

CHRIS K.,

Appellant

v.

ANNE ARUNDEL COUNTY  
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 18-16

## OPINION

### INTRODUCTION

Chris K. (Appellant) appeals the decision of the Anne Arundel County Board of Education affirming his daughter's detention for violating the student dress code. The local board filed a Motion for Summary Affirmance, maintaining that its decision was not arbitrary, unreasonable, or illegal. Appellant did not respond.

### FACTUAL BACKGROUND

Appellant's daughter E attends a middle school in Anne Arundel County. On September 21, 2017, school officials notified E that she had violated the school's dress code by wearing shorts that were higher than mid-thigh. AACPS Regulation JCD-RA requires students to dress according to the AACPS Student Handbook (also referred to as the Code of Student Conduct). The Handbook, in turn, requires that student clothing "cannot show bare skin between [the] upper chest and mid-thigh." School officials told E that a second violation would result in detention. (Motion, Appeal Record).

On September 29, 2017, school officials again cited E for wearing shorts that were higher than mid-thigh. She received detention. (Motion, Appeal Record).

Appellant appealed the decision to the superintendent's designee. The designee reviewed school security footage from September 29 and concluded it was "clear" from the video that E's athletic shorts were higher than mid-thigh. Still photos from the video show E wearing shorts that are barely visible underneath her shirt. The designee upheld the detention. (Motion, Appeal Record).

Appellant appealed to the local board. He argued that without a specific measurement of E's shorts, the dress code policy was "just someone's judgment call." Appellant maintained that it was difficult for students to determine if they were violating the dress code and that students, like his daughter, had been wearing athletic shorts for years without a problem. He also implied that school officials were unfairly citing girls for dress code violations. (Motion, Appeal Record).

The superintendent responded, explaining that the school system provided ample notice to parents and students about the dress code through a school newsletter and as part of a presentation during back-to-school night. In addition, school officials made announcements about the dress code during the first two weeks of school and they warned students when they would begin enforcing the dress code. The school principal also held a meeting with parents to discuss and review the dress code. The superintendent argued that the principal followed school regulations and the AACPS Student Handbook and acted within the scope of his authority by issuing detention to E. (Motion, Appeal Record).

On February 21, 2018, the local board upheld the detention. This appeal followed.

### STANDARD OF REVIEW

In student suspension and expulsion cases, the decision of the local board is final. COMAR 13A.01.05.05(G)(1). 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 acted in an unconstitutional manner. COMAR 13A.01.05.05(G)(2). 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(G)(3).

### LEGAL ANALYSIS

Appellant argues that the school system should expunge the detention because “the school administration does not use any standard or form of measurement to determine if a student’s shorts are ‘mid-thigh’ other than visual inspection.” He maintains that students cannot determine if they meet the dress code and are “set up for failure.”<sup>1</sup>

A school dress code can be “void” for being too vague if it fails to provide adequate notice of prohibited conduct so that a person of ordinary intelligence must guess at its meaning or is so unclear that it will lead to arbitrary and unreasonable enforcement. *See Stephenson v. Davenport Community Sch. Dist.*, 110 F.3d 1303, 1308 (8th Cir. 1997). In *Stephenson*, school officials threatened discipline against a student with a tattoo of a cross on her hand because the school dress code prohibited “gang related activities” and the school believed the cross was a gang symbol even though there was no indication the girl belonged to a gang. *Id.* at 1305, 1310. The Court concluded that the term “gang,” without any further explanation, was too vague, as was the phrase “gang related activities.” *Id.* at 1310.

The specific provision at issue here prohibits displaying “bare skin between [the] upper chest and mid-thigh.” Although Appellant argues that this language is vague, we disagree. In our view, the term “mid-thigh” is not so vague that a person of ordinary intelligence must guess at its meaning. Mid-thigh obviously means halfway down one’s thighs. Appellant also argues it

---

<sup>1</sup> Appellant also requests that the local board rescind its dress code policy until a “clear test” can be put in place. Because the local board acted within its authority in adopting a dress code, we do not have authority to rescind it unless it is illegal. *See Pharoan v. Baltimore County Board of Education (II)*, MSBE Op. No. 18-07 (2018). To the extent that Appellant wants the local board to change the policy, we have long held that the appeals process is not the appropriate mechanism for doing so. *See Jared H. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 16-37 (2016).

is impossible to apply this test by a simple visual inspection. Photos provided in the record, however, show E wearing shorts barely visible under her shirt and clearly above mid-thigh. In our view, such a standard is not illegal.

Moreover, the school system held meetings to discuss the dress code and provided parents and students with information about the code, along with warnings about when they would begin enforcing it. Indeed, E received a first warning that put her on notice about the AACPS dress code requirements and that the shorts she was wearing violated the dress code before she received detention for a second violation. All of this provided E with fair notice about the dress code policy and its enforcement. In our view, the dress code is not illegal and AACPS did not violate E's rights by enforcing it.

CONCLUSION

We affirm the decision of the local board because it was not illegal.

Signatures on File:

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

\_\_\_\_\_  
Chester E. Finn, Jr.  
Vice-President

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

\_\_\_\_\_  
Jean C. Halle

\_\_\_\_\_  
Justin M. Hartings

\_\_\_\_\_  
Stephanie R. Iszard

\_\_\_\_\_  
Rose Maria Li

\_\_\_\_\_  
Joan Mele-McCarthy

\_\_\_\_\_  
Michael Phillips

---

David Steiner

---

Warner I. Sumpter

May 22, 2018