

IN THE MATTER OF

GRADE APPEAL

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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

Now pending before the Board of Education of Carroll County (the “Board”) is an appeal filed pursuant to Section 4-205(c) of the Education Article to the Annotated Code of Maryland by _____ on behalf of her daughter _____, a student at Westminster High School (“WHS”). In this appeal, _____ appeals from the decision of Mr. Steven M. Johnson, Assistant Superintendent of Instruction and the Superintendent’s Designee in this matter, upholding the decision of WHS Principal Jeffrey Hopkins to not remove a 0/10 grade received by _____ on a formative assignment given on March 15, 2016 (third marking period) in her English 11 class. For the reasons discussed below, we shall dismiss the appeal on the grounds of mootness without the need for an evidentiary hearing or oral argument.¹

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This appeal centers upon a journal assignment given in _____; English 11 class on March 15, 2016. The assignment was the first step in a larger, more comprehensive multimedia presentation required by the English 11 curriculum. Evidently, _____ response to the assignment did not address the question, and she received a zero out of

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.

ten possible points. The issue raised by _____ is whether _____ was provided the appropriate accommodations for this assignment. The Principal and instructional staff assigned to _____ contend that she was appropriately accommodated, and _____ contends that she was not. Mr. Johnson investigated the matter and affirmed the Principal's decision on the grounds that the Superintendent or his designee does not substitute his judgment for that of the Principal on a grade appeal unless that decision is arbitrary, unreasonable, or illegal. *See, e.g., Caryn J. v. Baltimore County Board of Education*, MSBE Op. No. 10-24 (2010) (citing multiple cases for the proposition that "the merits of students' grades 'should be kept within the school building,' and are to be made by the persons most able to evaluate the situation from personal knowledge" and that the "State Board will only hear appeals about academic grades if there are specific allegations that the local board failed to follow proper procedure or violated a student's due process rights").

At this juncture, however, we need not decide the merits of the underlying question of whether _____ was appropriately accommodated. The school year is over, _____ successfully completed English 11, and the additional ten points would not have changed _____ grade in this class. Accordingly, whatever the merits may have been regarding the grade dispute presented here by _____, that issue is now moot. An appeal is moot when there is no possibility of any relief that can be provided by the Board. The State Board explained the concept of mootness in the case of *Smoot v. Charles County Board of Education*, MSBE Op. No. 03-27, at 3 (2003), as follows:

It is a well established principle that a question is moot when "there is no longer an existing controversy between the parties, so that there is no longer any effective remedy which the courts [or agency] can provide." *In Re Michael B.*, 345 Md. 232, 234 (1997); *See also Arnold v. Carroll County Board of Education*; MSBE Opinion No. 99-41

(September 22, 1999); *Farver v. Carroll County Board of Education*, MSBE Opinion No. 99-42 (September 22, 1999); *Chappas v. Montgomery County Board of Education*, 7 Op. MSBE 1068 (1998).

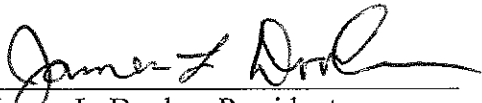
Since [redacted] successfully completed her English 11 class and her final grade would be the same regardless of the grade earned on this particular assignment, there is no relief that this Board could possibly provide even if it were inclined to rule in [redacted] favor. Accordingly, as "there is no longer any effective remedy" that this Board can provide, this appeal is inescapably moot and must be dismissed. *Accord*, COMAR 13A.01.05.03C(1)(b) (providing for the dismissal of appeals to the State Board on the grounds of mootness).

DECISION

For the reasons discussed above, this Board dismisses the appeal in this matter on the grounds of mootness. Should she choose to do so, [redacted] may appeal this decision to the Maryland State Board of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, in writing, within thirty days of the date of this decision.

7-13-16

Date


James L. Doolan, President

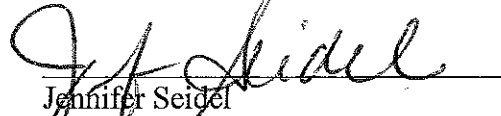

Bob E. Lord, Vice-President

(absent)

Virginia R. Harrison

(recused)

Devon M. Rothschild


Jennifer Seidel