

BEFORE THE BOARD OF EDUCATION OF CARROLL COUNTY

IN THE MATTER OF THE APPEAL \*

OF \*

\* \* \* \* \*

DECISION AND ORDER

(also "Appellant") was hired as an Hourly Floater Custodian for the Carroll County Public Schools ("CCPS"). Appellant was notified by letter dated May 3, 2019, that his services were no longer required and his employment relationship with CCPS ended.

On June 17, 2019, Appellant sent an email to the Carroll County Commissioners in which he alleged that his termination from employment was an "illegal reprisal() for [his] Whistle Blowing reports," as well as "mean spirited" and "wrongful." He asked for an apology from the Commissioners and for his position as an Hourly Floater Custodian back. CCPS Superintendent, Dr. Steven A. Lockard, sent Appellant a letter on June 18, 2019, advising him that the school system is a separate governmental entity and not a part of the County Government. He informed that his concerns should be addressed by the Board of Education as an administrative appeal. On June 29, 2019, Appellant submitted what he termed his "Whistle Blower Complaint and Hostile Work Environment Complaint" to the Board of Education.

Appellant was advised by email dated July 12, 2019, that the Board of Education had reviewed his complaint and was assigning a hearing examiner to conduct an evidentiary hearing. James R. Whattam, Esquire, was appointed as the hearing examiner; Appellant's availability was confirmed; and the hearing was scheduled to begin at 9:00 a.m. on August 19, 2019. As the hearing examiner's report describes, Appellant did not appear. Although the hearing was conducted without his participation, the hearing examiner included in the record Appellant's 13-page Appeal

Information Form and an August 15, 2019, email to Dr. Lockard, and others, which described as amending and augmenting his complaint.

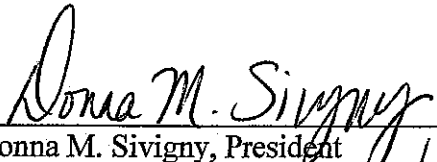
For the reasons detailed in his September 26, 2019 Report, the undersigned members of the Board of Education of Carroll County adopt, and incorporate herein, the Findings of Fact, Conclusions of Law, and Recommendations of the hearing examiner regarding his Whistleblower Complaint and Hostile Work Environment Complaint.

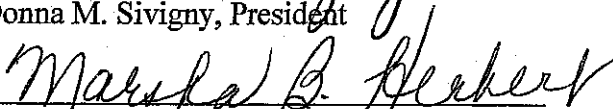
With respect to the timeliness of the appeal, the hearing examiner made no recommendation, leaving the decision solely to the Board of Education. The decision contested was made on May 3, 2019. A decision of the Superintendent or his designee may be appealed to the Board of Education if taken within 30 calendar days. [redacted] misdirected complaint to the County Commissioners was sent by email on June 17, 2019, two weeks past the 30-day deadline. Nevertheless, because Appellant was confused about where to file his Whistleblower complaint, the Superintendent agreed on June 18, 2019, to process the complaint and sent him the Board's Appeal Information Form which, according to Board procedures, is to be completed and returned within 10 calendar days. [redacted] asked for and was granted an extension of time which allowed him to file on July 1, 2019.


Appellant was twice given additional time to file his appeal to the Board of Education. In addition, the Board of Education permitted [redacted] to add a complaint alleging a Hostile Work Environment to his original Whistleblower complaint. The Board of Education chose to waive Appellant's untimely filings *and* to afford more due process than may otherwise have been required. The Board of Education assigned a hearing examiner to conduct a full evidentiary hearing in order to give [redacted] an additional opportunity to present evidence to support his very serious allegation that his employment with CCPS was terminated in retaliation for activities

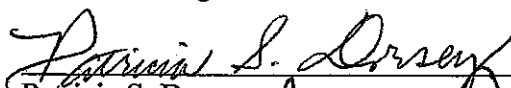
protected by Maryland's Public School Employee Whistleblower Protection Act and that he was subjected to illegal workplace harassment.


We do not find, as a matter of law or of fact, that [redacted] presented evidence sufficient to support his Whistleblower complaint or his complaint of Workplace Harassment and, therefore, the appeal is denied and the Superintendent level decision to terminate his employment with CCPS is upheld.

  
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Donna M. Sivigny, President

  
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Marsha B. Herbert, Vice President

  
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Tara A. Battaglia

  
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Patricia S. Dorsey

  
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Kenneth A. Kiler

Date: December 4, 2019