

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 the _____). The _____ has appealed Superintendent Stephen H. Guthrie's decision to award the 2012-2013 field hockey officiating contract to the _____. For the reasons set forth more fully below, we shall affirm.¹

FINDINGS OF FACT AND CONCLUSIONS OF LAW

For many years, the _____ was awarded successive annual contracts to provide officiating services for field hockey and girls' lacrosse games for both the Carroll County Public Schools ("CCPS") and the Howard County Public Schools ("HCPS"). These contracts were awarded to the _____ without a competitive bid process, as Maryland law does not require the use of a competitive bid process for the selection of athletic officials. See Md. Code Ann., Educ. § 5-112 (requiring the use of a competitive bid process only for the purchase of buildings, improvements, supplies, or equipment costing more than \$25,000).

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 Anderson and Blake v. Board of Education of Prince George's County, 5 Op. MSBE 415, 417 (1989); Bricker v. Frederick County Board of Education, 3 Op. MSBE 99 (1982). 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 but shall render a decision based upon the written record presented to us by the HCOA and the Superintendent's Designee.

During recent years, however, both the CCPS and HCPS developed concerns over billing irregularities that required the expenditure of time and effort of the staffs of both respective school systems in order to resolve the issue. Consequently, on May 24, 2012, the Supervisors of Athletics for the CCPS and HCPS issued a joint letter in which they sought bids for the officiating services for field hockey and girls' lacrosse games during the 2012-2013 school year. Nothing in the contract for the 2011-2012 school year indicated that the would be selected or was otherwise entitled to provide these services for the 2012-2013 school year.

The CCPS and HCPS thereafter initiated a joint solicitation process in which the purchasing supervisors of each school system jointly evaluated the merits of the bid responses but whereby each respective school system reserved the right to make its own independent decision as to which bidder it would select. The and were the only two entities that submitted proposals.

On or about August 9, 2012, CCPS Superintendent Stephen H. Guthrie decided to award the field hockey officiating contract to the Mr. Guthrie declined to award the girls' lacrosse officiating contract to either the or the at that time, opting instead to conduct further review. In making his decision to award the field hockey officiating contract to the , Mr. Guthrie considered all of the information contained in the proposals submitted by the and the and concluded that the proposal best met the needs of the CCPS. More specifically, Mr. Guthrie was satisfied that the had a sufficient number of experienced officials, and he also took into account the CCPS Athletic Department's dissatisfaction with the services previously provided by the , including but not limited to the frustration and inconvenience it experienced in dealing with the irregular billing practices. Mr.

Guthrie's decision was also influenced by the unanimous conclusion of the CCPS Athletic Department and Purchasing Department that the [redacted] was the more responsive and responsible bidder for the field hockey officiating contract.

In support of their appeal to the Board, the [redacted] argues that Mr. Guthrie's decision to award the field hockey officiating contract to the [redacted] "was based on false information and inaccurate assumptions of the evaluators." More specifically, the [redacted] argues that "Athletic Supervisor James Rodriguez d[id] not want [redacted] as the winning bidder because of prior issues with invoices"; that [redacted] should not be penalized for any "prior issues with invoices" because only two individuals on the [redacted] Executive Board members were initially informed of the invoicing irregularities, one of whom is now affiliated with the [redacted]; that the [redacted] Executive Board took immediate corrective action as soon as it was informed of the billing irregularities; that the police investigation which ensued was ultimately "dropped because there was no evidence of any overbilling" to either school system; and that the [redacted] employee at the heart of the alleged irregular billing practices was "released" and is "no longer a member of the [redacted]."

THE APPEAL IS MOOT

The appeal is subject to dismissal for mootness insofar as the 2012-2013 field hockey season has now been completed and thus the Board cannot provide the [redacted] the relief it requests—namely, that "the officiating contract for girls' lacrosse and field hockey for the 2012-2013 season not be awarded to [redacted]" and that "the [redacted] and [redacted] proposals be re-evaluated by independent evaluators who would base their decision solely on the information included in the proposals and without input from any member of [redacted] or employee of the Carroll County or Howard County School Districts." See Smoot v. Charles County Board of Education, MSBE Op. No. 03-27, at 3

(2003) (stating that “[i]t is a well established principle that a question is moot when 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”) (citations omitted).

DECISION

For the reasons discussed above, this Board has decided to dismiss the appeal in that the relief sought by _____ is moot. The _____ 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.

11/14/12
Date

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