

LYNN MASTERSON,

Appellants

v.

HARFORD COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 25-15

OPINION

INTRODUCTION

Lynn Masterson (“Appellant”) appeals the decision of the Harford County Board of Education (“local board”) affirming the Superintendent’s reassignment from her position of school counselor and department chair at Fallston Middle School (“FMS”) to a position of school counselor at North Bend Elementary School. The local board filed a response to the appeal maintaining that its decision is not arbitrary, unreasonable, or illegal and should be upheld. Appellant responded, and the local board replied.

FACTUAL BACKGROUND

During the 2023-2024 school year, Appellant was reassigned from her position at the request of FMS Principal James Johnson as he found her attitude problematic, and he lost confidence in her ability to implement necessary changes in the middle school innovation initiative based upon the local board’s requirement to increase instructional time. Appellant has been an employee of Harford County Public Schools (“HCPS”) for 29 years, with 27 years at FMS. Appellant has an unblemished employment record with no disciplinary actions and successful evaluations with the most recent evaluation completed in May of 2024 by one of FMS’s assistant principals. Appellant is over the age of 40 and she has included many letters of support in her appeal materials.

Principal Johnson became principal of FMS in 2021. The record demonstrates that Appellant and Principal Johnson had a strained relationship. According to Principal Johnson, Appellant made it clear that she knew what was best for the FMS community. He described Appellant as not open to change or new ideas and he found her attitude damaging to the overall culture of FMS. (R. 137).¹ The tension began upon Principal Johnson’s arrival at FMS when he took ownership of developing the master schedule to assign all teachers and students to their classes as he wanted to receive input from all teachers and staff. (R. 136-137). Prior to his arrival, Appellant created the master schedule. According to Principal Johnson she was

¹ “R.” refers to the record extract submitted by the local board and “A.” refers to the Appendix which contains the exhibits submitted by Appellant in this matter before the State Board.

argumentative and resistant to this change and other changes he implemented, and she was often the most vocal and critical of his decisions. *Id.*

On March 1, 2024, Appellant attended a meeting held by Assistant Supervisor of School Counseling, Gina Re, and Natalie Holloway, Director of Middle School Innovation, Secondary School Instruction, and Performance, to review and discuss the proposed structural changes for the 2024-25 school year of the middle school innovation initiative. The changes required school counselors to transition from delivering Naviance lessons as part of content time (usually in social science class) to a proposed advisory period, with larger groups, built into the school day to effectuate local board requirements to ensure no instructional time was taken away from classrooms for Naviance lessons in support of the goal of improving academic achievement.² (R. 141). During this meeting, Ms. Holloway reported that Appellant opposed the proposed changes and created an uncomfortable environment by repeatedly expressing her opinion that “this just wasn’t going to work and is not best for students.” (R. 141). Based on Appellant’s behavior in this meeting, Ms. Holloway concluded that it was evident that Appellant was not interested in supporting the middle school innovation work and that Appellant was going to serve as a barrier to the necessary improvements. (R. 142). After the March 1 meeting, Ms. Holloway reported her concerns to her supervisor, Michael O’Brien, Executive Director of Secondary Education. *Id.* She reported that Appellant’s behavior was going to create challenges for FMS’s initiatives related to the middle school innovation work and she agreed it would be helpful to move Appellant to another position in the district to facilitate the work. *Id.*

After the March 1 meeting, Appellant approached Principal Johnson and stated that the planned changes were “stupid”, “wrong”, and “would never work.” (R. 138). Principal Johnson urged Appellant to consider the alternatives and to give the changes a try, but Appellant dismissed his suggestions outright. *Id.* After that meeting, Principal Johnson discussed the transfer of Appellant with Mr. Obrien, Ms. Holloway, Gina Re, Assistant Supervisor of School Counseling, and LaWanda Brown, Supervisor of School Counseling and Appellant’s supervisor. All of these individuals had concerns about Appellant continuing at FMS. *Id.*

On March 15, 2024, Principal Johnson submitted a written request to transfer Appellant from FMS to another school within the district.³ (R. 134 – 135). Principal Johnson stated that “[Appellant’s] negative influence at [FMS] has resulted in significant challenges that have had a detrimental impact on various aspects of our school environment” and he was concerned about Appellant’s resistance and lack of cooperation with the middle school innovation work and shared “her unwillingness to adapt to change and embrace innovation will deter our efforts to enhance educational experience for our students.” *Id.* Appellant asserts that these reasons are pretextual and she alleges that she was transferred in retaliation for her confronting Principal Johnson about his inappropriate behaviors towards others over the years and for discriminatory reasons based on her age and gender. (R. 4-6).

