

SUSAN AND SANTO C.,

Appellants,

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 20-28

OPINION

INTRODUCTION

Appellants challenge the decision of the Montgomery County Board of Education (“local board”) denying their request to correct their daughter’s final transcript from ██████ High School to reflect how they believed her grades should be calculated. In response, the local board filed a Memorandum in Response to Appeal maintaining its decision is not arbitrary, unreasonable, or illegal and should be affirmed. The Appellants responded and the local board replied to the response.

FACTUAL BACKGROUND

The Appellant’s daughter, ██████, graduated from Montgomery County Public Schools (“MCPS”) in 2019. ██████ attended Grade 9 at ██████ in Olney, Maryland. ██████ attended Grade 10 and most of Grade 11 at ██████ High School. ██████ enrolled at ██████ High School (“██████ HS”) in September of her senior year, Grade 12. She left ██████ HS on November 19, 2018, when she enrolled at ██████ (“██████”), a ██████ in West Virginia. ██████ returned to MCPS on March 18, 2019 to complete her last quarter. She enrolled in an Enhanced Social Emotional Special Education Services (“SESS”) program at ██████ High School (“██████ HS”), but was allowed to transfer back to ██████ HS so she could officially graduate and participate in the graduation ceremony of where she felt most connected. (Response, Ex. 3, pp. 1-2).

After graduation, Appellants received ██████’s final transcript and believed that it was “not an accurate reflection of the grades she worked hard to earn in her senior year or in accordance with how MCPS told [█████.], her family, and multiple highly-respected professionals representing [█████.] that her grades would be calculated.” (Appeal). Appellants maintain this has impacted ██████’s applications for college, arguing the final grades prevented her from applying to the colleges to which she aspired. (Appellants’ Response, pp. 1, 5).

Appellants claim that on February 25, 2019, prior to ██████’s transfer back to MCPS from ██████, they attended a Central Individualized Education Program (“CIEP”) meeting during which there was a discussion about how MCPS would calculate ██████’s grades and transfer credits.

Appellants maintain that it was their understanding that (1) [REDACTED] would receive credit for the four courses for which she received “No Grade” (“NG”) the 1st quarter at [REDACTED] HS; (2) that [REDACTED]’s grades for 2nd quarter at [REDACTED] would be “averaged” with the 1st quarter to arrive at her first semester grades; and (3) [REDACTED] would receive credit for the classes taken at [REDACTED] for the 2nd and 3rd quarters; that is, the credits would transfer to MCPS.

MCPS agrees that there was a discussion at the CIEP meeting about credits needed for graduation, but asserts that there was no discussion or agreement regarding how grades would be calculated on the final transcript. (Response, p. 3; *see also* Response, Ex. 3). MCPS notes that the CIEP “Notes and Decisions” document captures the discussion about credits, among other matters, “but does not mention anything about how grades would be calculated for the final transcript.” (Response, Ex. 3, p. 3). Neither party submitted the CIEP Notes and Decisions documents with this Appeal.

The record demonstrates that after Appellants received [REDACTED]’s final transcript on July 12, 2019, they and their educational consultant, Rich Weinfeld, began emailing MCPS staff on July 15, 2019 to discuss what they believed to be errors in the transcript. After multiple emails with [REDACTED] HS school registrar, [REDACTED], and program specialist at [REDACTED] HS, [REDACTED], to discuss [REDACTED]’s final transcript, Appellants received an email advising them to discuss the issue with the administration at [REDACTED] HS. (Response, Ex. 1). Thereafter, Appellants attempted to meet with the Principal, [REDACTED], and Assistant Principal, [REDACTED], at [REDACTED] HS to discuss what they believed to be the errors, but no meeting took place. *Id.* On August 12, 2019, Appellants learned via email that the documentation they submitted had been reviewed and that the “transcript was interpreted correctly by our counseling staff” and they could appeal the decision. *Id.* Appellants continued to request a meeting to discuss the issue. There is nothing in the record to show that the Principal or Vice Principal at [REDACTED] HS ever responded to the meeting requests. *Id.*

