

CITIZENS FOR A RESPONSIBLE
CURRICULUM, et al.

Appellant

v.

MONTGOMERY COUNTY BOARD
OF EDUCATION

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 07-30

OPINION

Introduction

On February 7, 2007, the Appellants filed this appeal with the State Board challenging a decision of the Montgomery County Board of Education (local board) to add three lessons related to human sexuality to the health curriculum and to field test those lessons. They also requested that the State Superintendent issue a stay of the local board's decision to field test the additional lessons during the Spring of 2007. On March 7, 2007, the State Superintendent denied the stay.

The local board thereafter filed a Motion for Summary Affirmance on the merits of the appeal. The Appellants filed an Opposition to that Motion. They also simultaneously filed a Petition for Declaratory Ruling. The local board has filed, in one document, a Response to the Opposition and to the Petition for Declaratory Ruling.

Factual Background

On January 9, 2007, the Superintendent of Montgomery County Public Schools (MCPS) requested that the Montgomery County Board of Education approve a field test of three revisions to the health education curriculum. The revisions consisted of three additional lessons: a two part 90-minute lesson for 8th graders on "Respect for Differences in Human Sexuality"; a two part 90 minute lesson for 10th graders on "Respect for Differences in Human Sexuality"; one 45 minute lesson for 10th graders on condom use. (*See* Superintendent's Memorandum to Board of Education, Exhibit C, attached to Motion for Summary Affirmance).

The three additional lessons were the result of work started in May 2005 by the staff of the Montgomery County Public Schools' Department of Curriculum and Instruction. They worked with four physicians recommended by the Maryland Chapter of the American Academy of Pediatrics. The four medical consultants who assisted staff were affiliated with the Children's National Medical Center (CNMC) in Washington, D.C. Three of the physicians were on the faculty of the George Washington University Medical School. *Id.*

The additional lessons were reviewed by the Citizens Advisory Committee (CAC) over the course of nine meetings. The CAC is chaired by a pediatrician on the staff of Shady Grove Hospital and is composed of fifteen representatives from the community. *Id.*

The local board voted to approve the field test of the three lessons. It directed the Superintendent to “inform the Board of the results of the field-testing of the revised lessons and seek its approval at the appropriate time in preparation for systemwide implementation for the 2007-2008 school year.” *Id.*

On June 12, 2007, the Superintendent informed the local board of the results of the field test which were positive. Dr. Weast reported that 91% of the students involved received parental permission to participate in the field test.¹ (*See* June 12, 2007 Superintendent’s Memo to the Local Board, p. 3, attached to June 13, 2007 letter from Bresler). The local board, by a vote of 6-1, approved the three additional lessons for implementation systemwide beginning in the new school year. *See* June 13, 2007 letter from Bresler.

The Grade 8 lessons are a two-part lesson on “Respect for Differences in Human Sexuality.” Each part of the lesson provides 45 minutes of instruction, a total of 90 minutes for the entire lesson over the course of two days. In the first session, students examine negative effects of stereotyping and harassment, and positive results of respect, empathy, and tolerance on individuals and the school environment. In the second session, students consider how people respond to differences in gender identity, sexual identity, and sexual orientation.

The Grade 10 lessons are on “Respect for Differences in Human Sexuality” that build on the Grade 8 lesson with information and materials appropriate for the higher grade level. Each part of the lesson provides 45 minutes of instruction, for a total of 90 minutes for the entire lesson over the course of two days. In the first session, students learn the vocabulary of human sexuality and build on their understanding with factual information, including references to laws the schools must follow to prevent harassment and discrimination based on sexual orientation, gender identity, and sexual identity. In the second session, students examine sexual orientation and the challenges related to human sexuality that some adolescents may face.

A single-session lesson in Grade 10 presents a “Condom Use Demonstration” for disease prevention and control. The 45-minute lesson includes a brief video that demonstrates the correct examination, use, and disposal of a condom. The lesson serves as a bridge between the unit of Family Life and Human Sexuality, which includes information about contraception, and the unit on Disease Prevention and Control, which includes information on sexually transmitted disease and infection. The lesson emphasizes abstinence from sexual activity as the most effective method to prevent unwanted pregnancy and to protect against sexually transmitted disease and infection. *Id.*

¹ In order to participate, parental permission was required to “opt-in” to the classes.