY  
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 19-06

## OPINION

### INTRODUCTION

Appellants appeal the decision of the Frederick County Board of Education (“local board”) dismissing their appeal of their son’s administrative transfer to Heather Ridge School following an extended suspension from Oakdale High School. The local board filed a Motion to for Summary Affirmance maintaining that its decision to dismiss the appeal was not arbitrary, unreasonable or illegal. The Appellants did not file a written response to the Motion and relied on the documents they had already submitted in the case.

### FACTUAL BACKGROUND

Appellants’ son, C.W., was a freshman at Oakdale High School (“Oakdale”) during the 2017-2018 school year.<sup>1</sup> On March 12, 2018, he had a fight with another student. The local hearing officer described the incident as follows:

[C.W.] arrived at school shortly before dismissal prompting Mr. Hombach, assistant principal, to meet with him and discuss his late arrival time. Mr. Hombach instructed [C.W.] to proceed directly to his bus immediately after the dismissal bell. [C.W.] elected to disregard this directive and proceeded to the cafeteria with the intent of engaging in a physical altercation with another student. Upon entering the cafeteria, Dr. Dorsey, assistant principal, directed the gathering group of students led by [C.W.] to “turn around and go back.” When Dr. Dorsey attempted to redirect [C.W.] by placing her hand in front of him, he “pushed /bumped” into her and continued toward the student he intended on fighting. Dr. Dorsey repeated her request for [C.W.] to “stop” and again he disregarded her directive. The two students then proceeded to fight.

---

<sup>1</sup> C.W. had very poor attendance during the time he was at Oakdale High School – 21 lawful absences and 41 unlawful absences. He had earned all F’s and no credits during the three terms he was at the school, primarily due to his lack of attendance. He also had one documented disciplinary incident for which he was denied access to a basketball game and then issued a “No Trespass” for Oakdale after 2:15 p.m. from January 3 to February 28, 2018. (Motion, Ex.1).

(Motion, Ex.1). The hearing officer also noted that the video of the incident shows C.W. “aggressively approaching the student and after being separated from the fight, [C.W.] shows no remorse but rather runs around the area with arms in the air as if seeking applause.” *Id.*

On March 28, 2018, the Director of Student Services, Jet Reid, imposed an extended suspension,<sup>2</sup> lasting 15 days, for engaging in a physical altercation with another student, failing to comply with directions of school staff members, engaging in physical contact with a staff member, and disrupting the operation of the school. He also transferred C.W. to Heather Ridge School.<sup>3</sup> (Reid 3/28/18 Letter).

Appellants appealed the extended suspension and school placement to the Superintendent. They argued that C.W. received a greater consequence than the other student involved in the fight and that C.W. had never been suspended before. The local hearing officer upheld the extended suspension and placement at Heather Ridge School. On May 14, 2018, the Superintendent concurred and adopted the Decision. (Motion, Ex.1). The Decision provided information about “Appeal Rights” and referenced Board Policy 105. *Id.*

In an email dated May 21, 2018, the Senior Executive Secretary in the Office of the Superintendent, advised the Appellants of their appeal rights. She sent them information about the appropriate form to file and a link for online access to Board Policy 105, Appeal and Hearing Procedures. (Motion, Ex.2).

The Appellants appealed C.W.’s placement at Heather Ridge School to the local board utilizing the required appeal form, which informs appellants to “[i]dentify and attach documents on which you will rely in presenting your appeal.” (Appeal Information Form – Board Level). The Appellants wrote “yes we will provide you some documents once we present in our meeting.” *Id.*

By letter dated June 4, 2018, the board President stated that the local board had received the Appellants’ appeal form and that it “will consider this appeal pursuant to Section 105.7 of Board Policy 105.”<sup>4</sup> (Motion, Ex.3). He further stated, “[t]he full Board will meet to determine how it wishes to process the appeal and respond to you.” *Id.*

Thereafter, by letter dated June 21, 2018, the board President stated that the local board “will consider this appeal pursuant to Section 105.7.1.a of Board Policy 105.” That section provides for an appeal “based on the documents and written arguments submitted by the parties.”

(Motion, Ex.4). He then stated the following:

Please submit to the Board, with copies to Jamie R. Cannon, Esquire, any documents, including Affidavits, and written arguments in support of your appeal, within thirty (30) days of the date of this letter. Ms. Cannon, on behalf of the Acting

---

<sup>2</sup> An extended suspension means the removal of a student from the student’s regular program for a time period between 11 and 45 school days. COMAR 13A.08.01.11(B)(3).

<sup>3</sup> Heather Ridge School has a Day Program and a Twilight Program. The Day Program follows a regular school day from 7:30 a.m. to 2:30 p.m. The Twilight Program is for students age 16 and over and meets Monday through Thursday evenings from 3:30 p.m. to 6:30 p.m. Although there was some initial confusion about program enrollment, C.W. ultimately enrolled in the Day Program.

<sup>4</sup> Section 105.7 sets forth the “General Procedures for Appeals and Hearings” used by the local board. (Motion, Ex.4).

Superintendent, will have thirty (30) days from the date of her receipt of those materials, to file with the Board, with copies to you, any documents, including Affidavits, and written arguments.

The Board will review submissions from both parties, render a decision on the appeal and respond to both parties its decision.

The Appellants did not submit any documents or written arguments in response to the June 21 letter.

Meanwhile, assault charges were brought against C.W. as a result of the altercation in March. In July, the family was assigned a Public Defender for the court case. (Appellants' 8/22/16 Letter to Local Board).