² Naviance refers to a college and career readiness software program which lessons include, among other things, an opportunity for students to set academic goals, complete a career cluster finder, participate in a career key assessment and strengths explorer, understand the transition to high school, and complete a productivity assessment. (R. 140).

³ The Principal mistakenly used the term administrative transfer, but it is clear from the record that this error is not material as the reassignment has always been treated as an involuntary transfer.

The applicable Negotiated Agreement provides the process that HCPS must follow to effectuate an involuntary transfer. Article VI, Section 6.4, of the Negotiated Agreement between the local board and the Harford County Education Association states:

If, as a solution to a problem (different from those listed in “Administrative Transfer”), a teacher is to be transferred to another school, such a transfer may not be effected until after a meeting between the teacher involved and the appropriate administrator(s). At this time, the teacher shall be notified of the reason(s) for transfer, shall be apprised of his or her rights, and shall be given the opportunity to respond. In the event that a teacher objects to the transfer, he or she shall, upon request, have a meeting with the Superintendent or designee. The teacher, at his or her option, may have a person of his or her choice accompany him or her at the meeting.

(R. 157). HCPS has also issued a handout entitled *HCPS Involuntary Transfer Information* as a resource for school administrators. It states that “requests should include evidence of actions taken by you over an extended period of time to address concerns that are the basis for an involuntary transfer request.” (R. 18).

At some point, HCPS’s Involuntary Transfer Committee considered the transfer request and recommended to the local Superintendent, Dr. Bulson, that the transfer be upheld.⁴ (R. 122). On or about June 11, 2024, Principal Johnson and Appellant met to discuss his request to have Appellant transferred. (R. 2). Principal Johnson explained that the reason for the request was due to Appellant having a detrimental effect on the FMS environment. (R. 2-3). By letter dated June 13, 2024, Superintendent Bulson notified Appellant that effective July 1, 2024, Appellant would be involuntarily transferred from her current position at FMS to a school counselor position at North Bend Elementary School. (R. 133).

On June 24, 2024 at Appellant’s request, Appellant and her representative, Elizabeth Jones, MSEA UniServ Director, met with the Superintendent’s Designee, Colin Carr, Director of Secondary School Instruction and Education; Bernard Hennigan, Executive Director of Student Support Services; Daniel Reimers, Human Resources Staff and Labor Relations Specialist; and Kim Ende, Administrative Support Specialist. (R. 165). The meeting was held to discuss Appellant’s objections to the involuntary transfer as required by the Negotiated Agreement. *Id.* She explained her objections and presented documents for review in support of her objections.⁵

⁴ The Involuntary Transfer Committee is comprised of the following individuals: Mr. Benjamin Richardson, Assistant Superintendent for Human Resources; Dr. Mae Alfree, Director of Staff and Labor Relations; Mr. Bernard Hennigan, Executive Director of Student Support Services; Mr. Michael O’Brien, Executive Director of Secondary School Instruction and Performance; Dr. Dyann Mack, Executive Director of Elementary School Instruction and Performance; Ms. Heather Kutcher, Executive Director of Curriculum, Instruction and Assessment; and Ms. Shannon Hagan, Supervisor of Talent Management. (R. 124).

⁵ It is not clear from the record what documents Appellant submitted for review.

Following the meeting, the Superintendent's Designee issued a letter dated June 26, 2024, informing Appellant that after a review of Appellant's concerns and the documentation provided, he was upholding the decision of the involuntary transfer. (R. 165).

That same day, June 27, 2024, Appellant submitted a complaint against Principal Johnson for age discrimination, workplace harassment, and retaliation ("HR complaint"). (Corrected Exhibit I, attached to Appellant's Response). On July 2, 2024, Principal Johnson was notified that HCPS received a complaint against him. (A. 142-143). HCPS investigated the complaint and on September 9, 2024, informed Appellant that the investigation was completed and any findings from the investigation have been managed. (A. 144). There is no appeal regarding the results of the investigation and that matter is not before us on appeal.

