

AZIZ BARIMANI,

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 00-30

OPINION

This is an appeal of disciplinary action imposed on a student¹ based upon the student's involvement in creating an "unofficial" website for the class of 2001 so that Thomas S. Wootton High School students could post messages to each other on the website message board. Shortly after its creation, students began using the website to make death threats and obscene statements towards other students. Appellant claims that his son has shown remorse and has been sufficiently punished, and that the school system should permit him to return to a regular high school program instead of having him attend an alternative program. The local board has filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal. Appellant has submitted an opposition to the local board's motion.

FACTUAL BACKGROUND

During September 1999, the police informed the principal of Wootton High School, Dr. Rebecca Newman, that students were making death threats to other students via the internet.² At that time, the police did not know the party who was responsible for the website. The school took measures to safeguard the school and its students while an investigation was under way. Towards the end of November, 1999, information from the police investigation revealed that Appellant's son, Alnie, had control over the website message board where the threats had been made.³

In light of this information, Dr. Newman met with Appellant and his son on November 29, 1999, to discuss Alnie's involvement with the website. During the conference, Dr. Newman learned that Alnie had created the website and message board as a vehicle for students to make

¹Appellant's son, Alnie, was an 11th grade student at Wootton High School at the beginning of the 1999-2000 school year.

²The death threats under investigation were directed towards one particular female student.

³The police did not charge Alnie with any illegal action.

negative comments about teachers, although Alnie did not appear angry and did not have anything negative to say about Wootton High School. Based on her investigation, Dr. Newman suspended Alnie for ten days and recommended his expulsion.⁴

The designee of the Supervisor of Pupil Services held an investigative conference on December 7, 1999 with the student and his parents. Also present were Dr. Newman; Ms. Rhonda Dedmond, the Assistant Principal of Wootton High School; and Ms. Jo Ann La Vay, pupil personnel worker. During the conference,

Alnie was given an opportunity to tell his side of the story. Alnie explained that the idea to create the website came to him in February 1999. He said, 'I did it as a joke.' He said his directions to potential users of the message board were, 'Write whatever the hell you want. I don't really care what you write.' Ms. Abramovitz asked Alnie who paid for his internet service and whether [his parents] monitored his use. Alnie reported that he had paid for the service called 'Max Enter' but that Mrs. Barimani had actually written the check. He explained that [his parents] had never monitored his use of the internet.

Alnie reported that the use of his website grew slowly at first and instead of students using it to express negative thoughts about teachers, they began sending messages to harass one another. He acknowledged, 'I wrote a few stupid messages but no death threats.' He added, 'I was with _____ (Student A, whom he identified by his first name) when he wrote the death threats.' Alnie expressed his recent awareness that he therefore shared responsibility for those death threats. Alnie indicated that, from time to time, he 'would clean out the messages.' He reported that on one occasion he had written, 'Try to calm down with the death threats.'⁵

At the time of the conference, Alnie reported that he had closed down the web page and erased everything. However, in October he admitted that he created a page with hands making obscene gestures to convey the following message to students: "The page is gone. Deal with it." See December 13, 1999 letter to Mr. And Mrs. Barimani from Frances W. Curran, Supervisor of Pupil

⁴Prior to Alnie's involvement in this incident, he had one suspension in 1998 when he cut class to go to Giant where he stole a bottle of cough and cold medicine. See December 13, 1999 letter to Mr. And Mrs. Barimani from Frances W. Curran, Supervisor of Pupil Services

⁵The greatest use of the website occurred around the same time of the tragedy at Columbine High School in May, 1999.

Services. Based on the investigation, the Supervisor of Pupil Services upheld the expulsion recommendation. Alnie was placed on administrative home and hospital teaching on December 13, 1999, pending review by the superintendent.

