

CHRISTINE T. SCHWALM,

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 99-48

OPINION

In this case, the local board upheld a decision by the local superintendent regarding *I Know Why the Caged Bird Sings*, by Maya Angelou, which was approved for assigned reading in eleventh grade classes and for retention in middle and high school library media centers for free choice reading in Montgomery County Public Schools ("MCPS"). Appellant argues that the local board's decision was unreasonable, and that the local board failed to address the following items in its decision: (1) the alleged bias of the ad hoc committee; (2) the ad hoc committee's failure to address each one of Appellant's cited particulars as to why the reading material was inappropriate for middle and high school children; and (3) the use of the book on reading lists for middle school children. The local board has filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal. Appellant has filed an opposition to the local board's motion.

BACKGROUND

On February 4, 1998, Appellant submitted a Citizen's Request for Reconsideration of Instructional Materials in which she requested that the school system reevaluate the book *I Know Why the Caged Bird Sings* and remove it from all of the county's public schools. Appellant asserted that the impact upon a student who read the book would be "confusion, desensitization to sex, rape, child abuse, teen pregnancy, and family structure; hatred of 'white' people; and this book makes 'black' people look biased." Appellant also listed 10 page citations and the specific references therein to which she objected. See Appellant's Request for Reconsideration of Instructional Materials, Attachment A.

In response to Appellant's request, an ad hoc committee convened to reevaluate *I Know Why the Caged Bird Sings*. After reviewing the pertinent material in accordance with the Montgomery County Public School manual on the evaluation and selection of instructional materials, the committee recommended that the MCPS retain the text for classroom use in grade eleven and for library use in middle and high schools. See Reevaluation Report (10/7/98).

Based on the recommendation of the committee, input from Dr. Roberta M. Haines, Director of School Library Media Programs, and her own review of the materials, Associate

Superintendent for Instruction and Program Development, Mary Helen Smith, approved the committee's recommendation for retention of *I Know Why the Caged Bird Sings*. In a letter to Appellant dated November 23, 1998, Ms. Smith indicated that each of Appellant's objections was considered, and noted that the ad hoc committee reevaluated the book in a "judicious and deliberate manner" in compliance with the procedures for evaluation and selection of instructional materials. She stated:

With due consideration of the issues you raised in your request for reevaluation, it was a unanimous decision of the committee members to retain the book *I Know Why the Caged Bird Sings* for classroom use in Grade 11 and library use for middle school and high school. The text or excerpts have successfully been used in conjunction with multicultural units reflecting a positive role model who through perseverance and intelligence was able to overcome extreme adversity. This is a well written text of literary merit that lends itself to classroom discussion and examination of social historical conditioning in the United States.

An appeal of this decision was taken to the local superintendent of schools, Paul L. Vance, who upheld the decision. By letter dated January 19, 1999, Dr. Vance advised Appellant that he had considered her objections to the book as well as the other items comprising the record, and that he had consulted with experienced educators, including the Associate Superintendent for Instruction and Program Development and the Director of School Library Media Programs. He further stated that "[a]fter careful consideration of the benefits of the book as a whole, the appropriateness of the book for the intended audience, and the input from the experienced educators involved in the reevaluation of *I Know Why The Caged Bird Sings*, I find that the book should continue to be approved for use as a textbook in Grade 11 and remain in middle and high school library media centers for free choice reading."

Appellant further appealed to the local board of education which rendered a unanimous decision (6-0) on April 26, 1999.¹ The opinion stated that the local board "has carefully reviewed the materials submitted by the superintendent and by Ms. Schwalm and has concluded that the decision of the superintendent regarding the status of the book in question, based on the review by the assistant superintendent and the thorough review and report of the ad hoc committee, was rational, reasonable and non-arbitrary and should not be disturbed." This appeal followed.