On June 27, 2024, Appellant appealed the Designee's decision upholding the involuntary transfer to the local board. (R. 14 - 16). Local board counsel established a briefing schedule for each party to submit their documents. (R. 161). On or about October 10, 2024, Appellant's union representative submitted a memorandum and exhibits for consideration by the local board.⁶ (R. 1- 121). Appellant's representative argued that the involuntary transfer was accepted by the Superintendent under a false narrative of Appellant's character and work ethic. She argued that the transfer was not permitted under the HCPS's Involuntary Transfer information handout as the request should include, "evidence of actions taken by [Principal Johnson] over an extended period of time to address concerns that are the basis for the involuntary transfer" and because there were no documented meetings, no disciplinary actions, nothing but stellar evaluations and many letters of support, including from those within the FMS counseling office, that the involuntary transfer was not permitted under the guidance. (R. 1-3). Appellant's representative also argued that the involuntary transfer was the result of unlawful retaliation because Appellant had called out Principal Johnson for "some of his inappropriate behaviors over the past few years." (R. 4). In support of this argument, Appellant's representative listed the following events:

- On August 21, 2023, Appellant emailed Principal Johnson because he yelled at the secretaries that they had not done anything all summer. In the email, Appellant stated that their feelings were hurt and people cried.
- December 14 & 15, 2023, Appellant was excluded from attending IEP meetings because she had inquired about clarification regarding 504 training.
- February 21, 2024, Appellant sent emails to her supervisors regarding unsafe conditions in the lunchroom and she asked her supervisors not to contact Principal Johnson because he would be very angry and retaliate against them for asking for assistance to resolve the issue.
- Starting March 19, 2024, Appellant was excluded from attending SPA meetings from March to the end of the year.
- Poor results about the principal in a faculty climate survey.

(R. 5). Appellant also submitted a letter dated October 9, 2024, in support of her appeal. (R. 9 – 12). In her letter, she informed the local board that Principal Johnson's behavior was retaliatory and that she had filed a complaint for hostile workplace, age discrimination, sexual harassment

⁶ On or about November 15, 2024, Appellant attempted to submit additional documents that were beyond the deadline for document submission. (R. 161). The documents were not accepted for review by the local board. *Id.*

and retaliatory practices and that “most of the 25 specific incidents in the HR complaint, were not directed at [Appellant] but rather at my coworkers.” (R. 11).

On November 27, 2024, the local board appointed a panel to review the appeal, and by a vote of 6-0 affirmed the Superintendent’s decision to involuntarily transfer Appellant. (R. 162 – 164). On or about December 4, 2024, Appellant filed a charge of age discrimination with the Equal Employment Opportunity Commission (“EEOC”). (A. 11-12). On December 24, 2024, Appellant filed this appeal to the State Board.

STANDARD OF REVIEW

It is well established in Maryland that a local superintendent has broad statutory authority to transfer personnel “as the needs of the system require” pursuant to §6-201(b) of the Education Article. Numerous State Board opinions and the Appellate Court of Maryland in *Hurl v. Board of Education of Baltimore Cnty.*, 6 Op. MSBE 602, 605 (1993), *aff’d*, 107 Md. App. 286 (1995), affirm that transfer of personnel to a lateral position or to a position of lower rank is within the discretion of the local superintendent. *See also Evans v. Prince George’s Cnty. Bd. of Educ.*, MSBE Op. No. 24-17 (2024). The standard of review that the State Board applies to such a reassignment is that the local board’s decision is considered *prima facie* correct. The State Board will not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. COMAR 13A.01.05.06A. A decision may be arbitrary or unreasonable if it is contrary to sound educational policy or a reasoning mind could not have reasonably reached the conclusion the local board or the local superintendent reached. COMAR 13A.01.05.06B. Appellant has the burden of proof by a preponderance of the evidence. COMAR 13A.01.05.06D.

LEGAL ANALYSIS

In this matter, Appellant seeks a reversal of the local board’s decision to affirm her involuntary transfer from counselor and department chair at FMS to a position of school counselor at North Bend Elementary School. Appellant makes three primary arguments in support of her request: (1) Appellant claims the decision to transfer her was unreasonable and arbitrary, (2) Appellant claims the decision was a retaliatory act against her for raising concerns about Principal Johnson’s treatment of other employees, and (3) Appellant claims the decision was based upon unlawful discrimination against her. The local board denies these claims and reiterates that HCPS had sound, non-discriminatory reasons for reassigning Appellant.

Additional Evidence

Before we consider Appellant’s arguments, we must address a preliminary matter raised by the local board. The local board objects to numerous exhibits attached in her appeal and response filed with the State Board that were not previously included in her appeal to the local board. These exhibits are mostly related to the complaint of harassment, discrimination, and retaliation she filed against Principal Johnson. Under COMAR 13A.01.05.04C, the State Board may receive additional evidence if it is shown to the satisfaction of the State Board that the additional evidence is material and that there was good reason for the failure to offer the evidence in the proceedings before the local board.

