

IN THE MATTER OF

* BEFORE THE
*
* BOARD OF EDUCATION OF
*
* CARROLL COUNTY
*

* * * * *

DECISION OF THE BOARD OF EDUCATION OF CARROLL COUNTY

This matter is 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 pursuant to an appeal filed by _____ contesting the decision of Chantress Baptist, Director of Human Resources, acting as the Superintendent's designee, to terminate _____ employment as a hourly custodial worker.

The Board has reviewed all of the written material submitted by _____ as well as the documentation submitted on behalf of the Superintendent in response to _____ appeal. The Board has determined that this appeal may be decided under its rules of procedure without an evidentiary hearing or oral argument. For the reasons set forth below, the Board has determined that the Superintendent's decision should be affirmed.

FINDINGS OF FACT

On or about January 20, 2018, _____ worked as an hourly custodian at _____ . Also working as in a custodial capacity that day at that location were Elise Rill, a custodian normally assigned to _____ , and Frederick Douglas, Jr., an hourly custodian temporarily assigned to _____ . Prior to beginning their evening shift, _____ , Ms. Rill, and Mr. Douglas were seated in the break room. _____ who had worked with Ms. Rill before, mispronounced Ms. Rill's first name several times, and according to Ms. Rill and Mr. Douglas, he did so intentionally, eventually commenting that her name was "weird." After being introduced to Mr. Douglas for the first time, _____ intentionally mispronounced Mr.

Douglas' first name, and then, after confirming that Mr. Douglas' last name was indeed "Douglas," commented that Mr. Douglas' name was like the "famous black man with the afro," or words to that effect. Mr. Douglas was highly offended by [redacted] comment (as was Ms. Rill), and he immediately excused himself from the break room.

Mr. Douglas reported the incident to both the head custodian and [redacted]

Mr. Douglas wrote a statement that evening, and in the days that followed Chantress Baptist, Director of Human Resources, interviewed Mr. Douglas, Ms. Rill, and [redacted]. The statements given by Mr. Douglas and Ms. Rill were consistent as to [redacted] conduct that night (which also included other erratic behavior unrelated to the racial comment discussed above). [redacted] admitted that once he learned of Mr. Douglas' full name, he commented that "he was the one that brought back the afro," but he believed it was "all in humor and fun." Prior to the 2017-2108 school year, [redacted] completed training on discrimination, harassment, and professionalism in the workplace.

On January 25, 2018, Ms. Baptist, serving as the Superintendent's designee, informed [redacted] by letter that his employment was being terminated. [redacted] timely appealed that decision to the Board. As grounds for his appeal, [redacted] argument, in its entirety, is that the "Charges are 100 percent false!!!"

STANDARD OF REVIEW

Under Section 4-205(c)(2) of Education Article, the Superintendent is charged with "decid[ing] all controversies and disputes that involve: (i) The rules and regulations of the county board; and (ii) The proper administration of the county public school system." Where, as here, an appellant challenges a Superintendent's decision, the appellant bears the burden of

demonstrating that the Superintendent's decision was arbitrary, unreasonable, or illegal. See COMAR 13A.01.05.05.¹

CONCLUSIONS OF LAW

We conclude that the Superintendent's decision was not arbitrary, unreasonable, or illegal as those terms are defined. We do not believe it is contrary to sound educational policy to terminate the employment of an individual who makes racially insensitive remarks to a colleague. To the contrary, we believe it is consistent with sound educational policy to disallow such conduct in the workplace. We likewise do not believe that a reasoning mind could not have reached the same decision as the Superintendent based on the facts at hand. To the contrary, we believe that the vast majority of "reasoning minds" would have come to very same conclusion as the Superintendent.

Lastly, [redacted] has not provided any argument as to why the Superintendent's decision was illegal.

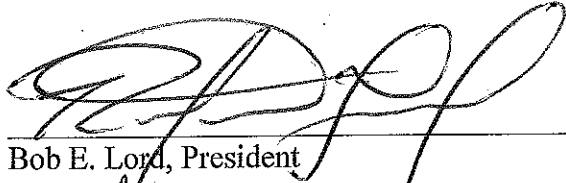
¹ Although COMAR 13A.01.05.05 sets forth the Maryland State Board of Education's standard of review with regard to the State Board's review of decisions of local boards, this standard is widely used by local boards to review the decisions of local superintendents. COMAR 13A.01.05.05 reads, in relevant part:

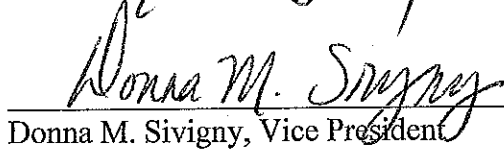
- A. General. Decisions of a local board involving a local policy or a controversy and dispute regarding the rules and regulations of the local board shall be considered prima facie correct, and the State Board may not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal.
- B. A decision may be arbitrary or unreasonable if it is one or more of the following:
 - (1) It is contrary to sound educational policy; or
 - (2) A reasoning mind could not have reasonably reached the conclusion the local board or local superintendent reached.
- C. A decision may be illegal if it is one or more of the following:
 - (1) Unconstitutional;
 - (2) Exceeds the statutory authority or jurisdiction of the local board;
 - (3) Misconstrues the law;
 - (4) Results from an unlawful procedure;
 - (5) Is an abuse of discretionary powers; or
 - (6) Is affected by any other error of law.
- D. The appellant shall have the burden of proof by a preponderance of the evidence.


DECISION

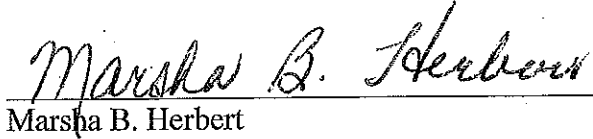
We conclude that the Superintendent's decision to affirm termination as an hourly custodial worker was not arbitrary, unreasonable, or illegal. We therefore affirm the Superintendent's decision.

May 9, 2018
Date


Bob E. Loyd, President


Donna M. Sivigny, Vice President


Virginia B. Harrison


Marsha B. Herbert

(Absent)

Devon M. Rothschild