

CAROLYN AND JOHN THOMPSON

Appellant

v.

MONTGOMERY COUNTY BOARD  
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 12-43

OPINION

INTRODUCTION

Appellants appealed a decision of the local superintendent denying Appellants' request to remove the bus driver on their sons' bus route. The local board filed a Motion to Dismiss. Appellants opposed the motion and the local board responded.

FACTUAL BACKGROUND

Appellants filed a Complaint from the Public ("Complaint") raising concerns about the school bus driver on their sons' elementary school bus route.<sup>1</sup> The Complaint alleged that one of the Appellants' sons was "traumatized "because he was "yelled at numerous times by the bus driver", was "bullied by the bus driver", and was "not permitted to sit with his brother, even after the bus driver was told by supervisors to let siblings sit together". (Motion, Ex. B). Although the Appellants were not specific about the "bullying" behavior in their Complaint, their appeal to the State Board clarifies that their concerns focus around the bus driver yelling at the children, not allowing siblings to sit together, and not allowing the children to play cards during the bus ride. (Appeal). Appellants requested that the bus driver be removed from her position or, at the very least, be prohibited from interacting with young children. (Motion, Ex. B).

The Complaint form states the personnel matters are not subject to the complaint process. (Motion, Ex. B). The local board's Staff Assistant advised Appellants of this fact but indicated that she would forward it to Larry Bowers, Chief Operating Officer (COO) for a response. (Motion, Ex. C).

Thereafter, Appellants' concerns were brought to the attention of the appropriate supervisor and an investigation commenced. The bus route supervisor rode the bus route on several different days, observing students and speaking to parents, none of whom expressed similar concerns. Rather, the parents with whom the supervisor spoke with were mostly pleased with the driver. (Motion, Ex. E). The principal of the school spoke to other children on the bus

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<sup>1</sup> The bus driver has been a school system employee for over 31 years and has driven many special education and regular education bus routes. (Local Bd. Reply Memo., Ex. I).

who reported that the driver yells at them to quiet down when they get “rowdy”. (Motion, Ex. F). The principal stated that the bus driver “runs a tight ship” for safety reasons and has the support of the vast majority of parents. (Local Bd. Reply Memo., Exs. G, H1 & H2).

By letter dated October 14, 2011, Mr. Bowers advised Appellants that Montgomery County Public Schools (“MCPS”) was unable to validate their claims and that the bus driver would remain in her position. He stated that the particular school bus driver “has a long history of driving safely and maintaining a well-disciplined school bus environment that ensures students arrive to school and home safely each day.” (Motion, Ex. A).

Despite the results of the investigation, MCPS offered the Appellants options given their strong feelings about the bus driver. These options included having Appellants’ sons ride a different bus with stops within one to three miles of the existing bus stop location or placing the bus stop on a different bus route.<sup>2</sup> Appellants declined both options because they extended the commute time.<sup>3</sup> (Motion, Ex. A).

In January 2012, Appellants requested information from Mr. Bowers’ office concerning their appeal rights. Mr. Bowers’ Executive Assistant advised them that there are no appeal rights when a parent requests that a staff member be removed. (Motion, Ex. E). At some point thereafter, Appellants contacted the Attorney General’s Office about the issue and received general information about the appeals process. That communication was not conclusive about any right to appeal to the local board or receive a local board decision on the personnel matter.

This appeal followed.

### STANDARD OF REVIEW

The State Board may dismiss an appeal if an appellant lacks standing or if the local board has not made a final decision. COMAR 13A.01.05.03C. The Board exercises its independent judgment on the record before it in the explanation and interpretation of its own regulations. COMAR 13A.01.05.05E.

### ANALYSIS

Appellants’ request that MCPS remove the bus driver from their sons’ bus route is a request concerning a personnel matter. The State Board has routinely held that parents lack standing to challenge personnel matters regarding a school system employee through the appeal process set forth in §4-205 of the Education Article. *See Ernie M. v. Carroll County Bd. of*

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<sup>2</sup> Appellants’ sons attend a magnet program that is not located at the school assigned to the geographic attendance area where Appellants’ live and are picked up at centralized bus stops. (Local Bd. Reply Memo., Ex. G).

<sup>3</sup> Appellants also state that MCPS withdrew the option to place the stop on another route once other parents complained about the commute time. (Opposition to Motion).

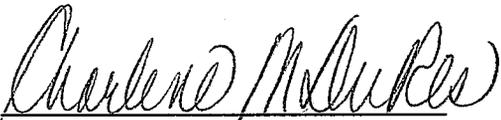
*Educ.*, MSBE Op. No. 08-27 (2008); *Tompkins v. Montgomery County Bd. of Educ.*, 7 Op. MSBE 475 (1996); *Schlamp v. Board of Educ. of Howard County*, 7 Op. MSBE 27 (1995).

The MCPS procedures reflect this same principle. This is the reason why the Executive Director advised Appellants that they had no right of appeal and, consequently, why there is no local board decision to review in this case. (See Motion, Ex. D). Because there is no local board decision, there is nothing for the State Board to review.

The fact that Appellants' Complaint did not follow the §4-205 process did not leave the Appellants' concerns unaddressed. MCPS reviewed and investigated the claims about the bus driver. Mr. Bowers ultimately concluded that the bus driver should remain in her position. Unfortunately, Appellants were not satisfied with the outcome or the manner in which the school system conducted the investigation. MCPS also provided Appellants an alternative to having their children ride the currently assigned school bus, but Appellants declined because they did not want their children to have longer commute times.

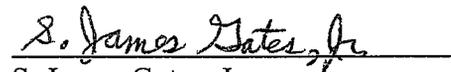
CONCLUSION

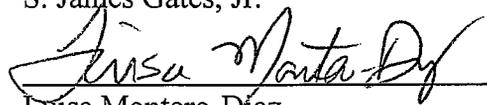
Because Appellants lack standing to bring this appeal and because there is no local board decision, we dismiss the appeal.

  
Charlene M. Dukes  
President

  
Mary Kay Finan  
Vice President

  
James H. DeGraffenreidt, Jr.

  
S. James Gates, Jr.

  
Luisa Montero-Diaz

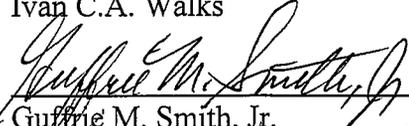
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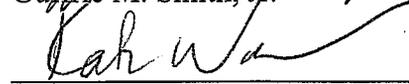
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Madhu Sidhu



Donna Hill Staton

  
Ivan C.A. Walks

  
Guffie M. Smith, Jr.

  
Kate Walsh

September 25, 2012