

JACQUELINE BANKS-
JONES

Appellant

v.

BALTIMORE CITY BOARD
OF SCHOOL
COMMISSIONERS

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 17-32

OPINION

INTRODUCTION

The Appellant has requested that the State Board reconsider its Opinion in *Jacqueline Banks-Jones v. Baltimore City Bd. of Sch. Comm'rs*, MSBE Op. No. 16-42. The Baltimore City Board of School Commissioners (local board) has filed an opposition to the request for reconsideration.

FACTUAL BACKGROUND

In *Jacqueline Banks-Jones v. Baltimore City Bd. of Sch. Comm'rs*, *supra*, this Board affirmed the local board's decision denying the Appellant assault leave¹ for an injury sustained on August 29, 2014, when a second grade student kicked her in the knee. The local board based its decision on its view that the Appellant had failed to demonstrate that she had a continuing need to be out of work after November 14, 2014 based on injuries sustained from the assault.

STANDARD OF REVIEW

A decision on a request for reconsideration shall be made in the discretion of the State Board except that a decision may not be disturbed unless there is sufficient indication in the request that:

- (1) The decision resulted from a mistake or error of law; or
- (2) New facts material to the issues have been discovered or have occurred subsequent to the decision.

The State Board may refuse to consider facts that the party could have produced while the appeal was pending. The State Board may, in its discretion, abrogate, change or modify the original decision. COMAR 13A.01.05.10D.

¹ Section 6-111 of the Education Article establishes assault leave for school system employees who are absent from work due to a physical disability resulting from an assault while in the scope of employment. Employees entitled to assault leave remain on full pay status instead of sick leave during the period of absence. *Id.*

LEGAL ANALYSIS

In her reconsideration request, Appellant argues that the State Board’s decision resulted from a mistake or error of law. Her argument, however, is actually a dispute of the evidence relied on by the local board in the case and a rehashing of the evidentiary arguments she made in her initial appeal to the State Board. This amounts simply to a disagreement with the conclusions reached by the State Board in its decision, which is not a basis for reconsideration.

Appellant also claims that new facts material to the issues have been discovered or have occurred subsequent to the State Board’s decision. Yet the “new facts” noted by the Appellant -- the granting of Accidental Disability Retirement by the State Retirement Agency and the opinion of her primary care physician and a psychiatrist – are not new at all. Appellant attempted to submit this information in her initial appeal to the State Board as additional evidence. The State Board denied the attempt, finding no reason why the Appellant could not have submitted the medical documentation as part of her appeal to the local board. With regard to the disability retirement, the State Board explained that the State Retirement Agency’s decision was not material to the assault leave appeal because it involved a separate and distinct decision-making process and a different evidentiary record. Given that these facts are not new and did not occur subsequent to the State Board’s decision, they do not serve as a basis for reconsideration.

CONCLUSION

Because the Appellant has failed to provide an adequate basis for reconsideration of MSBE Op. No. 16-42, we deny Appellant’s request for reconsideration.

Signatures on File:

Andrew R. Smarick
President

Chester E. Finn, Jr.
Vice-President

Michele Jenkins Guyton

Justin Hartings

Stephanie R. Iszard

Rose Maria Li

Michael Phillips

Irene M. Zoppi Rodriguez

David Steiner

September 19, 2017