

TEACHERS ASSOCIATION OF
ANNE ARUNDEL COUNTY, INC.,
KATHRYN DOZIER, VALERIE PRINGLE
AND JOYCE DARE,

BEFORE THE

MARYLAND

Appellants

STATE BOARD

v.

ANNE ARUNDEL COUNTY
BOARD OF EDUCATION,

OF EDUCATION

Appellee

Opinion No. 99-23

OPINION

In this appeal, three teachers claim that the principals at their respective schools violated a local board policy concerning alleged assaults by students.¹ The local board has filed a Motion to Dismiss maintaining that Appellants lack standing to bring the appeal. Alternatively, the local board has filed a Motion for Summary Affirmance maintaining that its decision was not arbitrary, unreasonable or illegal.

BACKGROUND

Kathryn Dozier, a teacher at George Fox Middle School, claims that she was assaulted by a student on September 15, 1995, when the student threw a removable pencil eraser at her, hitting her on the forehead between the eyes. Valerie Pringle, a teacher at Chesapeake Senior High, claims that she was verbally assaulted by a student on October 5, 1995, when that student said to her in a threatening manner, “I’m going to get my Mamma and we’re going to get you, you bitch.” Joyce Dare, a teacher at the Center for Applied Technology South, claims that while attempting to break up a fight between two students, she was assaulted by one of the students when the student knocked her into a concrete wall and gouged her wrist.

Although the students were not suspended for “assault” as defined by Policy 902.17, in each instance, the student was disciplined for engaging in disruptive behavior. Each teacher argues that the respective principal violated Policy 902.17 by failing to find that the actions of the student constituted an “assault” as defined by the policy, and by failing to apply the disciplinary sanction mandated therein.

Anne Arundel Board Policy 902.17 defines “assault” as “any unprovoked attack upon or

¹The local board consolidated these cases because they contain common issues. *See* Local Board’s Memorandum of Opinion.

malicious act of violence against another person, any attempt to commit such an act, or any threat to commit such an act, if the threat could reasonably cause the other person to believe he or she is in imminent danger of serious physical harm.” The policy further states that “the school administrator must exercise informed judgment as to whether a student’s alleged actions constitute an assault under this policy.” If the principal is satisfied that an assault has been committed by a student in violation of Policy 902.17, “[t]he principal shall suspend the student for 5 school days and request that the Superintendent expel the student or place the student on extended suspension.” See Administrative Regulation 902.17.

Appellants raised their concerns about their principals’ alleged violations of Policy 902.17 with the local superintendent. By letters dated October 25, 1995 and November 27, 1995, the local superintendent found that none of the principals had violated the policy.²

Appellants appealed to the local board. Although requested to do so by the local board, Appellants never filed any legal memoranda setting forth their positions other than their initial cursory letters of appeal. In a decision issued October 26, 1998, the local board dismissed the consolidated appeal concluding that Appellants lacked standing to challenge the student discipline determinations made by their principals.

ANALYSIS

Although Appellants characterize their appeal as challenging whether the incidents constituted “assaults” pursuant to Policy 902.17, our reading of the record discloses that they are actually challenging disciplinary decisions of the principals at their schools. Part of each principal’s disciplinary decision involved that principal’s informed judgment as to whether the student’s actions constituted an assault under the policy. Based on the principal’s determination regarding the action involved, the principal imposed a sanction against the student for misbehavior.

The State Board has previously held that a school instructor lacked standing to challenge the school system’s determination regarding student discipline. In *Edler v. Board of Education of Prince George’s County*, MSBE Opinion No. 96-10 (April 24, 1996), the State Board considered a junior ROTC instructor’s claim that a student assaulted him at the high school where he was employed and that the principal, who did not find that an assault had occurred, handled the investigation of the incident in an unethical manner. The State Board unanimously held that the teacher did not have standing to challenge the school system’s determinations regarding either the suspension or expulsion of a student or the discipline of an employee other than himself. Finding “no justiciable issue,” the State Board dismissed the appeal.

²Appellants Dozier and Pringle both filed grievances claiming that their principals failed to support the teachers in accordance with the TAAAC negotiated agreement. In each instance, the relief requested was granted. See Letter on behalf of Anne Arundel Public Schools Superintendent (1/12/96) at p. 4.

We note that suspension or expulsion of a student is governed by § 7-305 of the Education Article, Annotated Code of Maryland, and COMAR 13A.01.01.03E(4). These provisions do not confer a right of appeal upon teachers or other staff members in student discipline matters.

The Anne Arundel County Superintendent argued before the local board that Appellants' appeals should be dismissed based on their lack of standing. Although given the opportunity, Appellants failed to submit information in support of their appeals to the local board. At the time of its decision, the local board had before it only Appellants' conclusory statements that they were assaulted by students, without any corroborating information. As the State Board noted in *Adams, Et al. v Montgomery County Board of Education*, 3 Op. MSBE 143, 149 (1983), "[w]e recognize that for an individual to have standing, even before an administrative agency, he must show some direct interest or 'injury in fact, economic or otherwise.'" Appellants submitted no evidence to the local board to demonstrate that they suffered the requisite injury to maintain standing in this appeal.

Appellants now argue in their appeal to the State Board that they have standing because a determination that an assault occurred under Policy 902.17 affects whether Appellants are entitled to "assault leave,"³ and proper application of the policy affects the safety of teachers in the schools. 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*, MSDE Opinion No. 97-43 (October 29, 1997) (failure to challenge suspension before local board constituted waiver); *Theresa H. Fentress v. Howard County Board of Education*, MSBE Opinion No. 96-37 (September 25, 1996) (failure to challenge 5-day suspension before the local board constituted waiver); *Earl Hart v. Board of Education of St. Mary's County*, MSBE Opinion No. 97-37 (September 25, 1996) (failure to raise issue of age discrimination below constituted waiver of issue on appeal). Based on these precedents and Appellants' failure to raise these issues before the local board, we find that Appellants have waived their right to now assert that they have standing based on the "assault leave" provision and safety issues.

CONCLUSION

For these reasons, we grant the Motion to Dismiss Appeal filed by the Board of Education of Anne Arundel County.

Walter Sondheim, Jr.
President

³"An employee of a county board who is absent due to physical disability that results from an assault while in the scope of board employment shall be kept on full pay status instead of sick leave during the period of absence." Md. Code Ann., Educ. § 6-111 (1997 Repl. Vol.).

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