

WILLETTA GOFFIGAN,

Appellant,

v.

BALTIMORE CITY BOARD
OF SCHOOL
COMMISSIONERS

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 21-42

OPINION

INTRODUCTION

Willetta Goffigan (“Appellant”) appeals the decision of the Baltimore City Board of School Commissioners (“local board”) to terminate her from her position as a school secretary for insubordination, neglect of duty, incompetence, and misconduct. The local board filed a memorandum in response. The Appellant did not reply.

FACTUAL BACKGROUND

Appellant began the 2019-2020 school year, as the school secretary for William Paca Elementary School (“WPES”). Prior to her employment at the school, Appellant worked as a school secretary and office assistant at six different schools in Baltimore City Public Schools (“BCPS”). Prior to her tenure at WPES, her evaluations were satisfactory or above, and she had not previously received any reprimands for insubordination or unprofessionalism. (Response, Ex. 23).

As the school secretary, Appellant’s duties included enrolling and transferring students; dispatching and requesting incoming student records within two days of a student’s enrollment change; maintaining the appearance of the office record room; ensuring records have the appropriate signatures; establishing logs for visitors; and maintaining a professional and inviting decorum. (Response, Ex. 23:35).

Two weeks before the start of the 2019-2020 school year, staff informed the Principal that a large number of incomplete enrollment files were found in the kitchen cabinets of the main office. While enrollment tasks were the responsibility of the Appellant, given the large quantity of files, the Principal had to divide the task of entering the enrollments among multiple employees, including the Appellant, to finish before the school year started. Between August 30, 2019 and September 8, 2019, the Assistant Principal sent three emails to the Appellant reminding her that her assigned files were not complete and she needed to handle the matter in a more efficient matter. (Response, Ex. 23:28-30). Additionally, the Principal learned that the Appellant failed to respond to multiple requests for student records dating back to July 25, 2019. (Response, Ex. 23). Therefore, on September 3, 2019, the Assistant Principal sent the Appellant

an email reminding her of the protocols and policies regarding faxes, mail, and enrollments after noticing the Appellant did not properly process these items. (Response, Ex. 23:31).

Between September and October of 2019, the Principal documented multiple instances of insubordination, neglect of duties, and complaints of rude or unprofessional behavior against Appellant. For example, on September 30, 2019, the Principal received a telephone call from Barksdale School Portraits (“Barksdale”), a company with which the school had a long relationship to handle student photos. In that conversation, the representative threatened to void the contract with WPES based on multiple communications he and his staff had with Appellant. The Barksdale representative explained that Appellant represented herself as a member of the administration and made complaints on behalf of the school in a rude manner, criticizing the Barksdale business operations. (Response, Ex. 23:5-9). Appellant did not discuss the complaints with the Principal before contacting Barksdale, nor did she obtain approval to speak on behalf of the school. (Response, Ex. 23).

On or around October 2, 2019, the Principal learned that Appellant requested a copy of a job description for the custodian position, allegedly to better understand the responsibilities of the custodians and cleaning procedures. In the emails, when asked if she had authorization, she misrepresented that she was inquiring on behalf of the Principal; however, the Principal had no knowledge of the request. (Response, Ex. 23:13). On October 3, 2019, the Principal received a complaint from the Manager of School Operations Support, who reported that the Appellant was rude and unresponsive when she entered the office trying to find the location for a professional development training she was leading. (Response, Ex. 23:12). On October 8, 2019, a parent reported that the Appellant was rude and unhelpful to guests in the front office, and used profanity.¹ (Response, Ex. 23).

On October 22, 2019, Appellant, in direct disregard of instructions by the Assistant Principal, attended a grade reporting training, which resulted in her arriving late to work. (Response, Ex. 3:16). There were also multiple complaints from staff and parents that the phones were not being answered, despite Appellant being responsible for ensuring that she or other front office staff were available to answer calls. (Response, Ex. 23:22-23).

On October 22, 2019, the Assistant Principal issued a letter of reprimand indicating the Appellant’s actions constituted misconduct, insubordination, and neglect of duty. (Response, Ex. 13). The following day, Appellant received an evaluation with an overall rating of 44 points out of a possible 90 points, which is categorized as “Developing.” (Response, Ex. 13A-D). As a result, Appellant signed an Individual Development Plan, which listed a goal of better time management. (Response, Ex. 23). After observing no improvement in behavior, on October 29, 2019, the Principal sent a memorandum to the Human Capital Partner requesting that the Appellant be removed from the school. (Response, Ex. 1).

Meanwhile the Appellant remained in her position. On October 30, 2019, a parent came to WPES to enroll their child. The Principal had informed the front office staff via email that the student was not to be enrolled until further notice as it appeared the student was already enrolled

¹ Section 10.17 of the Employee Handbook states that “profane or abusive language” is unacceptable and grounds for immediate termination. (Response, Ex. 3-15-A).

at another school. Appellant knew of the instructions, yet she enrolled the student anyway because she felt it was consistent with the school system's policy for enrollment of homeless students. The Principal was aware of the policy, but there was no proof the student was homeless, hence her instructions. (Response, Ex. 23).

On November 4, 2019, Appellant received professional development training for customer service. The following day, contrary to security and standard operating procedures for visitors, Appellant allowed a parent to go to the second floor of the school building, wherein the parent disrupted a classroom by yelling at various children. (Response, Ex. 2). Termination proceedings were subsequently commenced for Appellant.

