

IN THE MATTER OF

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BEFORE THE BOARD

OF EDUCATION OF

CARROLL COUNTY

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DECISION OF THE BOARD OF EDUCATION OF CARROLL COUNTY

This is an appeal before the Board of Education of Carroll County (“the Board”) pursuant to Md. Code Ann., Educ. § 4-205(c) brought by _____ (collectively herein the _____) concerning their daughter, _____: (the “Student”), regarding her restricted eligibility to join the _____Varsity Girls Lacrosse Team for the 2024-2025 season following her school transfer within Carroll County Public Schools (“CCPS”) from _____ in accordance with Board Policy JEA: “Students Attending Schools Out of Attendance Area”. The _____ appealed the Student’s ineligibility to the Superintendent, Dr. Cynthia McCabe, who upheld her restricted eligibility status in accordance with Board Policy. The _____ then appealed that decision to this Board. For the reasons set forth more fully below, we shall affirm.¹

STANDARD OF REVIEW

In reviewing the decision of the Superintendent or the Superintendent’s Designee, the Board applies the standard set forth in COMAR 13A.01.05.06A. Pursuant to this standard, the

¹ The State Board has long held that there is no need for an evidentiary hearing or oral argument when, as in this case, the appeal does not involve an alleged liberty or property interest deprivation thereby invoking the protections of the Fourteenth Amendment Due Process Clause. *See Bricker v. Frederick County Board of Education*, 3 Op. MSBE 99 (1982); *Anderson and Blake v. Board of Education of Prince George’s County*, 5 Op. MSBE 415, 417 (1989). For this reason, and because we do not believe that a hearing would aid us in the decision-making process, we decline to conduct an evidentiary hearing or oral argument on this appeal but shall render a decision based upon the written record presented to us.

Board will not substitute its judgment for that of the Superintendent or the Superintendent's Designee unless the decision was arbitrary, unreasonable, or illegal.² *Id.* A decision may be arbitrary or unreasonable if it is contrary to sound educational policy or a reasoning mind could not have reasonably reached the same conclusion. COMAR 13A.01.05.06B. Finally, appellants challenging a policy decision of the Superintendent or the Superintendent's Designee bear the burden of proving a decision arbitrary, unreasonable, or illegal by a preponderance of the evidence. COMAR 13A.01.05.06D.

FINDINGS OF FACT

The Student is a tenth-grade student who resides within the attendance area but attends on an approved Out-of-District Application for the 2024-2025 school year. The Student attended during her ninth-grade year (2023-2024) and, while there, participated in Varsity Girls Lacrosse, Junior Varsity Girls Basketball, and Junior Varsity Girls Field Hockey.

The ' Out-of-District Request for the 2024-2025 school year was submitted on July 2, 2024, and was approved by staff in the Department of Student Services on July 10, 2024. The basis for the Out-of-District Request was alleged bullying experienced by the Student while at . Board Policy JEA: "Students Attending Schools Out-of-Attendance Areas" and its corresponding Administrative Regulation relate to all students who are attending CCPS schools outside of their designated attendance school, and state, in relevant part, that a "[s]tudent approved for an Out-of-District placement to attend a different school from the one in which they are

² A decision may be arbitrary or unreasonable if: a) it is contrary to sound educational policy; or b) a reasoning mind could not have reasonably reached the conclusion the Superintendent or their Designee reached. A decision may be illegal if it is one or more of the following: a) unconstitutional; b) exceeds the statutory authority or jurisdiction of the Superintendent; c) misconstrues the law; d) results from an unlawful procedure; e) is an abuse of discretionary powers; or f) is affected by any other error of law. See COMAR 13A.01.05.05.

currently enrolled who are CCPS varsity athletes during the preceding year will be placed on restricted eligibility for one year for the corresponding sport(s).”

On November 18, 2024, [redacted] submitted an email to Dr. McCabe requesting an exemption to the Board Policy and Administrative Regulation for Student. In her email,

[redacted] acknowledged that the Student played on the Varsity Girls Lacrosse team during her ninth-grade year at [redacted] but requested an exemption to allow her to play on the Varsity Girls Lacrosse team at [redacted] for the season beginning Spring 2025 because of the basis for her school transfer, which was alleged bullying. On November 19, 2024, Dr. McCabe responded in writing denying her request for an exemption from Board Policy JEA. Dr. McCabe clarified that the Student could participate in Varsity Girls Lacrosse at [redacted] under the rules of restricted eligibility. Under these rules, the Student was eligible to try out for, practice with, and travel with the team, but was not permitted to participate in contests during the 2025 season. Beginning with the 2026 season, during her eleventh-grade year, the Student would be fully eligible to participate in Varsity Girls Lacrosse at [redacted]. Dr. McCabe also stated to [redacted] that the Student is eligible to fully participate in other sports offered during the 2024- 2025 school year at [redacted] where she had not participated on the varsity squad at [redacted].

On January 15, 2025, [redacted] responded to Dr. McCabe’s November 19, 2024, email requesting a meeting to discuss the matter further. Dr. McCabe directed Eric King, Director of High Schools, and Michael Duffy, Supervisor of Athletics, to meet with [redacted] and the Student on January 22, 2025. On January 24, 2025, Mr. Duffy sent [redacted] an email stating that Dr. McCabe maintains her previous decision to deny an exemption to Board Policy JEA and in that email identified the Student’s right to appeal the Superintendent’s decision to the Board within thirty (30) days.

