

IN THE MATTER OF

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BEFORE THE BOARD
OF EDUCATION OF
CARROLL COUNTY

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DECISION OF THE BOARD OF EDUCATION OF CARROLL COUNTY

This is an appeal before the Board of Education of Carroll County (the "Board") pursuant to Section 4-205(c) of the Education Article to the Annotated Code of Maryland brought by _____, who was employed as a probationary cafeteria worker at _____). On June 8, 2006, Dr. Charles I. Ecker, Superintendent of Carroll County Public Schools, terminated _____ at the recommendation of _____ Cafeteria Manager, Mr. John Seaman, WHS Principal, Ms. Eulalia Muschik, Supervisor of Food Services, and Ms. Jimmie Saylor, Director of Human Resources. From that decision, _____ has appealed to this Board. For the reasons set forth below, we shall affirm.¹

FINDINGS OF FACT AND CONCLUSIONS OF LAW

_____ began her employment as a non-certificated cafeteria worker on August 23, 2005. Unlike with certificated employees who are hired and terminated by the Board upon recommendation of the Superintendent, non-certificated employees may be hired and fired by the Superintendent pursuant to Md. Code Ann., Educ. § 6-201(c)(1). See Harford County Board of Education v. Harford County Educational Services

¹ The State Board has long held that there is no need for an evidentiary hearing or oral argument when, as in this case, the appeal does not involve an alleged liberty or property interest deprivation thereby invoking the protections of the Fourteenth Amendment Due Process Clause. See Bricker v. Frederick County Board of Education, 3 Op. MSBE 99 (1982); Anderson and Blake v. Board of Education of Prince George's County, 5 Op. MSBE 415, 417 (1989). For this reason, and because we do not believe that a hearing would aid us in the decision-making process, we decline to conduct an evidentiary hearing or oral argument on this appeal.

Council, MSBE Op. No. 05-24 (2005). The only procedural requirements involved in the termination of a non-certificated employee are those that are negotiated by agreement of the Board and the employee bargaining unit pursuant to Md. Code Ann., Educ. § 6-510(b)(2). In this case, the operative language in the Carroll County Food Services Master Agreement regarding probationary employment provides as follows:

ARTICLE V - JOB SECURITY AND TRANSFERS

A. PROBATIONARY PERIOD

All new unit members shall serve a probationary period of one hundred and eighty-two/one hundred ninety (182/190) duty days unless extended with notice. The Board may extend the probationary period for an additional ninety-one/ninety-five (91/95) duty days if conditions warrant such an extension. At any time during the probationary period an employee may be terminated with or without cause and said termination shall not be subject to the grievance procedure of this Agreement.

As a non-tenured probationary employee, _____ was not entitled to a determination of cause for her dismissal, and no cause was given. Accordingly, as with the non-renewal of a non-tenured teacher or any other probationary employee, there is absolutely no support for any argument that _____ is entitled to any kind of a hearing for the determination of just cause. See Board of Regents v. Roth, 408 U.S. 564, 578 (1972); Parker v. Board of Education of Prince George's County, 237 F. Supp. 222, 228 (D. Md. 1965), *aff'd* 348 F.2d 464 (4th Cir. 1965), *cert. denied* 382 U.S. 1030 (1966); Etefia v. Montgomery County Board of Education, MSBE Op. No. 03-03 (2003).

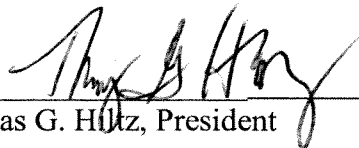
Although _____ argues that her termination was “unfair” and that she was “discriminated” against because she is also employed as a driver for one of the bus contractors serving the Carroll County Public Schools, these are inappropriate inquiries for this Board to delve into in an appeal of a probationary employee termination.

Probationary employment is employment "at-will".² The only requirement for the termination of a probationary employee is notice within the requisite period of time set forth in the negotiated agreement. See, e.g., Etefia, MSBE Op. No. 03-03, at 3 (holding that "as a probationary employee, the only process due Appellant was written notice by May 1 of the decision not to renew the probationary contract"). In this case, we find that Dr. Ecker's letter to _____ dated June 8, 2006 met that notice requirement. Accordingly, _____ was provided all of the due process to which she was entitled, and we shall affirm.

DECISION

For the reasons discussed above, this Board affirms the decision of Dr. Charles I. Ecker, Superintendent of Carroll County Public Schools, terminating _____ employment. Should she choose to do so, _____ may appeal this decision to the Maryland State Board of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, in writing, within thirty days of the date of this decision.

8/23/06
Date

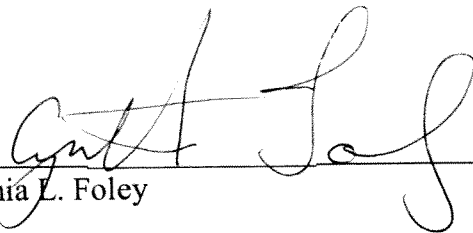


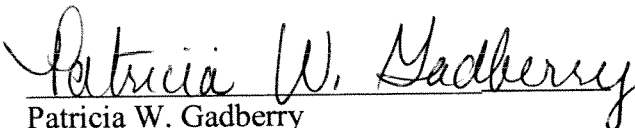
Thomas G. Hutz, President

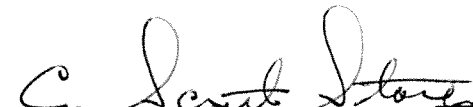
ABSENT

Gary W. Bauer, Vice President

² Had _____ set forth factual allegations of discrimination based upon race, color, religion, national origin, gender, disability, or sexual orientation in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e or Article 49B of the Annotated Code of Maryland, we would, of course, provide her a hearing. Part-time employment, however, is not protected as such under these laws.


Cynthia L. Foley


Patricia W. Gadberry


C. Scott Stone