On December 2, 2019, a BCPS Labor Relations Specialist conducted a *Loudermill* hearing. Appellant was represented at the hearing by her representative from the Baltimore Teachers' Union. There was evidence submitted at the hearing by the Principal and Assistant Principal about the aforementioned incidents, among others. Appellant objected to only four of the incidents – including attendance at the grade report training, the student records allegations, and the inappropriate enrollment of the student. She did not dispute the other allegations. On December 18, 2019, the BCPS Chief Human Capital Officer, as the CEO's designee, issued a termination letter finding Appellant could not offer a clear explanation of her actions, and determined these actions constituted insubordination, willful neglect of duty, and misconduct pursuant to the City Schools Employee Handbook. (Exs. 2, 3).

On January 2, 2020, Appellant filed an appeal of her termination with the local board, including a request for an evidentiary hearing. An evidentiary hearing was originally scheduled for March 17, 2020, but was later rescheduled for November 12, 2020.² (Response, Ex. 23). A field representative with the Baltimore Teachers' Union represented Appellant. Both parties provided witnesses, and the BCPS introduced thirty-eight (38) exhibits. On December 22, 2020, the hearing examiner issued a recommendation that the local board uphold the CEO's decision to terminate Appellant as a school secretary. The hearing examiner found that pursuant to Union's Negotiated Agreement, disciplinary action could be imposed only for just cause. The hearing examiner found there was substantial evidence – including documentation of twelve (12) separate incidents – of which the accumulation sufficiently warranted termination. (Response, Ex. 3).

The Appellant filed exceptions with the local board, and the CEO filed a Response to Exceptions and Statement of Support. (Response, Ex. 23). On February 9, 2021 the local board reviewed the Findings of Fact, Conclusions of Law, and Recommendation by the hearing examiner, as well as the parties' exceptions and response, and voted to affirm the hearing examiner's recommendation to uphold the CEO's decision to terminate Appellant's position. (Response, Ex. 4).

This appeal followed.

² The record is unclear on the reason for the delay in rescheduling the evidentiary hearing.

STANDARD OF REVIEW

A non-certificated employee is entitled to administrative review of a termination pursuant to §4-205(c)(3) of the Education Article. *See Goines v. Prince George's County Bd. of Educ.*, MSBE Op. No. 17-16 (2017). Decisions of a local board involving a local policy or a controversy and dispute regarding the rules and regulations of the local board shall be considered *prima facie* correct. The State Board may not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. COMAR 13A.01.05.06A.

LEGAL ANALYSIS

Appellant is appealing the decision of the local board to uphold her termination as school secretary for two reasons. First, Appellant argues that she was not made aware of problems with her performance and should be given additional time to correct her performance issues. She also argues that she was provided with ineffective representation by her union representation, which led to her termination. We address these arguments in turn.

Arbitrary, Unreasonable, or Illegal Decision

Appellant's first basis for requesting we overturn the local board's decision is that she feels she was not given an appropriate amount of time to correct her performance issues, as outlined above. Appellant does not dispute any of the findings made by the hearing examiner and subsequently adopted by the local board in support of her termination. Instead, the Appellant argues that she "can make adjustments needed to still do effective and outstanding work[.]" She supports this assertion by highlighting that she received a satisfactory evaluation from her previous supervisor in June 2019, and arguing that she was not aware of her new Principal's displeasure with her work. Appellant "would like to be reconsidered" for her position. While the Appellant may be willing to adjust her work performance if allowed to return to her position, this argument does not provide a legally sufficient reason for this Board to overturn the local board's decision.

The State Board can only overturn a local board decision if it is arbitrary, unreasonable, or illegal. A local board's decision will be deemed arbitrary or unreasonable if it is (1) contrary to sound educational policy, or (2) if a reasoning mind would not have reasonably reached the conclusion the local board reached. COMAR 13A.01.05.06. Pursuant to Education Article §4-205, Appellant bears the burden of proof to demonstrate that the local board's decision is such. Appellant does not argue that the local board's decision was arbitrary, unreasonable, or illegal, nor does she provide any evidence to support such a claim. The record is replete with incidents where the Appellant acted in an unprofessional manner, as well as multiple communications from her supervisors over the course of several months correcting her behavior, including a formal reprimand letter. While the Appellant may feel that her termination is unnecessarily harsh, the decision of the local board is certainly well within reason and its discretion.

Ineffective Representation by the Union

Appellant also claims that throughout the appeal process she had ineffective assistance of counsel from the Baltimore Teacher's Union. She states that her assigned union representative

did not file a requested grievance, that two different union representatives unfamiliar with her case represented her at the evidentiary hearing, and that the representatives failed to supply any evidence to justify her position at the evidentiary hearing.

We have previously held that claims of ineffective assistance of counsel are, as a matter of law, not an issue for the State Board. *See Brock v. Baltimore City Bd. of Sch. Comm'rs*, MSBE Op. No. 07-29 (2007). Claims of this nature are more appropriately addressed as a grievance in a separate venue. We note that the Public School Labor Relations Board has jurisdiction over controversies and disputes concerning representation under Title 6, Subtitle 5 of the Education Article (Organizations of Noncertificated Employees). Md. Code Ann., Educ. §2-205(e)(4)(i).

CONCLUSION

For the reasons stated above, we do not find the local board's decision to be arbitrary, unreasonable or illegal. Accordingly, we affirm the local board's decision.

Signatures on file:

Clarence C. Crawford
President

Charles R. Dashiell, Jr.
Vice-President

Chuen-Chin Bianca Chang

Susan J. Getty

Vermelle Greene

Jean C. Halle

Rachel McCusker

Joan Mele-McCarthy

Lori Morrow

Warner I. Sumpter

Holly C. Wilcox

Absent:
Shawn D. Bartley
Gail H. Bates

July 27, 2021