

CHRISTOPHER K.;
JOSE R.;
N.B. AND Z.E.D; AND
W.J.,

Appellants,

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION
Order No. OR24-08

ORDER

This is an appeal of four consolidated cases involving Appellants who are parents of elementary school children attending Montgomery County Public Schools (“MCPS”). The Appellants object to MCPS’s use of LGBTQ+ inclusive texts in its language arts curriculum and request to receive advance notice when the texts are used in their children’s classroom and to allow their children to opt-out of classroom instruction using such texts. The Appellants argue that the no opt-out policy violates their constitutional rights and violates State regulation.

MCPS denied the Appellants’ requests. The local board explained that it is not required under the Constitution to exempt or waive students from curriculum requirements based on their personal religious beliefs. It further explained that the LGBTQ+ inclusive texts are not part of the Family Life and Human Sexuality curriculum, nor does the diverse composition of MCPS families makes it possible to notify parents of upcoming readings, discussions, or classroom activities that may conflict with any religious beliefs. The Appellants have appealed the local board’s decisions to the State Board.

The same facts and issues raised in this appeal are currently the subject of litigation in a case pending before the United States District Court for the District of Maryland, *Mahmoud v. McKnight*, CV DLB-23-1380, filed May 24, 2023.¹ In the District Court case, several parents of elementary-aged children attending MCPS schools filed the federal lawsuit against MCPS and school system officials seeking the ability to have their children opt-out of any use of the LGBTQ+ inclusive texts and alleging constitutional and State law claims. Although the Appellants are not parties to the pending litigation, the District Court case involves substantially similar parties and raises the same facts and issues as the instant appeal. Accordingly, because of the unique circumstances of parallel proceedings in federal court and before the State Board, the State Board has stayed this consolidated appeal pending resolution of the federal case, including

¹ The District Court denied the plaintiffs’ request for preliminary injunction. *See Mahmoud v. McKnight*, 2023 WL 5487218 (D. Md. Aug. 24, 2023), *aff’d*, 2024 WL 2164882 (4th Cir. May 15, 2024).

any appeals. *See Smiley v. Arizona Beverages*, 2024 WL 327044 *2 (D. Md. Jan. 29, 2024) (principles of comity and judicial economy warrant the stay of the later-filed action, absent a showing that the balance of convenience favors the second action). The State Board desires to promote judicial efficiency by not proceeding with matters that are part of ongoing litigation.

Therefore, it is this 21st day of May 2024, by the Maryland State Board of Education,

ORDERED that the appeal referenced above is hereby stayed until such time that the federal case and any appeals are resolved.

MARYLAND STATE BOARD OF EDUCATION

Signature on File:

Joshua L. Michael
Vice-President