The Deputy Superintendent's designee, Mr. Arch W. Webster, conducted an investigation of the incident. A conference was held at which the student and his father were present. Mr. Webster reported, in part:

[Alnie] said that he had started the web site as a joke and only for fun and never suspected that it would turn ugly. He said that he even sent messages out to tone down some of the obscene messages and that he never condoned his friend making death threats. Alnie admitted that he was present when most of the threats were made, but never tried to stop his friend. Alnie said he was surprised that people could still remove pages from his web-site after he closed it down and admitted that he did create the two hands with raised fingers as a parting thought to those who were removing the pages. Alnie then produced a type written page in which he expressed remorse for producing the web site and the subsequent messages that appeared on it. Again, he said he only intended for the page to give fellow students an opportunity to have fun with teachers and each other and that he never intended it to be a place to make death threats. Alnie said his friend, who made the threats, never had any intentions to carry them out and that they were having fun at the female student's expense. However, Alnie said he now realizes the stupidity and insensitive nature of his actions and asked for forgiveness. . . .

Dr. Newman expressed her concern about the student's level of remorse, given the fact that he created the page with the hands making obscene gestures when he closed down the website. She further expressed her concern about the school community's reaction to the incident and her belief that it would be inappropriate for the student to return to Wootton.

Mr. Webster determined that the student was guilty of the charges and recommended that the suspension be upheld, but that the expulsion be held in abeyance. He recommended that the student be assigned to home and hospital teaching for the remainder of the first semester of the 1999-2000 school year. He also indicated that an appropriate alternative assignment such as the Rockville Academy should be identified for the student for the remainder of the school year. The Deputy Superintendent upheld the recommendation.

Appellant appealed to the local board requesting that his son not be assigned to an alternative program for the second semester of the school year, but rather that he be assigned to another comprehensive high school to continue his education. The local board found the

discipline in the case appropriate and upheld the Deputy Superintendent's decision that the student continue school in an alternative program.

ANALYSIS

A decision of a local board with respect to a student suspension or expulsion is considered final. Md. Code Ann., Educ. § 7-305. Therefore, the State Board's review is limited to determining whether the local board violated State or local law, policies, or procedures; whether the local board violated the due process rights of the student; or whether the local board acted in an otherwise unconstitutional manner. COMAR 13A.01.01.03(E)(4)(b).

Appellant essentially argues that the punishment imposed by the school system in this case is too severe. Appellant does not request that his son be allowed to return to Wootton High School. Rather he asks that his son be permitted to transfer to another high school instead of attending an alternative program.⁶

We find that this is a very serious case in which Appellant's son admittedly created a website intended for use by Wootton High School students to post messages to each other about various school related issues, and which was used to make death threats and obscene statements towards students. Although Alnie denies making the death threats himself, he was present when some were made and he did not stop the threats or the obscene messages until after the situation was investigated by police. The local board found the discipline in this case to be "highly appropriate" and the alternative program in which the student was placed to be "appropriately suited for students [such as Appellant's son] who have engaged in seriously disruptive behavior." We concur based on our review of the record.

CONCLUSION

Because we find no due process violations or other illegalities in the proceedings, we affirm the decision of the Board of Education of Montgomery County. *See, e.g., Butler v. Board of Education of Anne Arundel County*, 7 Op. MSBE 404 (1996) (upholding expulsion of student for striking another student); *Harrison v. Board of Education of Somerset County*, 7 Op. MSBE 391 (1996) (upholding expulsion of student for assaulting football coach).

⁶Appellant also raises new issues on appeal to the State Board in his opposition to the local board's motion for summary affirmance. The State Board has consistently declined to address issues that have not been reviewed initially by the local board. *See Chase Craven v. Board of Education of Montgomery County*, 7 Op. MSBE 870 (1997) (failure to challenge suspension before local board constituted waiver); *Earl Hart v. Board of Education of St. Mary's County*, 7 Op. MSBE Opinion 740 (1997) (failure to raise issue of age discrimination below constituted waiver on appeal). Accordingly, except for the issues addressed herein, Appellant has waived his right to now assert other issues concerning the expulsion decision.

Raymond V. Bartlett

JoAnn T. Bell

Philip S. Benzil

Reginald Dunn

George W. Fisher, Sr.

ABSTAIN*

Walter S. Levin, Esquire

Marilyn D. Maultsby

Judith McHale

Edward Root

Walter Sondheim, Jr.

John Wisthoff

*Walter S. Levin, Esquire, a newly appointed member of the State Board of Education, did not participate in the deliberation of this appeal.

July 25, 2000