

TONYA WINGFIELD, ET AL.,

Appellants

v.

PRINCE GEORGE'S COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No.: OR24-02

ORDER

Appellants filed this appeal challenging actions related to the local board's adoption of Agenda Item 4.1 - Approval of the Blueprint Schools Phase II Preferred Developer and Approval to Proceed to Commercial and Financial Closing at its September 28, 2023, meeting.¹ The dispute stems from a vote which included language requiring a memorandum of understanding with a labor organization for the Blueprint Schools Phase II Program. Specifically, the local board voted to require the PGC Education Collective to engage in negotiations and establish a project labor agreement. (Appeal Attach., Bd. Action Summary).

Appellants allege that the local board committed three types of errors related to its adoption of the Agenda Item 4.1. They allege (1) violations of local board bylaws; (2) violations of local board ethics regulations by individual local board members by failing to recuse themselves from considering the agenda item despite alleged conflicts of interest; and (3) violations of the Maryland Open Meetings Act for actions leading up to approval of the agenda item. The local board filed a Motion to Dismiss the appeal for lack of jurisdiction and lack of standing. Appellants filed a response to the Motion and the local board filed a reply.

Local Board Policy/Bylaw Claims

Appellants allege that the local board violated the following local board bylaws:² Bylaw 9270 – *Actions By Individual Board Members* regarding lack of authority for individual board members to compel board action; Bylaw 9310 – *Adoption of Policies* regarding amendments to consent agenda items; Bylaw 9360 – *Meetings of the Board* regarding the public posting of meeting documents; Bylaw 9366 – *Order of Business Parliamentary Procedures* regarding the process to be followed for calling the question and ending debate during meetings; and Bylaw 9367 – *Meetings – Quorum and Adoption of Formal Action* regarding action on voting.

This case is an appeal to the State Board pursuant to §2-205 of the Education Article. Section 2-205(e) gives the State Board the power to determine the true intent and meaning of State education law and to decide all cases and controversies that arise under the State education statute and State Board rules and regulations. The Court of Appeals has explained that §2-205 was intended by the General Assembly as a grant of “original jurisdiction” to the State Board allowing an appellant a direct appeal to the State Board “without the need to exhaust any lower administrative remedies.” *See Board of Educ. for Dorchester County v. Hubbard*, 305 Md. 774, 789 (1986); *Board of Educ. of Garrett County v. Lendo*, 295 Md. 55, 65- 66 (1982). The Supreme Court of Maryland has explained the category of cases heard under §2-205 “deal primarily with statewide issues (i.e. statutes or bylaws applicable to all county boards of education) . . .” *Board of Educ. of Garrett County v. Lendo*, 295 Md. at 65, *see also, Strother v. Board of Educ. of Howard County*, 96 Md. App. 99, 113- 114 (1993). As we stated in *Sartucci*, “[t]hat statute

¹ The appeal includes the initial appeal and amendments filed by the Appellants.

² The local board bylaws are set forth in Board Policies 9000 – *Bylaws of the Board*.

defines the contours of our authority. Specifically, the law confines matters subject to review under §2-205 to those involving State education law, [State] regulations, or a policy that implicates State education law or regulations on a Statewide basis.” MSBE Op. No. 10-31. The State Board has consistently reaffirmed this principle and stated that we exercise our original jurisdiction sparingly. *Nehemia’s Vision, Inc. v. Bd. of Educ. of Prince George’s County*, MSBE Op. No. 14-30 at 3 (2014). Appellants’ claims concerning violations of local board bylaws in this case do not fall within the category of claims reviewed by the State Board under §2-205. Thus, we decline to exercise jurisdiction.

Local Board Ethics Policy Claims

The Appellants allege that various individual local board members violated the local board’s ethics policy based on alleged conflicts of interest related to Agenda Item 4.1 and failure to recuse themselves from the discussion and vote. As we have previously explained, given the statutory and regulatory framework surrounding local board of education ethics policies and regulations, the State Board lacks jurisdiction to review violations of such policies under §2-205. *See Betley v. Queen Anne’s County Bd. of Educ.*, MSBE Op. No. 23-09 (2023).

Maryland Open Meetings Act Claims

The Appellants allege that the local board violated provisions of the Maryland Open Meetings Act (“OMA”) regarding the public posting of documents prior to the board meeting. The OMA sets forth the procedures to be followed by those aggrieved by a public body’s alleged failure to comply with the provisions of the Act. *See* Md. Code, Gen. Prov. §§3-101 *et seq.* Under the Act, an individual who is adversely affected by a public body’s failure to comply with the OMA may file a petition in circuit court. *Id.* §3-401. Moreover, any person may file a written complaint to the Open Meetings Compliance Board which will review it and may issue a written opinion. *Id.* §§3-205 -- 3-207. Thus, as this Board has long held, the State Board of Education is not the appropriate forum for redress of OMA claims. *See Dr. Ben Carson Charter School v. Harford County Bd. of Educ. et al.*, MSBE Op. No. 05-21 (2005); *Danner v. Carroll County Bd. of Educ.*, MSBE Op. No. 02-45 (2002).

Accordingly, it is this 23rd day of January 2024, by the Maryland State Board of Education, ORDERED, that the appeal is hereby dismissed for lack of jurisdiction.³ *See* COMAR 13A.01.05.03B.

MARYLAND STATE BOARD OF EDUCATION

Signature on File:

Clarence C. Crawford
President

³ Because we dismiss for lack of jurisdiction, we decline to address the local board’s request to dismiss for lack of standing.