

E.C. AND M.K.,

Appellants

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION
(I),

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 25-21

OPINION

INTRODUCTION

E.C. and M.K. (“Appellants”) appeal the decision of the Montgomery County Board of Education (“local board”) denying their *Complaint from the Public* and finding Montgomery County Public Schools (“MCPS”) did not violate local policies. The local board responded. Then, Appellant responded, and the local board replied.

FACTUAL BACKGROUND

Appellants are the parents of two children enrolled in Montgomery County Public Schools (“MCPS”). During the 2023-2024 school year, Child A was enrolled in the third grade at an MCPS elementary school.¹ Throughout the school year, Child A had issues with a fifth-grade student on the bus, who called Child A names, such as “donkey” and “booger”. (R. 10). This prompted Appellants to file a *Bullying, Harassment, or Intimidation Reporting Form* with the school on April 8, 2024. (R. 7-9).

Subsequently, the school counselor followed up with Child A and the other student involved. The counselor emailed her findings on April 15, 2024, wherein she explained the other student admitted to calling Child A names. (R. 10-11). The principal also communicated the findings of the investigation on May 7, 2024. While she found the behavior occurred, she did not feel it rose to the level of bullying. Nonetheless, the fifth-grade student was disciplined, and the school put a plan in place to seat the students apart from one another on the bus and to increase monitoring. (R. 26; Appeal, Ex. 4).

On May 8, 2024, there was a second incident involving Child A and students on the playground, where Child A was slapped across the face and told to “shut the f*ck up”. Appellants filed a second *Bullying, Harassment, or Intimidation Reporting Form* with the principal, as well as expressed concern that the school did not report the incident to the family. The principal acknowledged receipt of the bullying form and shared that the incident did not

¹ Child A has since been granted a change of school assignment and began attending a separate elementary school for the 2024-2025 school year. (R. 30).

meet the definition of a “serious incident” as defined by MCPS Regulation COB-RA, but that she was taking the incident seriously. (R. 15-19). On May 15, 2024, the principal emailed Appellants that she investigated the matter, and she verified that the behavior occurred. The student who slapped Child A received disciplinary action, and the school counselor was directed to create a safety plan for Child A. (R. 26-27; Appeal, Ex. 10).

On May 21, 2024, Appellants filed a *Complaint from the Public* alleging the following:

- 1) The school violated MCPS Policy JHF-RA, when they failed to contact Appellants within 24 hours of completing the bullying, harassment, or intimidation investigation;
- 2) The school inappropriately found no evidence of bullying after investigating the April 8th report;
- 3) The school failed to consider Child A’s emotional wellbeing when the principal spoke with Child A without her parents or another adult;²
- 4) The school violated MCPS Regulation COB-RA when it failed to notify Appellants of the May 8th incident; and
- 5) The principal failed to make a clear finding of whether or not bullying occurred following the May 8th incident. (R. 1-6).

On June 10, 2024, Mr. Christophe Turk, Director of School Support and Well-Being, held a conference with Appellants and their educational advocate to discuss the complaint. He followed up with Appellants for further information, which was provided via email. On June 20, 2024, Mr. Turk issued a letter to Appellants addressing their concerns, wherein he found:

- 1) The school did provide email responses after their investigations, and MCPS policy does not require a formal written follow-up;
- 2) There is no evidence to support that the incidents with the fifth-grade student rose to the level of bullying or that the principal’s findings were inconsistent with MCPS Regulation JHF-RA;
- 3) The principal has discretion to designate which staff members will respond to inquiries, but she will attempt to honor Appellants’ request that the school counselor or another trusted adult when possible;
- 4) The principal was correct in not classifying the May 8th incident as a “serious incident” subject to MCPS Regulation COB-RA; and
- 5) The principal sent a sufficient copy of written findings related to the May 8th incident and bullying investigation to the family on May 15, 2024.

Mr. Turk denied Appellants’ requested remedies and provided appeal rights for his decision. (R. 26-28).

Appellants appealed the decision to the Division of Appeals, and the case was assigned to Hearing Officer Albert Mangiacapra. Appellants reiterated their earlier claims, as well as alleged that the principal was retaliating against Appellants for their advocacy. As remedy for the alleged violations, Appellants requested that Child A be provided with transportation to the new

² Appellants alleged that Child A was fearful around the principal, so they requested that the school counselor be the individual who worked with their child.

elementary school for the 2024-2025 school year, that MCPS and the principal acknowledge the procedural violations and the impact on the family, and that MCPS compensate Appellants for educational advocacy and therapeutic services. (R. 32). On July 12, 2024, Appellants were notified that the Division of Appeals would require additional time to process their complaints.³ (R. 78).