In the present case, the local board argues that these documents are not material to the appeal at issue because Appellant did not raise the age discrimination claim in her appeal to the local board. However, this claim was specifically referenced in Appellant's appeal letter to the local board. *See* R. 11. Furthermore, the local board specifically ruled on this issue and found that the transfer was not discriminatory. *See* R. 163.

Appellant also counters that the documents she included in her State Board appeal (with the exception of the December 4, 2024 EEOC and the June 27, 2024 HR complaint she submitted against Principal Johnson which did not exist at that time) were all presented to the Superintendent's Designee as part of her due process meeting held on June 24, 2024. She also argues that she attempted to submit the majority of these documents in her appeal to the local board, but her union representative did not inform her of the filing deadline and HCPS informed her that these issues were separate issues handled by different departments.

We are puzzled by the local board's argument, that documents submitted during the June 24, 2024 meeting with the Superintendent's Designee's are not part of the transfer appeal to the local board given the local board's concession that the meeting was held as part of the due process obligation under the negotiated agreement and afforded Appellant the opportunity to respond to the reasons set forth for her transfer and to object to the transfer. After the meeting, the Superintendent's Designee issued a determination upholding the involuntary transfer after a review of Appellant's "concerns and the documentation you provided." R. 165. That decision, issued June 26, 2024, was the final determination of the Superintendent's Designee, which the Appellant appealed to the local board, which in turn issued the decision that is the subject of this appeal. *See* Local Bd. Reply at p.4. Thus, we reject the local board's argument and find that the documents that Appellant used to challenge her transfer before the Superintendent's Designee are relevant and under these specific circumstances, we will receive the additional evidence and consider it in this appeal.

Unreasonable and Arbitrary

The Superintendent has broad statutory authority to assign and transfer school personnel "as the needs of the schools require" pursuant to §6-201(b) of the Education Article. The State Board has long recognized and upheld this authority stating that school personnel have "no entitlement to any position within the school system" and their transfer to another position, whether lateral or one of lower rank, is solely within the discretion of the superintendent. *Coleman v. Howard Cnty. Bd. of Educ.*, MSBE Op. Np. 01-40 (2001). School personnel are not employees of a specific school, rather they are employees of the school system. *See* Md. Code Ann., Educ. §4-103 and §6-201. We do not find that the HCPS's Involuntary Transfer Information document establishes mandatory guidelines for involuntary transfers but merely offers guidance as to when involuntary transfers may be appropriate. The negotiated agreement provides the limited process that must be followed to effectuate a transfer of HCPS personnel under Maryland's statutory law. The record before us demonstrates that the process required by the negotiated agreement was followed in this matter.

Appellant argues that the transfer is unreasonable or arbitrary because as a veteran counselor with an exemplary employment record with positive evaluations and many letters of support, she should have received written warnings regarding her behaviors that led to the

transfer decision as suggested in the HCPS guidance issued to administrators. She vehemently disagrees with her supervisors' opinions that her attitude and vocal protests were serving as a barrier to implementing the necessary changes to transfer the Naviance lessons to an advisory period. The reasons she objects to the transfer were similar to the reasons addressed by the Appellate Court of Maryland in *Hurl*. 107 Md. App. 286. In *Hurl*, the court found that Hurl's transfer which was based on the superintendent's proffered reason that the transfer would reinvigorate the teacher's skill was not arbitrary or unreasonable despite Hurl's successful and veteran teacher status and record of positive evaluations. Like the case at bar, Hurl was not forewarned of the potential transfer; she was never forewarned that her skills needed to be reinvigorated or that transfer was a possibility; and the decision was based on reasons that were subjective and, in Hurl's view, without merit. 107 Md. App. at 308-310. The Appellate Court of Maryland held that the superintendent was permitted to use her subjective professional judgment and even if "his or her subjective rationale is without merit, that does not mean the decision is arbitrary." *Id.* at 309.

The record before us demonstrates that Appellant's direct supervisor, her principal, and several other administrators, including Ms. Holloway and Mr. O'Brien, all shared the view that the district would benefit from the transfer of Appellant to another position. While Appellant may disagree with the reasoning behind the local superintendent's decision to reassign her, the disagreement alone does not make the decision arbitrary, unreasonable, or illegal. *Evans v. Prince George's Cnty. Bd. of Educ.*, MSBE Op. No. 24-17 (2024); *Colemen v. Howard Cnty. Bd. of Educ.*, MSBE Op. Np. 01-40 (2001).

