

IN THE MATTER OF:

*
*
*
*
*
*
*

BEFORE THE BOARD OF

v.

EDUCATION OF CARROLL COUNTY

THE SUPERINTENDENT OF THE
CARROLL COUNTY PUBLIC SCHOOLS

* * * * *

DECISION

This case is a Section 7-305 appeal of the Superintendent's decision to suspend _____ a _____ student at _____

The appeal was filed by his mother, _____. An appeal hearing was held before the Board of Education on February 8, 2023. The Parent presented on behalf of _____. The Superintendent's designee, Karl Streaker, Director of Student Services, presented on behalf of the Superintendent, Cynthia McCabe. For the reasons set forth below, the Board of Education upholds the extended suspension of _____ through March 1, 2023. The Board's decision was provided to the Parent after the Board deliberated on February 8, 2023.

Background and Findings of Fact

_____ was involved in a fight at _____ School on December 14, 2022. The fight involved three (3) students, including _____. _____ left his class when his brother called him into the hallway, engaged in fighting and punched another student. The fight moved to the stairwell going up to the second floor and ended in front of a classroom. Staff members, including the SRO, responded to break up the fight. _____ continued to attack the other student even as staff were intervening. One staff member

was struck multiple times during the fight. Principal [redacted] suspended [redacted] for 10 days and recommended a 45-day suspension. In her December 15, 2022, letter to the Superintendent recommending the 45-day suspension, Principal [redacted] identified the serious nature of the fight: [redacted] kept punching the other student numerous times and striking staff even when the SRO intervened. Principal [redacted] noted [redacted] had engaged in multiple incidents during the 2022-2023 school year. She said [redacted] behavior requires significant resources to contain, has been detrimental to the peace and order at High School, and has been a significant barricade for his learning."

As [redacted] is eligible for special education as a student with an Other Health Impairment ("OHI") due to his ADHD and has an IEP and a Behavior Intervention Plan (BIP), a Manifestation meeting was held on December 21, 2022. It was determined that [redacted] behavior was not related to his ADHD as it was not impulsive. [redacted] had been having ongoing issues with other students.

[redacted] has a significant disciplinary history. In addition to the fight at issue, the following incidents have occurred during the school year.

- On November 2, 2022, [redacted] kept yelling in class. When he was told to stop yelling, he started singing. He was given one day of detention after school.
- On October 6, 2022, [redacted] called female peers "black bitches," "slaves," and "monkeys." He also punched one student and threw beans on another student. [redacted] was given 2 days of suspension.

- On September 28, 2022, _____ asked a student in class to fight, then slapped the student on the face. The other student did not fight back. _____ was given one day of suspension.
- On September 12, 2022, _____ kept using his cell phone during instruction. A conference had to be held with him.¹

discipline record prior to this school year included:

- On January 16, 2019, _____ was suspended from _____ School for two days when he challenged another student to fight. That student would not fight. Later, _____ followed that student into the restroom and punched him several times. _____ had wrongly assumed that the student was in a conflict with _____ brother and had targeted him for that reason.
- On February 4, 2019, _____ was suspended from _____ School for showing disrespect to a teacher.
- On March 29, 2019, _____ was suspended for one day for disrupting school.
- On April 3, 2019, _____ was suspended for one day for showing disrespect to a teacher.
- On April 11, 2019, _____ was suspended for three days for disrupting his class for one hour (talking while the teacher was talking, playing with his flip flops, tearing up and chewing his ice bag, gargling water, and refusing to swallow it, and talking back to a teacher).
- On May 28, 2019, _____ was suspended for 4 days for attacking another student.
- On October 3, 2019, _____ was suspended for one day for deliberately touching a female student's buttocks.
- On November 8, 2019, _____ was suspended for one day for disrupting school by running down the hallway.
- On February 3, 2020, _____ was suspended for two days for pretending to stab another student and when told to go to the Support Room, he slammed the classroom door so hard it broke the trim and vent on the bottom of the door. The thermostat cover on the wall fell off and broke.