By letter dated August 16, 2018, the board President advised the Appellants that the local board had dismissed the appeal due to the Appellants' failure to submit any of the requested documentation. (Motion, Ex.6).

This appeal followed. In the State Board appeal, the Appellants explain that they are deaf and utilize American Sign Language to communicate. They state that “[t]here is difficulty interpreting written correspondence as the sentence structure is different in spoken and written English. This causes confusion, especially regarding legal documentations and formalized letters.” (Appeal). The Appellants also explain that C.W. has been in Substance Abuse Treatment, Anger Management Classes, and individual therapy and has begun to improve himself using the skills he has learned. They seek to have C.W. returned to Oakdale High School and claim that the “victims” of the March 2018 incident are no longer there.<sup>5</sup>

After filing the appeal, Appellants submitted a parent complaint to the school system regarding an interaction that occurred between C.W. and the assistant principal of Heather Ridge School at dismissal on September 7, 2018. While that issue is not relevant to this appeal, the Appellant indicated in the complaint that C.W. was not happy at Heather Ridge School and requested to be placed in another school or be allowed to do online learning. After reviewing the complaint and meeting with the Appellants, Kathleen Schlappel, High School Instructional Director, advised that Heather Ridge School was still the appropriate placement for C.W. and, as she understood it, the placement decision was part of the pending appeal. (Schlappel 9/20/18 Letter). Appellants removed C.W. from Heather Ridge School and began homeschooling him on September 24, 2018.

### STANDARD OF REVIEW

This appeal concerns an administrative transfer, which involves a decision of the local board involving a local policy. In such cases, the local board's decision is considered *prima facie* correct. The State Board will not substitute its judgment for that of the local board unless the decision was arbitrary, unreasonable, or illegal. COMAR 13A.01.05.05A.

---

<sup>5</sup> Appellants also argue that there is a “No Trespassing Order” against C.W. that bars him from going on Oakdale High School property to attend athletic events and other activities with his sister and friends. That order is not the subject of this appeal. We encourage the Appellants to discuss the issue with the school system.

## LEGAL ANALYSIS

The local board dismissed the appeal because the Appellants failed to submit the required documentation, thus failing to perfect their appeal. In a June 21, 2018 letter, the local board President expressly directed the Appellants to submit the required documentation within 30 days. He explained that the appeal would be considered based on the documents and written arguments of the parties and referred them to the numerical section of Board Policy 105 that reiterated that fact. After no documents were received by the stated deadline, approximately three weeks later, the local board dismissed the appeal. The dismissal was consistent with Board Policy 105, Section 105.3, which states the following:

It is the responsibility of the party appealing to follow the procedures and to file all documents by the specified deadlines. If an appeal or request for hearing is not filed within the stipulated time period, or if the required documentation to be provided by a party is incomplete, such failure may constitute sufficient grounds for the board to dismiss an appeal or a request for a hearing.

The Appellants argue that they are deaf and utilize American Sign Language to communicate and that this can cause difficulties interpreting written correspondence. (Appeal). They state that when they received the June 4 letter first acknowledging their appeal, they understood it to mean that the local board would meet with them in person to discuss the case, so they waited to hear and made multiple phone calls to the local board office but did not receive a response.

Although the Appellants maintain that they did not understand the June 4 letter, they later received the June 21 letter from the board president that directed them to submit the required documentation within 30 days. The letter explained in detail the process for filing the documentation and that the local board would review the submissions of both parties and then render a decision. Appellants also had the link to Board Policy 105, which explains in section 105.7.1.a that the appeal would be decided “based on the documents and written arguments submitted by the parties.” The Appellants did not submit any evidence that they contacted the local board after receiving the June 21 letter to request further explanation or to request that an interpreter review the letter with them.

The State Board has recognized the importance of timelines, not only in cases involving the initial filing of an appeal, *See Scott v. Board of Educ. of Prince George’s County*, 3 Op. MSBE 139 (1983) (Time limitations are generally mandatory and will not be overlooked except in extraordinary circumstances such as fraud or lack of notice), but also when additional information was required to be filed to perfect the appeal. For example, in *Brooks v. Baltimore City Board of Sch. Commiss’rs*, MSBE Order OR14-12 (2014), a teacher filed an appeal with the State Board but did not include all of the necessary information required. The teacher was notified that he had until a specific date “to submit the additional information in order to perfect the appeal.” The appellant failed to do so and the State Board dismissed “for failure to timely perfect the appeal.” This is precisely what has happened in this case. The Appellants failed to submit the required documentation and written arguments to support their appeal. Their explanation is not sufficient to overturn the local board’s decision. Appellants have failed to demonstrate that the local board’s decision was arbitrary, unreasonable or illegal.

CONCLUSION

For the reasons stated above, we affirm the decision of the local board dismissing the Appellants' appeal of C.W.'s placement at Heather Ridge School.

Signatures on File:

\_\_\_\_\_  
Justin M. Hartings  
President

\_\_\_\_\_  
Stephanie R. Iszard  
Vice-President

\_\_\_\_\_  
Absent  
Chester E. Finn, Jr.

\_\_\_\_\_  
Vermelle D. Greene

\_\_\_\_\_  
Jean C. Halle

\_\_\_\_\_  
Rose Maria Li

\_\_\_\_\_  
Joan Mele-McCarthy

\_\_\_\_\_  
Michael Phillips

\_\_\_\_\_  
David Steiner

\_\_\_\_\_  
Warner I. Sumpter

January 22, 2019