On September 5, 2019, Appellants sent an email to MCPS Chief Operating Officer (“COO”), Andrew Zuckerman, attaching the various email communications with MCPS staff (“Complaint”). (Response, Ex.1). The basis of the email was that Appellants believed the final grades on [REDACTED]’s transcript reflected errors in the calculation of five of her final grades. *Id.* The Complaint also alleged that MCPS staff members had not been responsive to their complaints. (*Id.*; *see also* Response, Ex. 6). The COO treated the email as a “Complaint From the Public” and assigned it to a hearing officer, Brigid E. Hagarty, to investigate the issue and make a recommendation. (Response, Ex. 3). Ms. Hagarty conducted multiple interviews of persons involved: Appellants; [REDACTED] HS Assistant Principal [REDACTED], resource teacher [REDACTED] and registrar [REDACTED]; [REDACTED] HS Principal [REDACTED] and registrar [REDACTED]; [REDACTED] registrar [REDACTED]; MCPS Central Placement Unit Staff, including Coordinator George Moore and placement specialist Renda Aswall; and Karen Crews, the supervisor of MCPS School Counseling Services. (Response, Ex.3, p. 2). Although Ms. Hagarty’s report states that Appellants indicated there were several non-MCPS attendees at the CIEP meeting who could attest to their version of events, the report does not indicate that Ms. Hagarty contacted those witnesses, only that she contacted “all MCPS staff who attended that meeting.” (*Id.*, p. 2).

At the conclusion of her investigation Ms. Hagarty found that no agreement was made at the February 25, 2019 CIEP meeting about how grades would be calculated. (Response, Ex. 3,

p. 6). She stated that it was “reasonable to believe that [Appellants] were given assurances at that [CIEP] meeting that grades and credits [█] earned at another school outside of MCPS would be honored” and they were, but “the expectation [Appellants] had of how the final grades would be calculated based on inaccurate assumptions regarding the equivalency of different courses from MCPS and █, and quite possibly, on how semester grades, each of which gives students the potential of earning one-half credit, yields on final summative grade.” *Id.* In her report, Ms. Hagarty provided a detailed explanation of how each grade was determined and each credit earned. She determined that MCPS staff followed MCPS policies and regulations concerning how grades should be transmitted and calculated. *Id.* On October 11, 2019, MCPS Chief Operating Officer, Dr. Andrew Zuckerman, adopted Ms. Hagarty’s findings and denied Appellants’ request for █’s final grades to be changed. (Response, Ex. 4).

On November 8, 2019, Appellants appealed to the local board maintaining their position that there was an agreement made at the CIEP meeting as to how █’s final grades would be calculated. (Response, Ex. 5). Appellants laid out their position in a 16-page document explaining their reasons behind the grade change request, and included supporting letters from the non-MCPS staff who were also present at the CIEP meeting. They also set forth their reasons for believing Ms. Hagarty’s report was flawed. (*Id.*, Ex. 5A). The Superintendent responded by Memorandum to the local board, to which the Appellants replied and the Superintendent again responded.

The Superintendent maintained that MCPS made no agreement with Appellants at the CIEP meeting, or any other time, as to how it would calculate █’s final grades. He also asserted that MCPS calculated █’s grades in accordance with MCPS Policy IB-RA, *High School Graduation Requirements*, as well as COMAR Regulation 13A.03.02.03, *High School Requirements*. (Response, Ex. 8, p. 2). The Superintendent also set forth the various emails and interactions with the Appellants reviewing each of their appeals asserting that “significant staff time and resources have been dedicated to response to [Appellants] questions and concerns in a timely manner.” (Response, Ex. 6). The Superintendent further laid out some basic principles about the assignment of grades, award of credits, and evaluation of course from outside MCPS, and how that impacted █’s situation. (Response, Ex. 8).

On January 9, 2020, the local board considered the Appeal in closed session and issued its Decision and Order on February 10, 2020, affirming the decision of the Superintendent’s Designee. (Response, Ex. 10). The local board determined that Appellants “had a misunderstanding regarding how [█’s] final grades would be calculated” and agreed that “MCPS calculated her grades properly, in accordance with MCPS regulation and Maryland state law.” The local board further found that MCPS was responsive to Appellants’ requests and “significant staff time and resources were dedicated” to addressing the Complaint. *Id.*

This appeal followed.

STANDARD OF REVIEW

Decisions of a local board involving a local policy or a controversy and dispute regarding the rules and regulations of the local board shall be considered *prima facie* correct, and the State

Board may not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. COMAR 13A.01.05.06(A).

