

RENEE DIXON,

Appellant

v.

CECIL COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 24-20

OPINION

INTRODUCTION

Renee Dixon (“Appellant”) appeals the decision of the Cecil County Board of Education (“local board”) finding that the Appellant violated the local board ethics regulation by promoting her business to the Cecil County Public Schools (“CCPS”) community. 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.

FACTUAL BACKGROUND

Appellant was sworn in as a member of the local board on December 5, 2022. The next month, the Superintendent, Dr. Jeffrey A. Lawson, and local board president, Diana B. Hawley, received complaints from staff that the Appellant was promoting her two businesses¹ to school employees, parents, and students while serving as a local board member at the January 10, 2023, Special Education Community Advisory Committee (“SECAC”) meeting at Bay View Elementary School. (R. 1).

Local Board GBC-RA – Ethics Regulations, Section 2 establishes the ethics panel of the local board, which is responsible for processing and making determinations regarding complaints alleging violations of the ethics regulations.² Section 2 of GBC-RA – Ethics Regulations provides that the local board ethics panel is to provide advisory opinions to persons subject to the local board ethics regulation. By letter dated January 13, 2023, President Hawley requested the local board ethics panel to issue an advisory opinion as to whether the Appellant could ethically

¹ The Appellant owns two businesses, Freedom Hills Therapeutic Riding Program, a non-profit therapeutic riding program serving individuals with disabilities, and Rolling Hills Ranch, a for-profit business offering horseback riding lessons, boarding, and a bed and breakfast.

² Local Board GBC-RA – Ethics Regulations is based on the Model Board of Education Ethics Regulations on conflicts of interest, financial disclosure, and regulation of lobbying found at COMAR 19A.05.00.00 issued by the State Ethics Commission which the General Assembly has vested the Administration of the comprehensive State Ethics Law. *See also* General Provisions Article, §§5-205 and 5-206 and Title 5, Subtitle 8, Annotated Code of Maryland.

promote her businesses to the CCPS community during her tenure as a member of the local board. (R. 6 -7). On February 1, 2023, the local board ethics panel issued an advisory opinion to the Appellant and directed that she avoid any conflicts of interest and use of prestige of office ethical issues and “henceforth refrain from promoting either Rollings Hills Ranch or Freedom Hills Therapeutic Riding to the CCPS community while [she is] a member of the Board of Education of Cecil County.” (R. 8 – 9).

On March 19, 2024, the Appellant, at another SECAC meeting, handed out her business card to the incoming SECAC President and offered to host future SECAC meetings at her farm. On April 10, 2024, Kelly Wunderer, a CCPS Instructional Coordinator for Special Education, filed an ethics complaint with the local board ethics panel against the Appellant for potential ethical violations in promoting the Appellant’s businesses at the March 19, 2024 SECAC meeting. (R. 4). On or about April 27, 2024, the Appellant responded to the complaint. (R. 5). The ethics panel determined that the alleged violation fell within the jurisdiction of the local board ethics regulation and requested an investigative report. Upon review of the investigative report and the Appellant’s response, the ethics panel scheduled the matter for a hearing on May 23, 2024. On June 26, 2024, the ethics panel issued its Findings of Fact, Conclusions of Law and Recommendation to the local board. (R. 28 – 34). The ethics panel concluded that the Appellant violated Section 3, Conflicts of Interest, paragraph 6 of the local board ethics policy which prohibits an official from intentionally using the prestige of office or public position for the private gain of that official or the private gain of another. (R. 28 – 34). The ethics panel recommended that the local board issue a public reprimand. *Id.*

The ethics panel opinion, record, and transcript of the hearing were forwarded to the local board which heard oral arguments on July 24, 2024. On July 29, 2024, the local board issued its Opinion finding by a preponderance of the evidence that the Appellant committed an ethics violation of local board policy by again promoting her businesses at the March 19, 2024 SECAC meeting. (R. 84-85). The local board disagreed with the ethics panel recommendation of a public reprimand but instead concluded that the correct sanction was to request the State Board to issue charges to remove her for misconduct in office pursuant to §3-4A-02 of the Education Article, Annotated Code of Maryland. *Id.* On August 19, 2024, the local board filed its second petition to remove the Appellant from the local board for the alleged misconduct.³

The Appellant appealed the July 29, 2024, local board decision concluding that the Appellant violated the local board ethics regulation. In support of her appeal, the Appellant argues that the State Board should overturn the local board’s request for removal of Appellant based upon various procedural and due process violations. *See Appeal at p. 3.*

STANDARD OF REVIEW

³ In response to the local board’s first request, by letter dated August 28, 2024, we notified the Appellant that the State Board voted to issue charges against the Appellant for misconduct in office pursuant to §3-4A-02 of the Education Article, Annotated Code of Maryland. At the Appellant’s request, the matter was transferred to the Office of Administrative Hearings for a hearing. In addition, the State Board previously received a request from a Cecil County resident to remove Ms. Dixon from the local board for misconduct in office based upon Ms. Dixon’s inappropriate, unprofessional, and highly offensive social media post which was perceived as homophobic and intolerant of the LGBTQIA+ community. In *In the Matter of Request for Removal of Local Board Member Renee Dixon*, MSBE Op. No. 24-01 (2024), we declined to issue charges for the removal and dismissed the removal request.

