

S.M.,

Appellant

v.

ANNE ARUNDEL COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 24-13

OPINION

INTRODUCTION

S.M. (“Appellant”) appeals the decision of the Anne Arundel County Board of Education (“local board”) affirming the decision of the local Superintendent’s Designee to uphold the three-day suspension of Appellant’s child for committing a Category IV Attack-Threat. The local board responded. Appellant responded, and the local board replied.

FACTUAL BACKGROUND

During the 2022-2023 school year, Appellant’s child was enrolled in the sixth grade at an Anne Arundel County Public Schools (“AACPS”) middle school. The student has a Section 504¹ plan. During the spring of 2023, a number of events occurred, involving multiple students,² which precipitated the suspension of Appellant’s child.

On May 1, 2023, Student R reported that some sixth graders were in the bathroom smoking, and Student L (a friend of Appellant’s child) was distributing cigarettes. School staff investigated and found that Student L had rolled paper to look like a cigarette. The incident upset Student L, the Appellant’s child, and their friend group. That afternoon Appellant’s child exchanged text messages with Students L, A, and D, wherein the students opined on who told on Student L. In the course of this text exchange, the Appellant’s child sent messages stating, “I need a Glock” and “We’re going to jump someone”. Student L responded with messages about killing someone. (R. 163-164, 180-182, 193-198). It does not appear that adults were aware of this conversation at the time.

On May 3, 2023, Student O overheard Appellant’s child say that he was going to do something to Students C and H, whom he suspected told on Student L. Specifically, Student O heard him say that he was “going to get them good, and they would not come back to school.” Student O relayed this message to Students C and H, and on May 4, 2023, their parents reported the threat to the Assistant Principal. (R. 164, 180-182).

¹ “Section 504” refers to Section 504 of the Rehabilitation Act of 1974, a federal law that provides students with disabilities with a free appropriate public education.

² The other students involved are identified only by an initial to preserve confidentiality.

The Assistant Principal interviewed Appellant's child, as well as Students L, O, and J. The school staff conducted a threat assessment with Appellant's child, and he was searched. Appellant's child denied making the statement or intending harm to Students C and H. As the threat was determined to be transient and there was nothing inappropriate on Appellant's child, he was returned to class. (R. 164, 180-182).

That same day, Appellant's child exchanged text messages again with the other students blaming Student D for his being searched and calling him curse words and fat. (R. 199). At this time, the parent of Student D reported the messages to the Assistant Principal, sending screenshots of the texts. The Assistant Principal called Appellant's child back to the office to discuss the messages, at which time he denied threatening anyone or intending to hurt anyone. The Assistant Principal contacted Appellant to inform her that the student would be disciplined. (R. 180-182).

Due to the nature of the text messages and concerns regarding safety, the parents of Students H, O, and D kept their children out of school for at least a day. After reviewing the materials, the Principal issued a three-day suspension to Appellant's child for a Category IV Attack-Threat resulting from "inappropriate interactions on a group chat with other students during which threatening statements were made towards specific students and images of weapons were displayed." (R. 165, 179).

On May 11, 2023, Appellant filed a Level I appeal to the Principal, which was denied on May 19, 2023. (R. 207-208). On May 20, 2023, Appellant filed a Level II appeal to the Regional Assistant Superintendent, which was denied on June 1, 2023. (R. 209, 245). On June 4, 2023, Appellant filed a Level III appeal to the Associate Superintendent for School Performance. (R. 246-248). On June 8, 2023, this appeal was denied. (R. 275). On June 12, 2023, the Appellant filed an appeal with the Deputy Superintendent of Student & School Support, who acted as the local Superintendent's Designee. (R. 249-251, 276-278). On July 10, 2023, this appeal was also denied. (R. 279-281).

