

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 of the Annotated Code of Maryland brought by _____ in the Board's Technology Services Department. On June 11, 2021, _____ employment was terminated on the grounds of willful neglect of duty and insubordination by Dr. Steven Lockard, Superintendent of Carroll County Public Schools, following an investigation regarding significant delays with _____ login times that was preceded by repeated performance concerns expressed to _____ over the course of his nearly two year employment history. _____ has timely appealed that decision to this Board. For the reasons set forth more fully below, we shall affirm.¹

FINDINGS OF FACT AND CONCLUSIONS OF LAW

_____ began his employment as a _____ in the Board's Technology Services Department _____. Within a few months after the commencement of _____ employment, concerns arose over _____ late reporting to work assignment. Although _____ supervisor offered accommodations to _____ late arrivals to work continued as a concern. _____ supervisor repeatedly brought these concerns to _____ attention and cautioned _____ on the need

¹ _____ did not request a hearing before this Board. For this reason, and because we do not believe that a hearing would aid us in the decision-making process, we shall render a decision based upon the written record presented to us.

for punctual arrival and reporting. In January of 2020, [redacted] received a written reprimand as a result of [redacted] continued lateness.

When the school system moved to a remote work environment in the wake the COVID-19 pandemic, [redacted] performance did not improve. In the spring and summer of 2020, there were repeated instances where [redacted] did not timely respond to messages from [redacted] supervisor and situations where [redacted] Microsoft Teams status noted that [redacted] was “away” during times when [redacted] was supposed to be on duty. It should be noted that this was a time period during which the entire school system depended heavily upon the Technology Services Department to keep the system operational.

In the fall of 2020, [redacted] complained of computer issues when [redacted] supervisor expressed continued concerns about his performance and productivity. [redacted] was provided with a contact on the school system’s Network Engineering Team for any assistance that [redacted] might need; nonetheless, issues with [redacted] productivity and lack of availability continued. In February of 2021, it took [redacted] three hours to respond to an important message from [redacted] supervisor sent during his duty time. In response to concerns expressed by [redacted] supervisor, [redacted] indicated that his phone and laptop were muted and that [redacted] was having difficulties logging into Microsoft Teams. However, when [redacted] computer was examined by the network engineer, it was determined that there were no reasons why [redacted] could not log into Microsoft Teams. Nonetheless, and despite the continued expressions of concern by [redacted] supervisor, delayed responsiveness and productivity issues persisted throughout the spring of 2021.

At approximately noon on Tuesday, May 25, 2021, [redacted] supervisor sent an email flagged as high priority to [redacted] regarding a user access issue. Not hearing any response from [redacted] supervisor sent a message the next morning stating that

she was still waiting for a response and also sent a text message as well. Nearly three hours later, [redacted] finally responded to [redacted] supervisor and stated that [redacted] had missed her messages but would be working on the issue that day. [redacted] supervisor again reiterated the need for timely responses to her messages and advised that the urgent work was re-assigned to another employee due to [redacted] unresponsiveness. One week later, on June 2, 2021, [redacted] again failed to timely respond to [redacted] supervisor, and she advised [redacted] that [redacted] would need to start checking with her each morning on Microsoft Teams at 8:00 a.m. and that concerns over [redacted] delays, unresponsiveness, and declining productivity would be reported to Human Resources.

On June 4, 2021, [redacted] and [redacted] supervisor met with Human Resources Specialist Julie Nguyen to discuss [redacted] delayed login times.² [redacted] indicated that [redacted] was logging in daily at 8:00 a.m. but admitted that [redacted] was not logging into [redacted] virtual machine and was instead using the NotePad application on [redacted] laptop which [redacted] supervisor reiterated was not an appropriate developer tool and did not meet the coding standards developed by the Lead Software Developers. [redacted] was instructed that Human Resources would continue the investigation into the concerns expressed by [redacted] supervisor and that during the investigation [redacted] would need to report for duty in person at the Board's Central Office. [redacted] laptop was then retrieved so that the network engineering team could conduct a thorough review to determine if there were any technology impediments to [redacted] ability to perform [redacted] job duties. That review indicated that there were no technology impediments within [redacted] physical machine, virtual machine, or software applications. The investigation into

² At this meeting, Ms. Nguyen met the requirements of *Cleveland Board of Education v. Loudermill*, 430 U.S. 532 (1985), by discussing the allegations with [redacted] II and giving him an opportunity to respond.

computer also disclosed consistent and significant delays of two to three hours in logging in to work as well as two days in May of 2021 when [redacted] did not log in at all.