The State Board has long held that, except in limited circumstances, it will not review the merits of student grade decisions. It is essentially a local school decision influenced by many factors. As stated in *Crawford v. Washington County Bd. of Educ.*, 4 Op. MSBE 890 (1997), “the merits of students’ grades ‘should be kept within the school building,’ and are to be made by the persons most able to evaluate the situation from personal knowledge.” See also *Nikol E v. Board of Educ. of Montgomery County*, MSBE 19-18 (2019); *Sherrie H v. Carroll County Bd. of Educ.*, MSBE Op. No. 17-35 (2017); *Fisher v. Montgomery County Bd. of Educ.*, MSBE Op. No. 99-43 (1999); *Chase v. Carroll County Bd. of Educ.*, 7 Op. MSBE 915 (1997); *Mai v. Montgomery County Bd. of Educ.*, 7 Op. MSBE 752 (1997); *Tompkins v. Montgomery County Bd. of Educ.*, 7 Op. MSBE 475 (1996). The State Board will only hear appeals challenging academic grades if there are specific allegations that the local board failed to follow proper procedure or violated a student’s due process rights. *Janocha v. Carroll County Bd. of Educ.*, MSBE Op. No. 02-51 (2002). Absent these type of illegalities, the State Board will not review the merits of student grade appeals.

LEGAL ANALYSIS

Appellants claim that ██████’s student rights were violated as laid out in MCPS’s “A Student’s Guide to Rights and Responsibilities” (“Guide”) because no MCPS personnel met with ██████ Appellants or ██████’s educational consultant throughout the various levels of their complaint regarding ██████’s final transcript grades. (Appeal; see also Response, Ex. 1 and Appellants’ Response, p. 1). Specifically, the Appellants reference that portion of the Guide that states that the student has a right to “meet with the high school principal or other designated administrator” in order to resolve complaints.

The Guide sets forth MCPS’s procedures for the handling of student complaints and appeals. It indicates that the student has a right to meet with the principal to discuss the complaint as part of both the informal and formal processes for resolution at the school level as provided in MCPS Regulation KLA-RA. The procedures do not indicate that the “meeting” or “discussion” must take place in person.

It is clear from the record that the Principal did not at any time “discuss” the complaint with the Appellants, in person or telephonically. The Appellants, however, presented documentation in support of their case, which the principal reviewed. As part of the appeal to the COO, Ms. Hagarty completed a thorough investigation of Appellants’ claims. The investigation included a discussion with the Appellants and interviews of MCPS staff present at the CIEP meeting, as well as consideration of the supporting documentation. Ms. Hagarty determined that the information presented by the school staff was accurate and, as a result, the credits and grades awarded to ██████ as reflected on her final transcript were correct. On further appeal to the local board, the Appellants again submitted supporting documentation, including written letters from the non-MCPS staff that were at the CIEP meeting. The local board reviewed the entire record on appeal, including the information contained in Ms. Hagarty’s report, Dr. Smith’s submissions, and Appellants’ submissions that included argument as to why Ms. Hagarty’s report was flawed. After completing a review of the information provided, the local board also determined that the grades and credits awarded to ██████ were accurate.

It is our view that the Appellants were not prejudiced in any way by not having a discussion or meeting with the school principal. The Appellants had multiple levels of review of their case. At each level, the Appellants had the opportunity to present their position and submit documentation regarding ██████'s grades, and Appellants had a discussion with Ms. Hagarty about the case during her investigation. Furthermore, at each level of review, the decision makers found that MCPS properly calculated ██████'s grades in accordance with MCPS policy and regulation.

Appellants request that the local board change ██████'s final transcript based on their belief that there was an agreed upon determination made at the CIEP meeting, and they disagree with the manner in which MCPS evaluated the grades and credits. The record, however, supports the local board's decision that Appellants misunderstood how ██████'s grades would be calculated, and that MCPS calculated her grades in accordance with MCPS policy and regulation. Ms. Hagarty's report gives detailed information on how the grades and credits were determined. (Response, Ex. 3). MCPS calculated ██████'s grades to ensure that appropriate credit was given to coursework that was the same as or corresponded to MCPS course content, as well as to ensure that the correct grade was assigned to that credit. (*Id.* p. 5). For each of the courses that Appellants contend should have been averaged or calculated differently, MCPS found that either the content of the course at ██████ was different enough from MCPS course content that they could not be averaged. In these instances, they were listed as separate courses with the grade earned for each course either at ██████ or while at MCPS. *Id.* Although the Appellants disagree with the decision, such disagreement does not render it arbitrary, unreasonable or illegal.

CONCLUSION

For the reasons stated above, we do not find the local board's decision to be arbitrary, unreasonable, or illegal. We, therefore, affirm the local board's decision.

Signatures on File:

Clarence C. Crawford
President

Jean C. Halle
Vice-President

Shawn D. Bartley

Gail H. Bates

Charles R. Dashiell, Jr.

Susan J. Getty

Vermelle D. Greene

Rose Maria Li

Rachel McCusker

Joan Mele-McCarthy

Lori Morrow

Warner I. Sumpter

Holly C. Wilcox

July 28, 2020