On August 5, 2023, Appellant filed an appeal to the local board. (R. 169-178). The parties submitted written arguments and documentation. Appellant made a number of arguments, including that the school's decision "was biased and based on inaccurate or misinterpreted information", and that her son's disability and a shortage of medication played a role in his actions. After reviewing the parties' submissions, the local board voted to uphold the Superintendent's Designee's decision to affirm the three-day suspension for a Category IV Attack-Threat. In a decision issued December 19, 2023, the local board found that the student "participate[d] in a discussion that could reasonably have been construed as threats toward others, including references to firearms." Therefore, the local board found the length of suspension to be "reasonable and proportionate[.]" (R. 360-364).

This appeal followed.

STANDARD OF REVIEW

In student suspension and expulsion cases, the decision of the local board is considered final. COMAR 13A.01.05.06G(1). The State Board only reviews the merits of the case if 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 that the local board acted in an unconstitutional manner. COMAR 13A.01.05.06G(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.01.05.06G(3).

LEGAL ANALYSIS

Appellant requests the State Board overturn the local board's decision upholding his three-day suspension for threatening remarks. Appellant makes a number of arguments in support of her request, including:

- Her child's actions did not rise to the level of threat in support of a Category IV violation.
- AACPS assigned meaning that was not intended to the text messages and misinterpreted events.
- AACPS found the student was not a threat using a threat assessment; therefore, the suspension for threats was inappropriate.
- AACPS is inappropriately ignoring her child's documented disability, which may have played a part in his actions.
- AACPS failed to comply with State regulations providing the student or his parent with a conference with the principal or other appropriate personnel and notice of the charge against him. (COMAR 13A.08.01.11C(3)(b)-(c)).

Based on these reasons, Appellant argues that the decision of the local board is arbitrary and unreasonable, and contrary to sound educational policy. She also argues that AACPS deprived her child of his due process rights. Thus, Appellant's arguments fall into two general categories: the reasonableness or fairness of AACPS staff's actions and the legality of their actions. Under State law and regulations, the State Board may consider the latter but not the former.

In cases where an appeal involves the suspension or expulsion of a student, the State Board may only review the merits of the disciplinary removal if there are "specific factual and legal allegations of one or more of the following:

- (a) The local board has not followed State or local law, policies, or procedures;
- (b) The local board has violated the due process rights of the student; or
- (c) The local board has acted in an unconstitutional manner." (COMAR 13A.01.05.06G(2)).

Under this standard of review, the State Board cannot consider most of the Appellant's arguments involving the reasonableness of the local board's decision. While Appellant is frustrated with how AACPS inferred intent into her son's messages and the events of early May, it is not the role of the State Board to determine whether or not AACPS staff and the local board interpreted events correctly. Such an analysis does not involve an allegation of illegality and falls

outside of the State Board’s purview. In other words, the State Board cannot look into the underlying facts to determine whether there was a basis for the disciplinary removal unless there is a violation of law.

The State Board may consider arguments that the student was deprived of his due process rights. Appellant believes that AACPS staff failed to comply with the school discipline regulations requiring a conference with the student or parent and notice of the charges. (COMAR 13A.08.01.11C(3)(b)-(c)). However, we note that the Assistant Principal spoke with both the student and Appellant about the text messages and alleged threats. Also, the Principal provided Appellant and the student with written notice of the charge. While these conversations happened before the student was formally removed, we find that they serve the intent of the law – to provide the student with an opportunity to hear what they are accused of and allow them to tell their side of the story.

Appellant also makes claims that the evidence was not presented to her in a clear manner. However, she was provided with copies of the witness statements, and she had access to the text messages that her son and the other students sent. Even if some of the evidence was not clear at the initial suspension, Appellant was given five levels of review at the local level. We do not find that any additional due process was required in this case.

CONCLUSION

For the forgoing reasons, we affirm the decision of the local board to uphold the three-day suspension.

Signatures on File:

Joshua L. Michael
Vice-President

Shawn D. Bartley

Chuen-Chin Bianca Chang

Susan J. Getty

Monica Goldson

Nick Greer

Rachel McCusker

Joan Mele-McCarthy

Absent:

Clarence C. Crawford, President

Irma Johnson

Samir Paul

Holly Wilcox

May 21, 2024