On September 23, 2024, Mr. Mangiacapra issued his findings, which aligned with those of Mr. Turk. He also found that there was no evidence that the principal retaliated against the family or ignored Appellants' communication. Mr. Mangiacapra recommended denying the complaint, as well as the requested remedies. On the same date as the memo, Ms. Dana Edwards, Chief of District Operations, sent a letter to Appellants stating she reviewed Mr. Mangiacapra's report, concurred with the findings, and adopted the recommendation that the complaint for Child A be denied. (R. 29-36).

On October 21, 2024, Appellants filed an appeal with the local board. In their appeal, Appellants expressed concern that Mr. Turk and Mr. Mangiacapra confused events related to a second *Complaint from the Public* filed on behalf of their older child, Child B. They also took issue with the length of time it took between filing their appeal and receiving a decision from the Division of Appeals. Appellants further provided greater detail regarding their earlier arguments before the Division of Appeals, and they argued Child A was entitled to transportation to the new elementary school as Appellants felt forced to request the change of school assignment because of the behavior of the principal. (R. 63-67).

On November 13, 2024, the local superintendent submitted a memorandum to the board, wherein he argued that MCPS followed procedures, that additional time was needed to complete the lengthy investigation, and that Appellants agreed to provide transportation to the new school when they requested a change in school assignment. (R. 72-82).

On November 20, 2024, Appellants submitted a letter to the local board in response to the superintendent's memo, which in part, took issue with MCPS' implications that the family is difficult or unreasonable. (R. 73-74).

On February 5, 2025, the local board issued its decision to uphold the denial of Appellants' complaint and requested remedies. The local board found that MCPS complied with all necessary policies and regulations. (R. 76-80).

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.01.05.06A.

³ The July 12, 2024, communication indicates that MCPS requires additional time to complete the investigation, and the Division of Appeals anticipated having a decision by September 17, 2024. (Appeal, Ex. 17).

LEGAL ANALYSIS

In the appeal before us, Appellants seek to overturn the local board's decision and make five arguments in support of their position:

- 1) MCPS violated Regulation JHF-RA when it failed to report findings from the completion of its bullying investigation in a timely fashion to Appellants;
- 2) MCPS violated Regulation COB-RA when it failed to report the May 8, 2024 incident involving Child A to Appellants;
- 3) MCPS failed to consider Child A's emotional well-being and did not timely respond to Appellants' communications;
- 4) The principal bullied, harassed, and retaliated against Appellants, as well as intimidated Child A; and
- 5) MCPS violated the timelines of Policy KLA-RA when it allegedly failed to notify Appellants it required additional time to decide their appeal by the 30th work day.

Before we address these arguments, we address a preliminary evidence issue raised by the local board.

New Evidence

In their filings, Appellants seek to introduce certain documents that were not before the local board, such as communication with a Montgomery County official and a July 2024 letter sent to the local superintendent but not included in the local board appeal. The local board seeks to have these documents excluded.

Under COMAR 13A.01.05.04C, the State Board may receive additional evidence if "it is shown to the satisfaction of the State Board that the additional evidence is material and that there were good reasons for the failure to offer the evidence in the proceedings before the local board[.]" In the present case, Appellants failed to provide any good reason for the failure to offer the evidence, nor how it is material. Thus, we deny admission of the additional evidence.

Regulation JHF-RA

Appellants allege the principal violated the reporting timeline in MCPS Regulation JHF-RA when she did not send her findings from the April 7, 2024, incident until May 7, 2024. MCPS Regulation JHF-RA(V)(D) states: "The school principal and/or designee will contact the parents/guardians of all students involved in the incident of bullying, harassment, or intimidation, as well as any other parties involved, within 24 hours of completing the investigation." The local board argues that the school complied with the overall directive of Policy JHF, which "requires the principal to conduct an adequate, reliable, and impartial investigation, to implement supportive measures and consequences as appropriate, and to take steps to prevent the recurrence of incidents." (Response, p. 10).

After reviewing the totality of facts before us, we concur with the local board. While the principal did not send a written response until May 7th, the full record demonstrates that the school responded timely to the bullying report form. The school counselor spoke with both students about the situation. The school made a plan to address the name-calling on the bus,

including alerting the bus patrols to pay close attention to the students. The counselor documented this in her April 15, 2024 email and invited Appellants to follow-up if there were any further issues. Regulation JHF-RA does not require an explicit finding of whether “bullying” occurred. The school counselor’s email and the principal’s later communication demonstrate that an investigation was completed and measures to address the situation were put in place. We do not find anything arbitrary, unreasonable, or illegal about the school’s response.

