

IN THE MATTER OF
REQUEST FOR REMOVAL
OF EDWARD BURROUGHS

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION
Order No. OR 22-01

ORDER

The State Board received a request to remove Edward Burroughs as a member of the Prince George’s County Board of Education (“local board”) for misconduct in office, willful neglect of duty, immorality, and incompetency. Thereafter, on or about December 6, 2021, Mr. Burroughs resigned from the local board in order to pursue other opportunities.

Given that Mr. Burroughs is no longer a member of the local board, we find the request for 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)). We find that Mr. Burroughs’ resignation has eliminated any controversy that may have existed, and that there is no longer an effective remedy.

We recognize that we previously addressed mootness with regard to a local board member removal action in *Dyer v. Howard County Bd. of Educ.*, MSBE Op. No. 13-20 (2013). We made a determination on the merits of that case even though Mr. Dyer no longer served as a member of the local board. In *Dyer*, the State Board had considered the removal request and issued charges against Mr. Dyer, thereby initiating the administrative process at the Office of Administrative Hearings (“OAH”). *Id.* While the matter was at OAH, Mr. Dyer’s membership term expired and he lost his bid for re-election to the local board. *Id.* Thereafter, the Administrative Law Judge (“ALJ”) issued a proposed decision finding the Mr. Dyer had committed misconduct in office, and the State Board considered if the matter was moot prior to issuing a final decision in the case. *Id.*

The *Dyer* case is distinguishable from the case currently before us for two reasons. First, *Dyer* was in a different procedural posture than this case. At the time Mr. Dyer lost his seat as a board member, the State Board had already issued charges against him. The evidentiary hearing on the merits of the case had already taken place and, ultimately, the ALJ issued a proposed decision finding that Mr. Dyer had committed misconduct in office. Mr. Dyer argued that his character was tarnished due to the State Board’s charge of misconduct and that the remedy was to issue a final decision dismissing the charges against him. *See Dyer* at 2. In the case at hand, we merely have a request for removal on which this Board has taken no action.

Second, in *Dyer*, the State Board applied the “rules of future conduct exception” to the mootness doctrine which 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...” See *Dyer* at 5. The Board found that the case “present[ed] a matter of public concern – defining the contours of misconduct in office for local boards,” and proceeded to review the case on its merits and adopted the ALJ’s conclusion that Mr. Dyer committed misconduct in office. *Id.* Since the time the State Board decided *Dyer* in 2013, the Board has reviewed numerous cases involving the various bases for removal of local board members, and has provided guidance on the issues in doing so through State Board orders and opinions. See *In the Matter of Nicholson*, MSBE Order No. OR20-21 (2020); *In Re Foote*, MSBE Op. No. 19-37 (2019); *In Re Harshman*, MSBE Op. No. 17-17 (2017); *In the Matter of Dimaggio*, MSBE Op. No. 16-24 (2016). We find no basis to apply the future conduct exception here.

Therefore, it is this 25th day of January 2022, by the Maryland State Board of Education, ORDERED, that the request to issue charges for removal of Edward Burroughs is dismissed because it is moot.

MARYLAND STATE BOARD OF EDUCATION

Signature on File:

Clarence C. Crawford
President