ANALYSIS

Because this is a controversy over a decision of a local board involving a local policy, the standard of review is that the decision of the local board shall be considered prima facie correct, and the State Board may not substitute its judgment for that of the local board unless the decision

¹Of the 8 board members, only 6 voted; 1 recused herself from participation in the deliberations, and 1 member did not participate in the appeal.

is arbitrary, unreasonable, or illegal. COMAR 13A.01.01.03E(1).

The local board decision indicates that the board reviewed the materials and found that the superintendent's decision was reasonable and nonarbitrary. The State Board has previously found local board decisions reasonable when those decisions were consistent with the recommendations of advisory committees. See *Michael Hethmon v. Board of Education of Prince George's County*, 6 Op. MSBE 646 (1993) (upholding placement of two books in media center); *Joy Fox v. Board of Education of Anne Arundel County*, 2 Op. MSBE 188 (1980) (upholding adoption of two course materials and one teacher textbook as part of curriculum).

Here, the record discloses that the local board's decision is consistent with the advisory committee's unanimous recommendation that the book be retained for use in the 11th grade and remain available in middle and high school libraries for free choice reading.² The record further discloses that the committee followed the prescribed procedures and applied the evaluation criteria as provided in the evaluation and selection manual.

Appellant claims that the evaluation procedures were not properly satisfied because the concerns raised in her request for reconsideration were not specifically addressed point by point by the ad hoc committee. However, there is nothing in the procedures that requires the committee to do so. The committee's recommendation was based on a review of the entire book which includes the pages listed in the attachment to Appellant's request. It is evident, as indicated in the ad hoc committee report, in Ms. Smith's letter to Appellant informing her that she approved the committee's recommendation, in the superintendent's letter to Appellant informing her of his decision and in the local board's written opinion, that Appellant's objections to the text were considered in full.

Moreover, Appellant has presented no evidence to support her contention that the board's decision is arbitrary or unreasonable. Her argument is that the local board decision is unreasonable because it is based on the recommendation of a biased ad hoc committee. Specifically, she asserts that the committee is biased against excluding books from use by the school system because some of the committee members may have served on the committee that reevaluated *The Bluest Eye*, and stated in its report that it was "fundamentally against censorship and banning."

This issue was recently addressed in *Christine Schwalm v. Board of Education of Montgomery County*, MSBE Opinion No. 99-34 (June 30, 1999), in which the State Board determined that the above statement did not render the committee's decision regarding *The Bluest Eye* invalid. The State Board noted that the committee gave a lengthy description substantiating its recommendation for retention of the text, and found the committee's decision to be thoughtful, based on legitimate factors, and not arbitrary, capricious, or unreasonable.

²The review committee consisted of an assistant principal; the acting English, reading & language arts coordinator, an English resource teacher, two media specialists, an English teacher and a public librarian.

Likewise, in this case, the report of the committee that reevaluated *I Know Why The Caged Bird Sings* provides substantial and valid justification to support the committee's recommendation that the text be retained for use in the 11th grade and in middle and high school library media centers for free choice reading. Among other reasons, the committee cites the fact that the book has literary merit; that it lends itself to classroom discussion and examination of social historical conditioning in the United States; that it was written by an author who serves as a positive role model; that it encourages critical thinking; that the descriptive details are not sensationalized or lewd; and that the text is popular and has successfully been used in conjunction with a multicultural unit. Thus, in light of the record in this case, we find that the committee's decision is not arbitrary or capricious.

Appellant's final complaint is that the local board did not address the inclusion of this text on the summer reading list for middle school students. It is our view that having found the book appropriate for retention in middle school library media centers for free choice reading, the local board likely believed that it was unnecessary to address this particular point in detail. It is axiomatic that if the book is appropriate for free choice reading for middle school students, it is also appropriate material for a summer reading list for those same students.

CONCLUSION

For these reasons, we find that the local board did not act arbitrarily, unreasonably, or illegally in this matter. We therefore affirm the decision of the Board of Education of Montgomery County.

Walter Sondheim, Jr.
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October 27, 1999