Regulation COB-RA

Appellants argue that the school violated MCPS Regulation COB-RA when it failed to report the incident involving a student slapping Child A in the face on the playground. In their *Complaint from the Public*, Appellants requested that MCPS provide written acknowledgement that it failed to notify parents of a serious incident involving verbal and physical assaults and provide training to the principal and relevant staff. (R. 5).

MCPS Regulation COB-RA governs the reporting of health, safety, and security incidents to the MCPS Office of School Support and Well-being, Office of Human Resources and Development, the Systemwide Safety and Emergency Management, other MCPS offices, law enforcement, and other external agencies. MCPS maintains that it does not interpret COB-RA to apply situations such as one student slapping another on the playground. “Incidents such as this are typical amongst elementary school students and are addressed via the MCPS Student Code of Conduct. While it is best practice for parents to be notified as soon as practicable when their child is struck, the MCPS health room technician will typically only notify parents the same day if a child suffers a major injury.” (R. 34).

The State Board has long held that a local board’s interpretation of its own policy or regulation is given due deference on appeal. *Sullivan v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 01-10 (2001). Appellants fail to provide any evidence that the local board’s interpretation of its own regulation is arbitrary, unreasonable, or illegal. Thus, we decline to overturn their finding that the principal did not violate COB-RA.

Child A’s Well-being

Appellants argue that the principal failed to take into consideration their input and their child’s well-being when interacting with the student. Specifically, Appellants maintain that Child A was uncomfortable around the principal, so they asked that the school counselor or another trusted adult be available when the principal spoke with their child. Appellants also claim that the principal was nonresponsive to some of their communications. They argue this contradicts the MCPS Student Code of Conduct, which focuses on family involvement and fostering behavior.

Mr. Turk noted in his decision that the principal adopted this practice as requested and would continue to make every attempt to honor Appellants’ request. He also acknowledged that there may be circumstances where the principal could not accommodate their request. (R. 27). Mr. Mangiacapra also reiterated that the principal must use her discretion in conducting investigations aligned with district policies and regulations. (R. 33). We believe this is a reasonable approach, and there is no need to disturb the local board’s decision on this basis.

Retaliation

Appellants argue that the principal retaliated against them by failing to timely respond to their communications and alleging Appellants were uncivil. Based on the filings, it appears Appellants' relationship with the principal was fraught, and they preferred a different communication style. While the principal may not have responded to every communication from Appellants, she did engage with the family and held meetings with them. It is unfortunate that the parties did not have a better working relationship, but there is no evidence that the principal acted unreasonably, arbitrarily, or illegally, or retaliated against the Appellants.

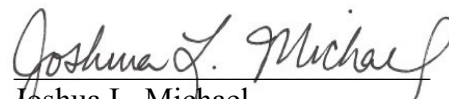
Regulation KLA-RA

Appellants argue that MCPS violated Regulation KLA-RA by failing to comply with timelines for completing an investigation. Specifically, KLA-RA(D)(3) requires the Division of Appeals to make a determination on an appeal and notify the complainant within 45 work days, unless additional time is needed. The Division of Appeals must notify the complainant within 30 work days of receipt of the complaint if an extension of time is required.

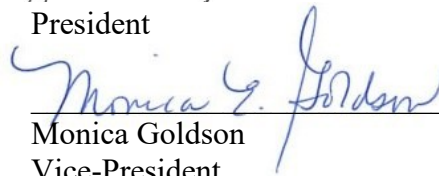
In the present case, Appellants filed their appeal on June 28, 2024. On July 12, 2024, the Division of Appeals notified Appellants it would require additional time to complete the investigation. It anticipated a decision by September 17, 2024. According to Appellants' own filing, Mr. Mangiacapra notified Appellants on September 10, 2024, that his Division would need until October 1, 2024, to make a final decision. (Appeal, p. 12). We find MCPS complied with the procedures under Regulation KLA-RA.

CONCLUSION

For the foregoing reasons, we decline to overturn the local board's decision to deny the Appellants' *Complaint from the Public*.



Joshua L. Michael
President



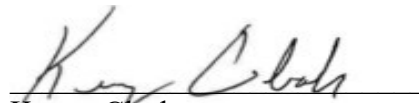
Monica Goldson
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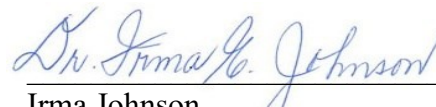



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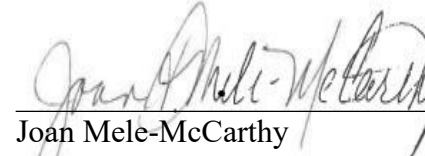

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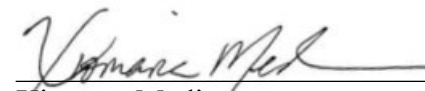

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