

TONYA WINGFIELD,

Appellant,

v.

PRINCE GEORGE'S
COUNTY BOARD OF
EDUCATION (I)

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 21-46

OPINION

INTRODUCTION

A group of Appellants, led by Tonya Wingfield, filed a series of appeals challenging several actions taken by either the Prince George's County Board of Education ("local board") or a Committee of the Board. In each case, the local board filed a Motion to Dismiss/Response. The Appellants filed a reply in the first appeal only. On July 15, 2021, the Appellants voluntarily withdrew three of four appeals they filed. Only the first appeal, *Wingfield (I)*, remains open for review.

FACTUAL BACKGROUND

Wingfield (I), the only appeal remaining on the docket, concerns an emergency meeting of the Reorganization Committee, held in closed session, at which the Committee developed job descriptions for several positions that would support the board. Appellants contend that the board had no authority to form the Committee; that the meeting violated the Open Meetings Act; and that the actions taken were fraudulent and worsened the financial stability of the school system.

We note for the record that the Open Meetings Compliance Board, which has sole jurisdiction over such matters, ruled on April 20, 2021 that the Reorganization Committee did violate the Open Meetings Act when it held an emergency meeting without sufficient notice to the public and that its discussion exceeded the legal advice and personnel matter exceptions of the Act. 15 OMCP 51 (2021). (Ex. 1, attached hereto).

In that Opinion, the Compliance Board explained how and why the Reorganization Committee was formed. We take judicial notice of the facts reflected in that Opinion.

"The County Board explains that, at a meeting on December 10, 2020, it established a Reorganization Committee (the "Committee") and set deadlines for the Committee to complete certain tasks. More specifically, the Committee was directed, as part of the County Board's overhaul of the board office's organizational structure, to

develop job descriptions for new positions by December 18 and to post job announcements by December 21. According to the County Board, “[c]onsidering the short timeline for coordinating activities for accomplishing these tasks,” the Committee “determined that urgent or extenuating circumstances existed, and that it needed to meet on an emergency basis to timely accomplish these work items.” The submitted documentation - an e-mail generated by BoardDocs (a meeting software program designed for school boards) – seems to indicate that notice went out at 6:13 p.m. for a virtual meeting that was scheduled to begin at 6:30 p.m. that same day. The notice indicated that the meeting was “confidential,” apparently to signify that the Committee would meet in closed session. Our review of the County Board’s website shows that the link was provided for members of the public to view the vote to go into closed session.”

15 OMCB 51 (2021).

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. A decision may be arbitrary or unreasonable if it is contrary to sound educational policy, or if a reasoning mind could not have reasonably reached the conclusion of the local board. COMAR 13A.01.05.06B.

On matters of education law, the State Board exercises its independent judgment. COMAR 13A.01.05.06E.

LEGAL ANALYSIS

Authority to Form Committee

It appears from the record and from the facts set forth in the OMCB Opinion that the local board established the Reorganization Committee to quickly address the perceived need for additional staff to assist the board in its work. Appellants assert the local board, under its Bylaws is limited to creating only specific standing committees. We do not agree.

By law, local boards have the power to control the education matters of the school system, subject to the authority of the State Board. *See* Educ. Art. §4-101. To do their work efficiently, it may be necessary to appoint *ad hoc* committees to study the issues and make recommendations to the local board.

It is our view, local boards have the inherent authority to establish committees to deal with current situations as long as they do so by a vote of the board, which they did in this

instance. We will not second-guess the board as to the necessity of the Committee or the emergency it was to address.

Timeliness of the Appeal

The local board argues that the appeal is untimely because the actions complained of occurred at the December 16, 2020 meeting and the appeal was not filed until March 10, 2021, long after the 30-day appeal time.

The Appellants point out that notice of the December 16, 2020 meeting was published only minutes before the meeting occurred; that the Reorganization Committee did not report its actions publically at the next board meeting; and that Ms. Wingfield received the minutes of the December 16, 2020 Committee meeting on February 24, 2021. (Response at 3-4). This appeal was filed within 15 days of receiving those minutes.

Given those facts, we find that the Appellants filed this appeal within 30 days of receiving notice of the actions that occurred at the meeting.

