

TYNETTA H.,

Appellant

v.

MONTGOMERY COUNTY  
BOARD OF EDUCATION

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 17-18

## OPINION

### INTRODUCTION

Tynetta H. (“Appellant”) appeals the decision of the Montgomery County Board of Education (“Local Board”) affirming the Superintendent’s decision to suspend her daughter from school for 44 days for attacking a school security official. The local board submitted a Motion to Dismiss. Appellant did not respond to the motion.

### FACTUAL BACKGROUND

Appellant’s daughter B.L. began attending Gaithersburg High School (Gaithersburg) in Montgomery County in March 2016. She previously lived with her father in New Jersey and attended school there, where she took honors courses and earned good grades. In the spring of 2016, she moved to Maryland to live with her mother. B.L. started tenth grade at Gaithersburg in the fall of 2016, but had trouble adjusting to the school. She was disruptive and began missing classes. School officials contacted her mother to discuss ways to assist her in adjusting to the new school. By December 2016, she was failing most of her classes and had numerous unexcused absences. (Motion, Ex. 6).

On December 8, 2016, B.L. became involved in an altercation with school security. While on her way to class, B.L. got into an argument with a friend in a school hallway. The argument became heated and the students shouted at one another. At one point, B.L.’s friend threw a trash can. Several school security officials, including Aaron Carter, the security team leader, received a call about the incident and found the students in the hallway. They directed the students away from classrooms into a stairwell. All of the students involved in the incident, except for B.L., left the school building at that point. (Motion, Ex. 6; T. 14-17).

B.L., using profanity and shouting, told Mr. Carter she planned to head to class. He told her she could not go to class until she calmed down. At that point, B.L. told Mr. Carter she was going to get her coat, apparently because she planned to leave the building. Mr. Carter told her that one of the school security members would get her coat for her. B.L. became angry with Mr. Carter and punched him three to four times in the chest while trying to get past him. After a school security assistant retrieved her coat, she left the building. A school surveillance video captured the incident. (Motion, Ex. 6; T. 15-19).

The next day, the school’s assistant principal met with B.L. to hear her version of events. B.L. started to write a statement, but decided not to complete it. In her partially-drafted

statement, B.L. said that Mr. Carter was being overly aggressive and would not let her get her jacket. She accused him of pushing and tugging at her to keep her from going to her locker. B.L. also claimed he told her to leave the school. The assistant principal also met with B.L.'s mother, the Appellant here. As a result of the incident, Principal Christine Handy decided to suspend B.L. for 10 days and recommend her for expulsion. Appellant appealed the decision. (Motion, Ex. 1, 3; T. 32-43; Board hearing Ex. 2).

On December 16, 2016, a hearing officer conducted a hearing on behalf of the superintendent's designee. B.L. elected not to attend, but Appellant did and argued on her behalf. At the conclusion of the hearing, the hearing officer recommended denying the request for expulsion. Instead, she recommended extending B.L.'s suspension to 44 days, to be served at the Blair Ewing Center, an alternative education facility. The hearing officer considered assaulting a staff member to be a serious violation of school rules and reasoned that B.L. would benefit from the additional support offered in the alternative school, including small class sizes and counseling from school social workers. (Motion, Ex. 4; T. 59-77).

On December 23, 2016, Andrew Zuckerman, the CEO's designee, adopted the hearing officer's recommendation. In his letter, he explained that B.L. would attend the alternative school through February 22, 2017, but that she could continue to attend the alternative school through the end of the school year on a voluntary basis if Appellant believed it was in her best interest. (Motion, Ex. 3).

Appellant appealed to the local board, which referred the matter to a hearing officer. On January 17, 2017, a hearing occurred during which Appellant cross-examined school system witnesses and advocated on her daughter's behalf. B.L. did not attend because she believed the situation had already been pre-determined against her. B.L. did, however, attend class that day. (Motion, Ex. 2, 4, 5).

