

JOSPEH STEINER,

Appellant

v.

ANNE ARUNDEL COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 23-15

OPINION

INTRODUCTION

Appellant appeals the decision of the Anne Arundel County Board of Education (“local board”) upholding the selection of another individual for a Mechanic-HVAC III position. The local board responded that its decision was not arbitrary, unreasonable, or illegal. Appellant responded and the local board replied.

FACTUAL BACKGROUND

Appellant began full-time employment as a Mechanic-HVAC II with Anne Arundel County Public School (“AACPS”) on November 16, 2016. The Appellant holds an unrestricted HVAC license from the Maryland Department of Labor (“MDOL”). On October 29, 2020, the Appellant applied for a vacant Mechanic-HVAC III position. On December 1, 2020, the Appellant and three other candidates who met the minimum qualifications for the position were interviewed by a panel of AACPS employees. All candidates were asked the same twelve interview questions, and each was scored individually by each member of the interview panel. Each applicant received an overall score ranging from 0 to 3 based upon their responses to the interview questions. The Appellant struggled with his answers and scored the lowest of the four candidates. The candidate with the highest score was offered the position. The successful candidate possesses a restricted HVAC license from MDOL, a lower certification level than the Appellant. (Local Bd. Response, Ex. at pp. 1-2).

Appellant appealed the hiring decision to the local superintendent. On April 22, 2022, the superintendent’s designee conducted a hearing regarding the Appellant’s appeal. The Appellant was present at the hearing and was represented by his union representative. The Appellant argued that rather than hiring an internal candidate who is fully certified, who is a high performing employee, and who has met standards on his employee evaluations, AACPS hired an external candidate who is not fully certified. Additionally, he argued that the hiring managers selected the candidate based upon improper hiring procedures including favoritism and nepotism as one of the interview panelists knew the successful candidate. The Appellant also argued that the person hired did not possess the appropriate HVAC licensure. (*Id.*).

On June 23, 2022, the superintendent's designee issued a written decision, concluding that the interview process complied with AACPS' established protocols and that while one of the interview panelists knew at least one of the applicants, there was no evidence to support that as a result any of the applicants was given an unfair advantage in the process. The designee further found that there was no evidence to support that AACPS had incorrectly classified the position. She found that AACPS does not distinguish between "restricted" and "unrestricted" licenses for the Mechanic HVAC III position and the distinction is only made for a Mechanic-HVAC IV position. (Local Bd. Response, Ex. at pp. 44-45).

On June 29, 2022, the Appellant filed an appeal of the designee's decision to the local board. The local board conducted a review on the record and issued a decision on January 3, 2023. The local board affirmed the designee's decision and concluded that AACPS' actions on staffing the HVAC III Mechanic position followed the school system's policies and procedures.

This appeal followed.

STANDARD OF REVIEW

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, and 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. The Appellant has the burden of proof. COMAR 13A.01.05.06D.

LEGAL ANALYSIS

Appellant has not met his burden in this case. While the Appellant argues that the successful candidate is less qualified than he is for the job because he holds an unrestricted license and the successful candidate only holds a restricted license, the record demonstrates that AACPS does not distinguish between restricted and unrestricted licenses for any position lower than a Mechanic HVAC IV position. The Appellant also argues that he was the best qualified for the job because of his experience with AACPS and his proven track record. All qualified candidates were interviewed for the position, and they were asked the same questions. The candidate who scored the highest based on his or her answers – the criteria the local board established for the selection process – was selected for the position. The record also demonstrates that it is common for an interview panel member to know one of the candidates and the situation is often unavoidable where most of the candidates are internal candidates.

Finally, the Appellant argues for the first time on appeal before us that there was a breach of the Negotiated Agreement between AFSCME and the local board because AACPS did not post the position internally. The local board objects to this argument on the grounds that the Appellant did not raise this issue below and the proper remedy for this claim would have been a grievance. The local board further argues there is no evidence in the local record that a grievance was filed over the alleged violation and there was no determination of a contract violation which could come into evidence before the State Board. We have long held that arguments not raised before the local board will not be considered on appeal by the State Board.

See Nikol E. v. Montgomery County Bd. of Educ., MSBE Op. No. 19-18 (2019) (citing cases).
Therefore, we decline to consider Appellant’s argument.

CONCLUSION

For the foregoing reasons, we do not find the local board’s decision to be arbitrary, unreasonable, or illegal and we affirm the local board’s decision.

Signatures on File:

Clarence C. Crawford
President

Susan J. Getty
Vice-President

Shawn D. Bartley

Chuen-Chin Bianca Chang

Charles R. Dashiell, Jr.

Jean Halle

Rachel McCusker

Joshua Michael

Lori Morrow

Warner I. Sumpter

Holly Wilcox

Absent:
Gail H. Bates
Joan Mele-McCarthy

May 23, 2023