Standing

The substantive issue that the Committee addressed at its December 16, 2020 meeting was the need for additional staff to support the board. They created job descriptions and recommended that the local board post them. Appellants challenge those actions as fraudulent, but we find no legal or factual basis for that claim. Specifically, in the legal context, for a claim for fraud Appellants' must allege and prove that "(1) the defendant [Board] made a false representation to the plaintiff [Appellants], (2) that its falsity was either known to the defendant or that the representation was made with reckless indifference as to its truth, (3) that the misrepresentation was made for the purpose of defrauding the plaintiff, (4) that the plaintiff relied on the misrepresentation and had the right to rely on it, and (5) that the plaintiff suffered compensable injury resulting from the misrepresentation." *Maryland Env'tal Trust v. Gaynor*, 370 Md. 89, 97 (2002); *VF Corp v. Wrexham Aviation*, 350 Md. 693, 703 (1988).

As a matter of law, the allegations presented by Appellants in their Response, (*see* Response pp. 5-6), to attempt to assert a claim for "fraud," as it is defined under the law, fail to meet the legal requirements to state such a claim.

Appellants also claim that the actions will have a negative impact on the financial status of the school system. Appellants challenge the action on that basis asserting that because they are taxpayers they have standing to challenge the financial repercussions of the Reorganization Committee's actions that could lead to the hiring of additional Board staff.

The State Board has held that, "in order for an individual or organization to bring an appeal before the Board, the individual or organization must have standing (i.e., the right to challenge the actions of another in a legal forum). We have held that the general rule on standing...is that for an individual to have standing he must show direct interest or 'injury in fact, economic or otherwise.'" *Beth B. v. Calvert County Bd. of Educ.*, MSBE Op No. 20-35

(2020), citing, *S.R. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 20-18 (2020), quoting *Adams, et al. v. Montgomery Co. 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 and is, therefore, aggrieved by the final decision of the administrative agency.” See *Bryniarski v. Montgomery County Bd. of Educ.*, 247 Md. 144 (1967); *Lockwood v. Howard County Bd. of Educ.*, MSBE OR. NO. 17-12 (2017).

The injury that Appellants claim is an adverse pecuniary impact on them, individually, as taxpayers and/or property owners in Prince George’s County. They claim that the Taxpayer Standing doctrine applies to give them standing to appeal in *Wingfield (I)*.

In cases in which taxpayer county residents have sought judicial relief against a county for administrative actions, the Maryland Courts have applied the “special damage requirement” as a standing principle. A plaintiff “must allege with specificity precisely how he is specifically damaged” by a proposed governmental action, and must demonstrate that she is “personally and specially affected in a way different from that suffered by the public general.” *Kendall v. Howard Co. Bd. of Educ.*, 431 Md. 590 66 A.3d 684 (2013) citing *Bryniarski v. Montgomery County Bd. of Appeals*, 247 Md. 137 at 144, 230 A.2d 289 (1967).

The State Board has consistently followed and applied this same principle and required that taxpayers bringing an appeal before the State Board must demonstrate a direct interest or “injury in fact, economic or otherwise,” and that they are specifically affected in a way different from the public generally. See, *Beth B. v. Calvert Co. Bd. of Educ.*, MSBE Op. No. 20-35 (2020).

Appellants included a document with their Response that provided information on sources of tax revenue that support Prince George’s County, Maryland agencies and public education, and the local board. The revenue sources include tax assessments on real property in the County. However, those documents do not demonstrate that Appellants have a pecuniary, or other injury, resulting from the Reorganization Committee’s December 16, 2020 meeting and alleged actions, that impacts them specifically, or in a way different from the public, as taxpayers, in general. Thus, Appellants lack standing to file *Wingfield (I)* and the appeal will be dismissed.

CONCLUSION

Although we dismiss this appeal for the reasons stated, we take this opportunity to express our serious concerns over the divisive actions within the board that have been ongoing. Such actions lead to a dysfunctional board, an outcome that the Prince George’s County School System can ill afford. We caution all board members to keep foremost their fiduciary duty to serve the school system faithfully and well. Infighting and power plays are contrary to that duty.

Clarence C. Crawford
President

Shawn D. Bartley

Gail H. Bates

Chuen-Chin Bianca Chang

Charles R. Dashiell, Jr.

Susan J. Getty

Vermelle Greene

Jean C. Halle

Rachel McCusker

Joan Mele-McCarthy

Lori Morrow

Warner I. Sumpter

Holly C. Wilcox

August 24, 2021