We find that Appellant has failed to carry her burden to demonstrate that no reasoning mind could have reached the conclusion that the transfer was to meet the needs of the schools.

Retaliation

Appellant argues that she was unlawfully retaliated against by Principal Johnson because she stood up for other employees and was not afraid to call out Principal Johnson for "some of his inappropriate behaviors over the past few years." (R. 4). In order to establish a *prima facie* case of retaliation, Appellant must show that (1) she engaged in a protected activity; (2) that the school system took a materially adverse employment action against her; and (3) that a causal connection existed between the protected activity and the materially adverse action. *See Jones v. Baltimore City Bd. of Sch. Comm'rs*, MSBE Op. No. 15-33 (2015) (citing *Burlington N. & Santa Fe. Ry. Co. v. White*, 548 U.S. 53, 68 (2006)). The school system may then rebut the *prima facie* case by showing that there was a legitimate non-discriminatory reason for the adverse action. *Id.* The burden then shifts back to Appellant to show that the reasons given by the school system are pretextual. *Id.*

There is no evidence that Appellant engaged in any protected activities prior to Principal Johnson recommending the involuntary transfer on March 15, 2024. Appellant's allegations that Principal Johnson was disrespectful towards other staff, that he was not receptive to hearing complaints from Appellant regarding the staffing of the cafeteria, and Appellant's questions about training are simply not protected activities. Appellant filed her HR complaint, which is a protected activity, on the same day that she was notified of the final decision of the transfer. Accordingly, we disagree that her transfer was because of retaliation.


Discrimination

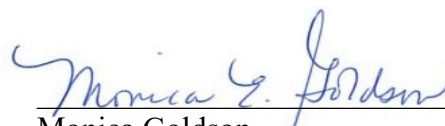
The appellant also argues that the transfer was an unlawful act of age and gender discrimination. Claims of employment discrimination are analyzed under a “burden-shifting analysis” which requires an employee to provide a *prima facie* showing that (1) she belongs to a protected class and (2) has sufficient evidence to give rise to an inference of unlawful discrimination. *Yang v. Prince George’s Cnty. Bd. of Educ.*, MSBE Op. No. 09-30 (2009) (citing *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973)). *See also Williams v. Maryland Dept. of Human Res.*, 136 Md. App. 153, 164-65 (2000). The burden then shifts to the employer to present evidence of a non-discriminatory reason for the termination. *Id.* If the employer meets the burden, the employee must then show that the stated reason was merely pretextual. *Id.*

Although Appellant is a member of a protected class due to her age or gender, the evidence is sparse concerning an “inference of unlawful discrimination.” Allegations of discrimination must be supported by evidence. Allegations alone are insufficient to support a claim of discrimination. *Weeks v. Carroll County Bd. of Educ.*, MSBE Op. No. 13-44 (2013). Her long list of complaints about Principal’s Johnson’s alleged unprofessional acts towards other staff members and her exclusions from meetings do not constitute evidence of age or gender discrimination. Even assuming Appellant can establish that she was treated differently by Principal Johnson because of her age or gender, Appellant must be able to demonstrate that the stated and well documented reasons for her transfer were merely pretextual. We conclude that Appellant has failed to meet this burden.


CONCLUSION


For the reasons stated above, we find that Appellant has failed to show by a preponderance of the evidence that the decision of the local board was arbitrary, unreasonable, or illegal. Accordingly, we affirm the decision to reassign Appellant.



Joshua L. Michael
President



Monica Goldson
Vice-President

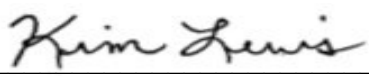

Chuen-Chin Bianca Chang



Chet Chesterfield

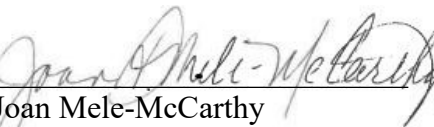

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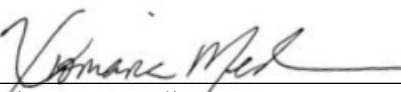

Clarence C. Crawford

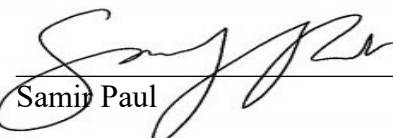

Nick Greer


Kim Lewis


Rachel McCusker


Joan Mele-McCarthy


Xiomara Medina


Samir Paul

Absent:
Irma Johnson

March 25, 2025