

IN THE MATTER OF
REQUEST FOR REMOVAL
OF LOCAL BOARD MEMBER
KENNETH KILER

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION

Order No. OR 22-14

ORDER

The State Board received a request to remove Kenneth Kiler as a member of the Carroll County Board of Education (“local board”) for misconduct in office, willful neglect of duty, and incompetency. As of December 5, 2022, Mr. Kiler is no longer a member of the local board. Thus, we find the request for his removal to be moot. The test for mootness is whether “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.” *Mallardi v. Carroll County Bd. of Educ.*, MSBE Op. No. 00-07 (2000) (quoting *In Re Michael B.*, 345 Md. 232, 234 (1997)). The end of Mr. Kiler’s service on the board has eliminated any controversy that may have existed, and there is no longer an effective remedy.

In *In the Matter of Request for Removal of Edward Burroughs*, MSBE Order No. OR22-01 (2022), we addressed mootness with regard to a local board member and found that his resignation from the local board rendered the request for removal moot. We compared the circumstances to those in *Dyer v. Howard County Bd. of Educ.*, MSBE Op. No. 13-20 (2013), in which we ruled on the merits of a removal request even though Mr. Dyer no longer served as a local board member. We found *Dyer* distinguishable based on its procedural posture because the State Board had already issued charges against Mr. Dyer, the evidentiary hearing on the merits of the removal case had taken place at the Office of Administrative Hearings, and the administrative law judge had issued a proposed decision finding that Mr. Dyer had committed misconduct in office. See *Burroughs* at 1. Like the *Burroughs* case, in the case at hand, there is merely a request for removal on which this Board has taken no action.

Additionally, in *Burroughs* we explained that the reasoning used in *Dyer*, which applied the “rules of future conduct exception” to the mootness doctrine, no longer applied. *Burroughs* at 2. The doctrine is used to hear cases that may otherwise be moot “when the urgency of establishing a rule of future conduct in matters of important public concern is imperative and manifest...” *Id.* We noted that since the time the State Board decided *Dyer*, the Board had reviewed numerous cases involving the various bases for removal of local board members, and had provided guidance on the issues in doing so through State Board orders and opinions. *Id.* and cases cited therein. As in *Burroughs*, we find no basis to apply the future conduct exception here.

Therefore, it is this 6th day of December 2022, by the Maryland State Board of Education, ORDERED, that the request to issue charges for removal of Kenneth Kiler is dismissed because it is moot.

MARYLAND STATE BOARD OF EDUCATION

Signature on File:

Clarence C. Crawford
President