

J'HAN BRADY,

Appellant

v.

HOWARD COUNTY  
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 24-03

## OPINION

### INTRODUCTION

Appellant challenges the decision of the Howard County Board of Education (“local board”) requiring three years to elapse before the school system may remove the reprimand at issue in this case from the Appellant’s personnel file. The local board responded to the appeal maintaining that its decision was not arbitrary, unreasonable, or illegal. The Appellant responded and the local board replied to the response.

### FACTUAL BACKGROUND

Appellant was employed as an Art Teacher at Lake Elkhorn Middle School (“LEMS”) for the 2022-2023 school year. On March 3, 2023, the Assistant Principal issued a reprimand to the Appellant for misconduct and willful neglect of duty for violating Howard County Public School System (“HCPSS”) policies based on an incident that occurred between her and a student. The reprimand states as follows:<sup>1</sup>

[O]n January 11, 2023, you referred to one of your 6<sup>th</sup> grade students as being “slow.” In addition, when the student retrieved items from your classroom at the end of the day, you blocked the student from exiting the school building with your arms out and followed the student in the hallway until he was able to exit.

(Record Extract (“RE”) 4 at 12).

The Appellant appealed the reprimand to T. Michael Carson, Director of Employee and Labor Relations, acting as the Superintendent’s Designee. On April 20, 2023, Mr. Carson held a hearing during which testimony was heard from the Appellant and the Assistant Principal who conducted the investigation. Mr. Carson also reviewed video evidence and student statements. In a decision issued May 26, 2023, Mr. Carson upheld the reprimand. His decision further described the hallway interaction as follows:

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<sup>1</sup> Appellant’s actions were captured on video.

The video demonstrates that you did follow the student throughout the hallway as he was attempting to exit. I find the student's claim that he shouted for you to "get off" credible. The video clearly shows a reaction from you when you raise your hands in front of you as one does to avoid conflict.... I do find that you did hinder the student from leaving the hallway by continuing to follow him. His actions of turning and defensively moving away from you were met with you continuing to engage and follow the student.

(RE 1 at 3).

The Appellant appealed Mr. Carson's decision to the local board.<sup>2</sup> (RE 2). In a decision issued November 7, 2023, the local board upheld the reprimand, finding that the Appellant's actions supported Mr. Carson's determination. (RE 5). The local board also directed HCPSS to remove the letter of reprimand within three years of the date of the decision if requested to do so by the Appellant. *Id.* at 6.

Appellant filed this appeal to the State Board on December 4, 2023. Appellant states in her appeal that she is only appealing that part of the local board's decision directing HCPSS to remove the reprimand from her personnel file after three years. (Appeal).

#### STANDARD OF REVIEW

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. COMAR 13A.01.05.06A. The Appellant has the burden of proof. COMAR 13A.01.05.06D.

#### LEGAL ANALYSIS

##### *Removal of Reprimand from Personnel File*

The Appellant makes clear that she is challenging only that portion of the local board's decision directing HCPSS to wait three years before removing the reprimand from the Appellant's personnel file, at the Appellant's request. The Appellant states, "I am not seeking to overturn the entire decision of the County Board" and that "[t]his appeal is not an appeal of fact, findings of facts, or, in majority, the conclusions." Rather, she seeks only to challenge the "decision of the County Board to place a time delay on clearing [her] personnel file of said adverse action information." (Appeal).

Appellant argues that the local board's directive to allow removal of the letter of reprimand from her personnel file conflicts with the local board's decision that the reprimand was warranted, thereby rendering the decision to delay removal of the reprimand arbitrary and unreasonable. We disagree. The removal of disciplinary action from an employee's personnel file after a specified period of time is not an uncommon human resources practice, which is of benefit to the employee. The decision to remove the action or to maintain it permanently remains

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<sup>2</sup> The Appellant was represented by counsel during her appeal before the local board.

within the discretion of the local board. Even though the local board’s policy is silent on this issue, there is nothing inherently unreasonable in the local board maintaining a record of the reprimand for three years. Given the facts in the record of this case, we find nothing to suggest that the local board’s decision to implement such a practice here should be overturned.

*Challenge to Reprimand*

Even if we were to view the Appellant’s appeal as challenging the local board’s decision to uphold the reprimand, the Appellant has not met her burden in this case. Local board Policy 7030 (III.J) defines misconduct as “[a]ny wrongdoing by an employee in relation to the duties and responsibilities of his/her assigned position” and provides “[i]nappropriate/unprofessional conduct toward or relations with other persons” as an example. *See also Meyers v. Anne Arundel Cnty. Bd. of Educ.*, MSBE Op. No. 16-50 (2016)(explaining parameters of misconduct considered by the State Board). Policy 7030 (III.N) defines willful neglect of duty as the “[f]ailure to knowingly follow a requirement of public school law, Board policies, and HCPSS procedures, school system directives, or job duties and responsibilities.” There is record evidence that the Appellant made an inappropriate reference about the student and later escalated the situation by following the student into the hallway and hindering the student’s egress from the area. It was not arbitrary, unreasonable, or illegal for the local board to find that the Appellant’s actions violated school policy thereby warranting the reprimand. The Appellant has provided no sufficient justification or credible evidence to demonstrate otherwise.

*New Evidence*

In her reply to the local board’s response to the appeal, the Appellant includes new evidence entitled “Timeline of Harassment, Intimidation, and Bullying at LEMS” that was not submitted in the appeal to the local board. Under COMAR 13A.01.05.04C, the State Board may receive additional evidence if “it is shown to the satisfaction of the State Board that the additional evidence is material and that there were good reasons for the failure to offer the evidence in the proceedings before the local board[.]” In the present case, the Appellant, who was represented by legal counsel in her appeal before the local board, has not provided any good reason for the failure to offer the evidence below. Thus, we deny admission of the additional evidence.

CONCLUSION

For all of the foregoing reasons, we affirm the decision of the local board.

Signatures on File:

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Clarence C. Crawford  
President

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Joshua L. Michael  
Vice-President

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Shawn D. Bartley

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Chuen-Chin Bianca Chang

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Susan J. Getty

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Monica Goldson

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Nick Greer

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Irma E. Johnson

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Rachel McCusker

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Joan Mele-McCarthy

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Samir Paul

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Holly Wilcox

February 27, 2024