As a result of this investigation, it was recommended that [redacted] employment be terminated on the grounds of willful neglect of duty and insubordination. After a thorough review of the record, Superintendent Lockard agreed with that recommendation, and [redacted] termination was communicated by letter dated June 11, 2021. [redacted] then sent a timely appeal to this Board which included a detailed letter attempting to refute the findings of insubordination and willful neglect of duty and further attempting to provide excuses for his poor work performance. This Board has thoroughly reviewed the record, and we are convinced that [redacted] has not demonstrated that Superintendent Lockard's decision was arbitrary, unreasonable, or illegal. Accordingly, we shall affirm.

It is important to note that the record in this matter demonstrates conclusively that [redacted] supervisor frequently communicated her concerns to [redacted] both verbally and in writing. When working remotely, punctual attendance is determined by the time a person logs into the system. The supervisor's expectations for logging in and responding to her communications were both clear and reasonable, but the record demonstrates that [redacted] failed to meet those expectations. The Maryland State Board of Education has repeatedly held that a failure to report to work or frequent late arrivals constitute examples of willful neglect of duty. *See, e.g., Wiggins v. Board of School Commissioners of Baltimore City*, MSBE Op. No. 04-44 (2004); *Cureton v. Montgomery County Board of Education*, MSBE Op. No. 10-21 (2010). As noted earlier in this Decision, the expectation for punctual attendance was particularly important for Technology Services Department employees during the height of the pandemic when the

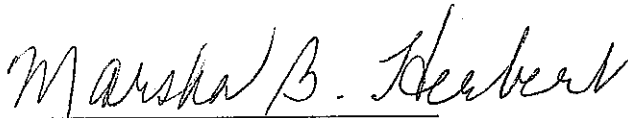
entire school system need them most. Despite contentions to the contrary, there is nothing in written submission to this Board that leads us to any conclusion but that repeatedly neglected his important duties.

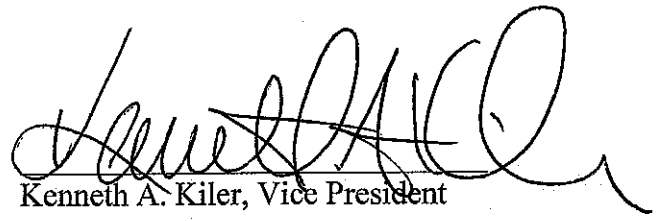
Similarly, conduct was insubordinate. contends that there is nothing in the record indicating that defied authority or refused to obey any order. However, insubordination goes beyond such overt actions and “includes the failure to follow direct instructions from a supervisory employee.” S. Bounds, *Maryland School Law Deskbook*, at 300 (LexisNexis, 2020-2021 ed.). The record in this case plainly demonstrates that repeatedly failed to follow the direct instructions of his supervisor by not responding to her communications in a timely manner and by not logging in as directed.

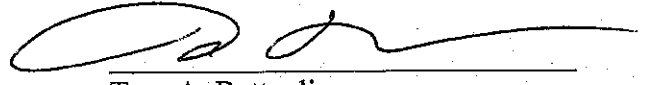
Accordingly, has not met his burden of proof in contesting Superintendent Lockard’s decision to terminate employment. Having reviewed the record in this case, we are convinced that Superintendent Lockard’s decision was neither arbitrary, unreasonable, nor illegal but was, rather, a considered decision after a thorough and thoughtful investigation. Accordingly, this Board shall affirm.

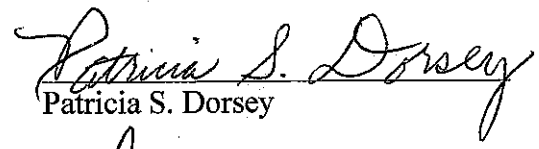
DECISION

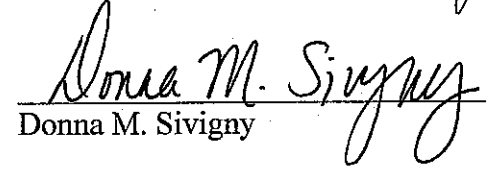
For the reasons discussed above, this Board affirms the Superintendent Lockard’s decision to terminate employment. Should choose to do so, may appeal this decision to the Maryland State Board of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, in writing, within thirty days of the date of this decision.


Marsha B. Herbert, President


Kenneth A. Kiler, Vice President


Tara A. Battaglia


Patricia S. Dorsey


Donna M. Sivigny

9-30-21
Date