

WENDY NOVAK,  
Appellant

v.

CARROLL COUNTY  
BOARD OF EDUCATION,  
Appellee

ORDER OF THE  
MARYLAND

STATE BOARD

OF EDUCATION

Order No.: OR24-23

### ORDER

Appellant challenges the Carroll County Board of Education’s (“local board’s”) quasi-legislative decision to exclude two books as part of the new instructional materials for students participating in the regular family life curriculum in grades Kindergarten and First Grade.<sup>1</sup>

The two books at issue in this appeal are, *The Family Book* by Todd Parr and *The Great Big Book of Families* by Mary Hoffman, which were being considered for inclusion as new instructional materials for the family life curriculum in grades Kindergarten and First Grade respectively. *The Family Book* is a children’s book about the importance of family and contains illustrations showing all the different ways to make a family including divorced parents, single parent, interracial parents, same gender parents and others. *The Great Big Book of Families* is a children’s book and contains the message that every family is unique and special and contains an illustrated overview of a diverse mix of families, from single parent families, blended families and same sex couple parents.

At the July 10, 2024 local board meeting, local board member Stephen Whisler moved to exclude the books from the curriculum in accordance with the FLAC’s recommendation.<sup>2</sup> Local board member Stephen Whisler stated that he made the motion to preserve parents’ rights because he speculates that parents have diverse views on what constitutes a family; they also have different opinions as to when these topics should be discussed with their very young children; that parents do not want the school system to impose anyone’s views of what a family looks like on their children; and he prefers the discussion on families be student driven based on

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<sup>1</sup> Carroll County Public Schools (“CCPS”) offers different options for families with students in grades Pre-K through 5 for the family life unit of study. The first option is for students to receive the regular family life curriculum aligned with the comprehensive health education framework in accordance with the MSDE standards, framework, and indicators as required by COMAR 13A.04.18.01 and the Maryland Comprehensive Health Education Framework: Pre-Kindergarten through High School published by the Maryland State Department of Education (“MSDE”) at [https://marylandpublicschools.org/about/Documents/DCAA/Health/Health\\_Education\\_Framework\\_July\\_2022.pdf](https://marylandpublicschools.org/about/Documents/DCAA/Health/Health_Education_Framework_July_2022.pdf).

The second option is the separate opt-out family life curriculum developed by the CCPS Family Life Advisory Committee (“FLAC”) for the family life unit of study available for students whose parents or guardians elected to opt-out of the regular family life curriculum. The third option is the alternative learning activities and assessments meeting the minimum requirements of COMAR 13A.04.18.01D(2)(e). (Appeal, Ex. 3). According to the Appellant, 70% of CCPS parents elected for their children to participate in the regular family life curriculum. (Appeal at p. 2).

<sup>2</sup> We viewed the video footage of the discussion of the two books at the July 10, 2024 local board meeting at <https://www.youtube.com/watch?v=OGOVkUDARWQ> at 1:17:20:09:45 – 1:40:00/2:09:45.

the student drawings of their families.<sup>3</sup> Local board members Patricia S. Dorsey, Tara A. Battaglia, and local board student representative Chloe Kang advocated for the inclusion of the books in the regular family life curriculum to give parents a choice and to ensure that all children's families, particularly students who come from a family with parents other than a mom and a dad, are included and represented in the curriculum to help foster a safe and supportive school environment for all children to learn free from harassment, bullying, social isolation and shaming. After discussion, the local board voted 3 – 2 to exclude adding the two books to *both* the regular family life curriculum and the opt-out family life curriculum.

Superintendent Cynthia A. McCabe, in this proceeding, attests that CCPS fully implemented the family life curriculum for the 2023-2024 school year in accordance with MSDE's standards without the inclusion of the two books at issue and that neither book is required to meet MSDE standards at the Kindergarten or First Grade level for the 2024-2025 school year. (Local Bd. Response, Aff. at 1). She also attests that both books are available as supplemental materials in many CCPS elementary school libraries where students and teachers are free to access them and that there has been no effort to remove them. *Id.*

The local board filed a motion to dismiss and argues that the Appellant, as a parent of a CCPS high school student, lacks standing to seek review the local board's quasi-legislative decision regarding curriculum for Kindergarten and First Grade students. Although we do not condone the local board's reasoning for not including the two books in the regular family life curriculum, we agree with the local board that the Appellant has not demonstrated that she has standing to challenge the quasi-legislative action of the local board.

The State Board has long held that in order to have standing before the State Board as an administrative agency, an individual "must show some direct interest or 'injury in fact, economic or otherwise.'" *Wingfield v. Prince George's Cnty. Bd. of Educ.*, MSBE Op. No. 21-46 (2021) (citing *Beth B. v. Calvert Cnty. Bd. of Educ.*, MSBE Op. No. 20-35 (2020)); *S.R. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 20-18 (2020) (quoting *Adams, et al. v. Montgomery Cnty. Bd. of Educ.*, 3 Op. MSBE 143, 149 (1983)). This requires the individual to be personally and specifically affected in a way different from the public generally. *Wingfield v. Prince George's Cnty. Bd. of Educ.*, MSBE Op. No. 21-46 (2021). An individual's status as a member of a community is insufficient to convey standing by itself. *Clarksburg Civic Assoc. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 07-34 (2007) (The appellant has not alleged that its members are parents of a clearly defined group of students directly affected by the local board decision i.e. parents of middle of high school students who are required to pay the student activity fee.).

The Appellant argues that she has standing because her student is impacted by all CCPS school curriculum decisions and when children are not taught an accurate education, it harms the community as a whole and leads to more bullying/harassment and an unsafe environment for all students. *See App's. Response* at p.1. We agree with the local board that Appellant's argument is not sufficient to establish that her high school student has more of a personal stake in this matter than anyone else in the community who may be dissatisfied with the local board decision as to what books to include in the curriculum for Kindergarten and First Grade. We conclude that the Appellant has not demonstrated standing.

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<sup>3</sup> <https://www.youtube.com/watch?v=OGOvkUDARWQ> at 1:31:39/209:45 – 1:34:27/2:09:45.

We take this opportunity to remind the local board that the local board's health education policies must be consistent with the State Board approved Maryland Comprehensive Health Education Framework as required by COMAR 13A.04.18.01. Furthermore, all local board policy decisions must not discriminate against any student or parent/guardian because of gender identity, gender expression and sexual orientation as set forth in Education Article, §26-701 *et seq.*; COMAR 13A.01.07 (prohibiting unlawful discrimination and retaliation in education); and COMAR 13A.01.06 (educational equity). *See T.J. and D.J. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 24-10 (2024) (discussing the interplay between the Maryland Comprehensive Health Education Framework and our equity regulations).

Accordingly, for the reasons stated above, it is this 3rd day of December 2024, by the Maryland State Board of Education, ORDERED that the appeal is hereby dismissed for lack of standing pursuant to COMAR 13A.01.05.03B(1)(c).

MARYLAND STATE BOARD OF EDUCATION

Signature on File:

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Joshua L. Michael  
President