Mr. Streaker served as the Superintendent's designee in a December 21, 2022, telephone conference meeting with the Parent, [REDACTED] and Pupil Personnel Worker Laura Thompson. The parties discussed the fight. There were no disputes regarding the fight. It was determined [REDACTED] should be suspended for 45 days because [REDACTED] posed a serious threat of serious harm to students and staff. The parties then discussed [REDACTED] placement during the 45-day suspension. Consideration was given to placement at the alternative program at the Gateway High School, but it was determined that would not be appropriate as [REDACTED] had been in serious conflicts with students at Gateway. [REDACTED] was offered an administrative placement at [REDACTED] High School so he could attend school during his extended suspension. The placement would give [REDACTED] an opportunity to attend school in a new environment and to work on changing his behavior. Appropriate behavioral support services to promote [REDACTED] successful return to his regular academic program would be provided as well as transportation to [REDACTED]. The Parent and [REDACTED] rejected placement at [REDACTED] and asked that [REDACTED] be transferred instead to [REDACTED] High School [REDACTED] as an out-of-district student.

¹ [REDACTED] discipline record prior to this school year included: (continued)

- On March 11, 2020, [REDACTED] fought with another student. He punched the student and an administrator multiple times. Then he ran off to continue to attack the other student and shattered the glass doors of the cafeteria. He was given an extended suspension and transferred to Crossroads Middle School instead of serving the extended suspension.
- On March 1, 2022, [REDACTED] attempted to punch another student from another school at the conclusion of a basketball game. He was suspended for one day.

The Parent contended that _____ should attend _____ so he can play football and stay out of trouble. She said _____ has had community related matters with some students at _____. Her request was denied. CCPS cannot provide transportation for _____ to _____. _____ has a regional program so transportation can be provided. Since the Parent and _____ rejected the placement at _____, _____ was provided his classwork at home and a plan developed to deliver his IEP services during the suspension period.

On January 3, 2023, the Parent filed an appeal of the extended suspension decision. She did not disagree that _____ was involved in a fight at school. Her appeal was based on the option given to _____ to attend _____. She said there were students from a gang at that school who have threatened _____ over social media. The Parent said _____ is aware that his behavior was intolerable and regretted his decision to fight.

The appeal hearing before the Board of Education was held on February 8, 2023. _____ did not attend the hearing. At the hearing, the Parent provided the information she provided at the meeting with the Superintendent's designee on December 21, 2022. She said she wants _____ to move into his grandmother's home during the school week in the _____ attendance area for the period of his suspension and thinks he can avoid gang problems by doing so. She said he has had police involvement involving incidents with other students who attend _____ School. The evidence showed that all CCPS schools have some students with significant behavioral issues who have been in fights.

Analysis

COMAR 13A.08.01.11B defines "Extended Suspension" as follows:

"The exclusion of a student from a student's regular program for a time period between 11 and 45 school days, which only may occur under the following circumstances:

- (a) The superintendent or designated representative has determined that:
 - (i) The student's return to school prior to the completion of the suspension period would pose an imminent threat of serious harm to other students and staff; or
 - (ii) The student has engaged in chronic and extreme disruption of the educational process that has created a substantial barrier to learning for other students across the school day, and other available and appropriate behavioral and disciplinary interventions have been exhausted."

was afforded his due process rights at the local school level and again at the initial conference with the Superintendent's designee. He and his parent were afforded a hearing before the Board of Education although did not attend the hearing.

The evidence presented in this case was more than sufficient to support an Extended Suspension. The evidence is uncontested that engaged in a serious fight which disrupted the school. He has a long history of chronic disruptive behavior and has tried to hurt other students. He has shown indifference to authority as evidenced by his

hitting staff and his refusal to stop fighting even when the SRO became involved. Returning him to _____ High School earlier than 45 days would pose an imminent threat of serious harm to students and staff. He needs a cooling off period so that when he returns, he will not automatically go into fight mode again. While his Parent would like him to attend _____ and play football, that would be a reward for his serious misbehaviors. Additionally, the CCPS does not provide transportation to _____

School should be a place where other students may come to learn free of chronic and extreme disruption.

_____ has been offered continued educational services. It was his choice and that of his Parent to reject in-person education at _____ during the 45-day period.

DECISION

Accordingly, and for all of the above reasons, the Board of Education upholds the Extended Suspension decision and the offer to provide educational services at _____ High School during the period of the Extended Suspension.

BOARD OF EDUCATION OF CARROLL COUNTY

Date: February 8, 2023

Marsha B. Herbert
Marsha B. Herbert, President

Tara A. Battaglia
Tara A. Battaglia, Vice President

Patricia S. Dorsey
Dr. Patricia S. Dorsey

Donna M. Sivigny
Donna M. Sivigny

Stephen D. Whisler
Stephen D. Whisler