On February 1, 2017, the hearing examiner submitted a decision recommending that the superintendent's decision be upheld. On February 14, 2017, the local board adopted the hearing examiner's decision and affirmed the 44 day suspension. The board found that B.L. refused to follow Mr. Carter's directions and struck him several times. The board concluded the conduct was "serious and warranted significant consequences." The board observed that B.L.'s motivation in striking Mr. Carter was because she was angry. The board also considered B.L.'s failure to attend the expulsion hearing to be a sign that she did not accept the gravity of the situation. The board remained concerned about B.L.'s downward spiral and expressed hope that the alternative school would provide her the opportunity to "reset her own motivation" and "examine her goals with respect to her academic progress." (Motion, Ex. 6).

This appeal followed.

## STANDARD OF REVIEW

In student suspension and expulsion cases, the decision of the local board is considered final. COMAR 13A.01.05.05. Therefore, the State Board will not review the merits of the decision unless there are "specific factual and legal allegations" that the local board failed to follow State or local law, policies, or procedures; violated the student's due process rights; or the local board has acted in an unconstitutional manner. COMAR 13A.01.05.05. The State

Board may reverse or modify a student suspension or expulsion if the allegations are proved true or if the decision of the local board is otherwise illegal. COMAR 13A.01.05.05.

A decision may be considered “otherwise illegal” if it is:

- (1) Unconstitutional;
- (2) Exceeds the statutory authority or jurisdiction of the Local Board;
- (3) Misconstrues the law;
- (4) Results from unlawful procedure;
- (5) Is an abuse of discretionary powers; or
- (6) Is affected by any other error of law.

COMAR 13A.01.05.05C.

### LEGAL ANALYSIS

The local board filed a Motion to Dismiss, arguing that Appellant failed to argue any “specific factual and legal allegations” that would render the local board’s decision illegal. In light of any such argument, the local board maintains that the appeal should be dismissed. Appellant has failed to respond to the motion.<sup>1</sup>

Appellant’s initial appeal was brief. She explained that she did not agree with the 44-day suspension because “the board of education was not totally honest with my family concerning the matter.” After the State Board requested additional information from Appellant, she supplemented her appeal by arguing that B.L. was provoked in the incident and that the matter could have been prevented if school security had not ordered B.L. to leave the building. The only evidence in the record to support this claim was B.L.’s partially-drafted statement. Even so, Appellant does not contest that B.L. struck Mr. Carter, which was the basis for B.L.’s punishment. Mr. Carter explained that he would not let B.L. return immediately to class, and instead required her to remain in the stairwell until she could calm down. He denied telling her to leave the building.

We have repeatedly stated that Appellants must support allegations of illegality with evidence. *See King v. Baltimore City Bd. of Sch. Comm’rs*, MSBE Op. No. 14-19 (2014). Although Appellant disagrees with the final decision, she has failed to point to any specific factual or legal allegations that would render it illegal. There is no dispute that B.L. struck a school security official multiple times. Appellant had the opportunity to present B.L.’s version of events and argue for a lesser sanction. Given the seriousness of the event, the superintendent and local board decided to affirm the 44-day suspension and provided support for their rationale. The State Board has previously upheld long-term suspensions of students who have struck school system employees. *See Trina C. v. Prince George’s County Bd. of Educ.*, MSBE Op. No. 12-03.

In upholding the suspension, the local board expressed its hope that B.L. would take the opportunity provided by the alternative school to return to the academic success she previously

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<sup>1</sup> Although B.L. has already completed her 44-day suspension, this matter is not moot because the suspension remains on her record and we have the power to reverse or modify a student suspension. *See Gabrielle G. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 17-14 (2017).

enjoyed. We hope that B.L.'s mother and father continue to work with the school system to assist B.L. as she completes this school year and prepares for the next one.

CONCLUSION

Because Appellant has failed to raise any specific factual or legal allegations that the local board's decision is illegal, we grant the local board's Motion to Dismiss.

Signatures on File:

\_\_\_\_\_  
Andrew R. Smarick  
President

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Chester E. Finn, Jr.  
Vice-President

\_\_\_\_\_  
Michele Jenkins Guyton

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Stephanie R. Iszard

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Rose Maria Li

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Madhu Sidhu

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Guffrie M. Smith, Jr.

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David Steiner

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Laura Weeldreyer

May 23, 2017