On February 21, 2025, _____ submitted a completed Appeal Information Form to the Board stating that “the only reason _____ transferred to _____ is because she was bullied, teased, and harassed on a daily basis at the school and via social media by her classmates and even her fellow teammates.” The _____ requested that the basis for Student’s transfer be considered “more in depth” as a reason for an exemption to Board Policy JEA.

CONCLUSIONS OF LAW

This Board affirms the decision of the Superintendent. The Board may create policies and procedures governing participation in extracurricular activities and athletic programs. The eligibility requirements of the Maryland Public Secondary School Athletic Association (“MPSSAA”) are that “students shall be officially registered and attending the member MPSSAA school they are authorized to attend under regulations of the local school system.” COMAR 13A.06.03.02A. Local school systems may establish standards of participation for their interscholastic athletic programs and may adopt rules governing their athletic programs that are more restrictive than those of the MPSSAA. COMAR 13A.06.03.01B. As such, this Board, in creating a policy facilitating student transfers within the County, established a permissible, albeit more restrictive, standard for student participation in varsity athletics when they transfer from one CCPS high school to another. Board Policy JEA and its corresponding Administrative Regulations apply to all students attending schools outside of their assigned attendance area. In this case, the _____ and the Student were aware of the Policy when they submitted an Out-of-District Request for the 2024-2025 school year. The Superintendent’s decision in this matter is in keeping with that Policy.

Additionally, the Maryland State Board of Education (the “State Board”) has frequently declined to intervene upon a local board’s implementation of its own board policies or grant an

exemption to a local board's policies regarding extracurricular activities and interscholastic sports eligibility. *See Dennis v. Cecil Cnty Bd. of Educ.*, MSBE 10-16 (2010) (declining to grant an exemption for or ordering a change to a local board's policy regarding academic eligibility for interscholastic sports); *McCormick v. Allegany Cnty Bd. of Educ.*, MSBE 02-35 (2002) (declining to overturn a local board's decision to remove a student from the football team for a violation of the local board's rules governing participation on athletic teams and extracurricular activities); *Stanley v. Anne Arundel Cnty Bd. of Educ.*, MSBE 01-06 (2001) (declining to grant an exemption to the local board's requirement that students who try out for All-County Band must be current members in good standing of a performance ensemble at the school).

Finally, participation in interscholastic sports and extracurricular activities is a privilege, not a right. *See Denis J. O'Connell High School v. Virginia High School*, 581 F.2d 81, 84 (4th Cir. 1978); *Mitchell v. Louisiana High School Athletic Association*, 430 F.2d 1155, 1158 (5th Cir. 1970); *Farver v. Board of Educ. of Carroll Co.*, 40 F. Supp. 2d 323 (D. Md. 1999); *Lawler v. Anne Arundel Cnty Bd. of Educ.*, MSBE 01-20 (2001) (holding that it was "well settled that student participation in interscholastic athletics or other extracurricular activities is not a constitutionally protected liberty or property interest"); *Bloch v. Bd. of Educ of Howard County*, 7 Op. MSBE 388, 390 (1996) (holding that "participation in extracurricular activities is a privilege, not a right"). In *Farver*, 40 F. Supp. 2d 324-325, the United States District Court for the District of Maryland expressed the following reasoning in a case involving the eligibility of Carroll County student athletes: "The bottom line question is: Is there a federally protected right at issue here such as to give this Court jurisdiction under the Fourteenth Amendment? The answer is *no* because that Amendment protects only liberty and property interests that are viewed by the courts as of a high enough dignity to warrant due process protection, and the ability of a high school student to engage

in extracurricular activity is simply not of that degree of dignity.” As such, the Student does not have a constitutionally protected liberty or property interest in playing sports upon which to base an appeal.

A decision by a Board of Education or Superintendent is arbitrary or unreasonable only when it is contrary to sound educational policy, or when a reasoning mind could not have reasonably reached the same conclusion. COMAR 13A.01.05.06(B). Here, Board Policy JEA has long restricted the ability of varsity student athletes from playing varsity sports as a transfer student in the year in which they transfer, which is hardly contrary to sound educational policy. While the Board is empathetic to the underlying reasons for the Student’s transfer from _____, such a basis is not sufficient to provide an exemption from a reasonable policy. As such, the Board finds that Dr. McCabe’s decision to deny the Student’s request for an exemption from Board Policy JEA, thereby maintaining her restricted eligibility status for the Varsity Girls Lacrosse team, was not arbitrary, unreasonable, or illegal.

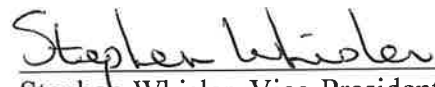
DECISION

For the reasons discussed above, this Board affirms the Superintendent’s decision in this matter. Should they choose to, _____ may appeal this decision to the Maryland State Board of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, in writing, within thirty (30) days of the date of this decision.

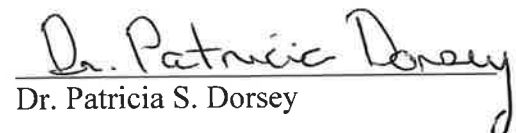
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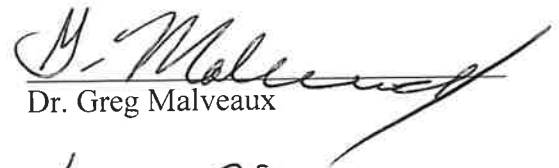
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