

CHRISTINE T. SCHWALM,

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 00-11

OPINION

In this case, the local board upheld the decision of the Superintendent's Designee not to evaluate a book for use in the Montgomery County public school libraries. The book is *Little Black Sambo* by Helen Bannerman, Platt & Munk Publishers, a book no longer in publication. Appellant argues that the local board decision is arbitrary, unreasonable and illegal. The local board has filed a Motion to Dismiss the appeal, maintaining that because the procedures for the *Evaluation and Selection of Instructional Materials* do not apply here, because Appellant is not on the professional staff of any county public school, and because Appellant does not have a child in a Montgomery County public school, Appellant lacks standing to challenge the decision not to evaluate the book. Appellant opposes the motion.

BACKGROUND

On February 22, 1999, Appellant submitted a "Citizens Request for Reconsideration of Instructional Materials" in which she requested that Montgomery County Public Schools ("MCPS") approve the book *Little Black Sambo*¹ for use in the County's public school libraries. Appellant claimed that the book was wrongfully banned and censored by MCPS based on an incorrect judgment that the book is racist.

In response to Appellant's request, Sandra S. Days, Supervisor for the Evaluation and Selection of Instructional Materials, advised Appellant that

[t]he title you requested for reconsideration, *Little Black Sambo* by Helen Brannerman, does not exist by record in the collection holdings of Montgomery County Public Schools as indicated to you by letter on October 29, 1998.

¹Appellant requested approval of an edition of *Little Black Sambo* published by Applewood Books. At no time had MCPS approved that edition for use in the schools. However, a different edition had been approved at one time, but was disapproved for use 27 years ago.

This exact published work and edition, *Little Black Sambo* by Helen Brannerman, Platt and Munk Publishers is no longer in publication. As also indicated to you by letter on October 29, 1998, an ad hoc committee for a citizen request for reevaluation is not convened for titles which do not exist in Montgomery County Public Schools. An entry of a title for approval would require first an evaluation by professional staff as indicated in the *Evaluation and Selection of Instructional Materials Handbook*, 1986, MCPS Resolution 33-74 Selection of Instructional Materials, page 1, 'Resolved, that instructional materials will be evaluated and selected by the professional staff to assure that instructional materials support the curriculum as described in the *Program of Studies*.'

Ms. Days further advised Appellant that the suggested title of the updated new edition, *The Story of Little Black Sambo* by Helen Brannerman, Greenhouse Books, 1996, would be placed with other suggested titles for consideration by professional staff. Each title is evaluated on its own merit based on evaluation and selection criteria.

Appellant replied to Ms. Days' letter, arguing that the title, *Little Black Sambo*, is proper for reevaluation because it once existed in the MCPS collection but was disapproved due to racism after a reevaluation of the book. She also argued that although the exact published work and edition of the requested title does not exist, there are other editions of the book which are available for purchase. Appellant demanded that Ms. Days immediately withdraw *Little Black Sambo* from consideration as a new acquisition for MCPS. Ms. Days withdrew the title from the list.

An appeal of Ms. Days' decision not to reevaluate the book was taken to the local Superintendent of Schools, who referred the matter to his designee, then Acting Deputy Superintendent Mr. Larry Bowers. By letter dated May 28, 1999, Mr. Bowers upheld Ms. Days' decision, explaining that because *Little Black Sambo* had not been approved in the MCPS collection for many years, a professional staff member would need a reason for asking for its inclusion in the approved instructional collection and would need to make a request for the evaluation. He also indicated that the names of publishers and copyright dates assist staff in determining whether a request is for reevaluation of an existing work or a request to evaluate a new work, or a new or different version of an existing work. In this case, Appellant had requested the reevaluation of an edition of *Little Black Sambo* that is not the same edition that was once approved by MCPS.

Appellant further appealed to the local board of education. Local board members Kermit Burnett and Beatrice B. Gordon did not participate in the matter. The local board rendered a decision on March 23, 1998 in which it found Appellant's "Citizen's Request for Reconsideration" of *Little Black Sambo* under the procedures outlined in MCPS policy on the

Evaluation and Selection of Instructional Material inappropriate. The local board further

determined that Appellant lacked standing to challenge the decision of the Superintendent's Designee through the administrative process.

ANALYSIS

The standard of review in an appeal concerning a controversy regarding a local board's policy 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 is arbitrary, unreasonable, or illegal. *See* COMAR 13A.01.01.03E(1)(a). For the following reasons, we agree with the local board's assessment that the procedures described in the *Evaluation and Selection of Instructional Materials* do not apply in this case.

MCPS policy IIB - *Evaluation and Selection* provides that "[a] procedure will exist for citizens to request a reevaluation of any instruction materials **being used** in the Montgomery County Public Schools." (Emphasis added). Consistent with that mandate, MCPS has adopted administrative regulation IIB-RA - *Evaluation and Selection of Instructional Materials* which is implemented through a handbook of the same name. We believe that when read together with the policy, the corresponding regulation and the procedures require that a title be currently included in the MCPS collection supporting instruction in order to be subject to a "Citizen's Request for Reconsideration of Instructional Material."

The record in this case demonstrates that *Little Black Sambo* has not been approved for use by the school system for approximately 27 years. It makes no difference that the title was once a part of the MCPS collection. At the time of Appellant's request, the book did not exist in the school system's collection, therefore it is not "instructional material" which can be reevaluated. Accordingly, Appellant's request that MCPS reevaluate *Little Black Sambo* under the procedures in *Evaluation and Selection of Instructional Materials* is inappropriate.

CONCLUSION

For these reasons, we affirm the decision of the Board of Education of Montgomery County.

Edward Andrews
President

Philip S. Benzil
Vice President

Raymond V. Bartlett

JoAnn T. Bell

Reginald Dunn

George W. Fisher, Sr.

Marilyn D. Maulsby

Judith McHale

Edward Root

Walter Sondheim, Jr.

John Wisthoff

February 23, 2000