| | |
|---|---|
| KEITH H. | BEFORE THE |
| Appellant, | MARYLAND |
| v. | STATE BOARD |
| MONTGOMERY COUNTY BOARD OF EDUCATION (II) | OF EDUCATION |
| | Opinion No. 21-13 |
| Appellee. | |

OPINION

INTRODUCTION

The Appellant, father of a fifth grade student, appealed certain actions of the school administration related to a threatening e-mail. The Montgomery County Board of Education ("local board") denied the appeal. The local board maintains that its decision should be upheld because it is not arbitrary, unreasonable or illegal.

FACTUAL BACKGROUND

This appeal originated in a February 6, 2020 e-mail sent to 20 students from the Appellant's son's school e-mail account. The e-mail stated "I don't know who you are but I will find you and kill you tonight."

On February 27, 2020, one of the students who received that e-mail reported it to her principal. The principal described the child as "hysterical." On that same day, the principal called the police and the Appellant. The Appellant told the principal that the police could not speak to his son. He asked then to speak to his son on the phone. When Appellant's son was brought to the principal's office to talk to his father, the police were there. All parties agreed that the police did not talk with Appellant's son at that time or any other time at the school, although they may have done so at the Appellant's home later.

During the course of the next few days, the school system and the police investigated the matter. By March 30, 2020, the police informed the Appellant that they were no longer officially pursuing the matter. No police record was created.

On March 31, 2020, in response to Appellant's questions, the school system reported that no further action would be taken since it determined that the e-mail threat was not a credible one. No disciplinary record was created. No disciplinary action was taken. The matter was not reflected in the student's school records. The student's name was kept confidential throughout.[1]

[1] The incident report and the Behavioral Threat Assessment were not connected to the student's records.

On June 19, 2020, the Appellant filed a Complaint requesting the following relief: (1) an apology to all 20 students who received the e-mail and to faculty and staff involved stating that the evidence was lacking as to who the perpetrator was; (2) expunge all MCPS records involved; (3) ask the police to expunge all their records. The Principal and the Associate Superintendent of Operations, acting as the Superintendent's Designee, reviewed the issues raised in the Appellant's Complaint and found that they lacked merit and should be denied. On November 10, 2020, the local board issued a decision denying the appeal. This appeal ensued.

STANDARD OF REVIEW

Decisions of a local board involving a local policy or a controversy and dispute regarding the rules and regulations 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. COMAR 13A.01.05.06A. A decision may be arbitrary or unreasonable if it is contrary to sound educational policy, or if a reasoning mind could not have reasonably reached the conclusion of the local board. COMAR 13A.01.05.06B.

LEGAL ANALYSIS

Because mass shootings have occurred in schools, school personnel must take death threats seriously to protect the children in their charge. When a student's e-mail is suspected of being the source of a death threat sent to other students, school systems must investigate. Yet, a parent may justly stand by his child and defend him. That is what happed here - - two parties acted within their own spheres of responsibility. In carrying out their responsibility to the school community, school personnel called the police; closed down the student's e-mail account temporarily, and worked with the police to ascertain the level of threat. The Appellant asserts, in a variety of ways, that school personnel thereby wrongly "accused" his son, presuming him guilty before proving guilt, and that they should not have called the police before they were sure of his son's guilt.[2] Appellant asked that this school system rely solely on its own personnel to ascertain the source and severity of a threat. But, that is not a task that school systems can or should necessarily take on alone.

The Appellant maintains that someone other than his son could have used the e-mail account to generate the threatening e-mail. He believed the school system should not have implicated his son until it had determined whether his son's e-mail had or had not been hacked. We point out that such a course of action, assuming *arguendo* that it would have been the correct course of action, could have been almost impossible to implement. COVID-19 had struck and schools closed in mid-March. The need to set up an IT structure for distance learning for 160,000 students was the highest priority. IT staff had to focus all their attention at creating a distance learning program.

Appellant maintains, however, that the school system had a duty of care to his son - - to not suspect him until they knew for certain that his son had sent the e-mail. We believe, however, that the school system had a duty of care to the school community, to act quickly, to laser focus on the source of the death threat, and determine its severity. This they did, in conjunction with the police. We note again that no permanent school record or disciplinary

[2] We note that Appellant's son denied he sent the e-mail.

record was created. No police records were created. The Appellant's request for relief on those grounds, therefore, cannot be granted. We agree with the local board, that Appellant's request for a letter of apology to members of the school community appears counterproductive to the Appellant's goal of keeping his son's identity confidential.[3]

CONCLUSION

For all the reasons stated, we affirm the decision of the local board finding that its action was not arbitrary, unreasonable, or illegal.

Signatures on File:

_____
Clarence C. Crawford
President

_____
Jean C. Halle
Vice-President

_____
Shawn D. Bartley

_____
Gail H. Bates

_____
Charles R. Dashiell, Jr.

_____
Susan J. Getty

_____
Rose Maria Li

_____
Rachel McCusker

_____
Joan Mele-McCarthy

_____
Lori Morrow

[3] In his appeal, Appellant attempted to re-litigate issues related to a grade dispute appealed and decided by this Board in July, 2020. *See Keith H. v. Montgomery Co. Bd. of Educ.,* MSBOE Op. NO. 20-29 (July 28, 2020). We will not revisit that decision.

_____
Warner I. Sumpter

Absent:
Vermelle Greene
Holly C. Wilcox

April 27, 2021