The State Board exercises its independent judgment on the record before it in the explanation and interpretation of the public school laws and State Board regulations. COMAR 13A.01.05.06E.

LEGAL ANALYSIS

The State Board does not have jurisdiction to decide matters under the local board's ethics policy and regulations. Neither party in their filings identifies a statutory basis for the State Board to exercise its jurisdiction to decide matters regarding the administration and application of matters pertaining to the Maryland public ethics laws. We conclude that no such jurisdiction exists as those matters are to be made at the local level and are subject to review in the Circuit Court of Cecil County.

The State Board is authorized to hear appeals pursuant to either §4-205(c) or §2-205(e) of the Education Article. As this matter was never decided by the local superintendent, jurisdiction under §4-205(c) is not applicable here because it is limited to matters arising within the authority and initially decided by the local superintendent. *See Board of Educ. of Garrett County v. Lendo*, 295 Md. 55, 66 (1982); *Betley v. Queen Anne's County Bd. of Educ.*, MSBE Op. No. 23-09 (2023). Furthermore, we have consistently declined to exercise our original jurisdiction granted under §2-205(e) to decide matters related to local board decisions under its ethics policies and regulations because such claims are not determined by State education law. *See Betley v. Queen Anne's County Bd. of Educ.*, MSBE Op. No. 23-09 (2023)(Given the statutory and regulatory framework surrounding local board of education ethics policies and regulations, we decline to exercise jurisdiction to review an appeal of a local board's decision of an ethics complaint filed with the ethics panel of the local board); *See also In the Matter of Maryland Public Ethics Law*, MSBE Order No. 19-03 (2019)(dismissing for lack of jurisdiction a request for a declaratory ruling that the board members violated conflict of interest of provisions contained in local, county, and State ethics laws because the issues did not involve State education laws and concerned matters entrusted to another agency).

The local board's ethics regulations derive from the Maryland public ethics laws, and not the Education Article. In matters involving public ethics, the Maryland General Assembly has established a framework for local boards of education for the review and enforcement of allegations of violations of conflicts of interest and other matters of ethics pertaining to local board members through the State public ethics laws. *See* Md. Code Ann., Gen. Prov. §§5-801 – 5-820. These laws require local boards to adopt regulations concerning conflict of interest, financial disclosure, and lobbying. *Id.* at §5-816, §5-817, and §5-818. The laws require the local board regulations to comply with regulations adopted by the Ethics Commission. *Id.* at §5-816(b)(2)(ii). Section 5-819 of the General Provisions Article authorizes the State Ethics Commission to approve the local board regulations and §5-820 contains provisions regarding enforcement of the adoption of ethics regulations, which lies with the State Ethics Commission. The State Legislature provided no role for the State Board in administering matters of the public ethics laws, notwithstanding the broad responsibilities the Legislature authorized for the State Board under §2-205 of the Education Article. *See Dzurec v. Bd. of County Commissioners of Calvert County*, 482 Md. 544, 551 (2023)(“The model local ethics laws contemplate that the local public ethics law will be enforced at the local level by a local ethics commission established for that purpose.”). The Supreme Court of Maryland, applying a similar local ethics

law to the Board of County Commissioners of Calvert County, has explained that, “[a] person who is the subject of a decision or action by the [Calvert County Ethics Commission], ‘may seek judicial review of that decision in the Circuit Court for Calvert County in the manner prescribed by’ Maryland Rule 7-201.” *Dzurec*, 482 Md. at 553.

As part of the framework, the State Ethics Commission has jurisdiction over the ethics laws and has promulgated regulations requiring local boards of education to adopt regulations consistent with the public ethics laws. Md. Code Ann., Gen. Prov. §5-104; COMAR 19A.05.02.01 and .02. COMAR 19A.05.02.03 provides that the local board regulations must establish a mechanism for processing and making determinations in response to complaints alleging violations of the regulations and within “the board of education’s administrative authority include sanctions for enforcement of the substantive provisions.” In addition, COMAR 19A.05.03.03 provides enforcement authority for the State Ethics Commission in situations in which local boards fail to comply with the requirements of the public ethics law.

The State statutory law contains no mechanism for appealing the determinations in response to complaints to the State Board. Nor are any such provisions included in the State Ethics Commission’s Model Board of Education Ethics Regulations set forth in COMAR 19A.05.00.00, Appendix A and B. Rather, the model regulation found in Appendix A provides that there is an ethics panel to which complaints alleging violations of the ethics regulations may be filed, and that the panel shall report its findings and recommendations for action to the local board, which may dismiss the complaint or take enforcement action in the event of a determination of a violation, such as discipline, personnel action, or removal.

Given the State statutory and regulatory framework surrounding local board of education ethics policies and regulations, we decline to exercise our original jurisdiction under §2-205(e) to review an appeal of a local board’s decision of an ethics complaint filed with the ethics panel of the local board. *Betley*, MSBE Op. No. 23-09 (2023); *In the Matter of Maryland Public Ethics Law*, MSBE Order No. 19-03 (2019). We recognize the local board ethics policy permits a party aggrieved by a final order of the local board to appeal the decision to the State Board. *See* R. 27. Despite the local board’s ethics policy, our view is that there is no statutory basis for State Board review of these local decisions and constitutes a significant departure from the model policy set forth in COMAR 19A.05.00.00. *See Seipp v. Baltimore City Bd. of Elections*, 377 Md. 362 (2003)(Discussing significant departure and concluding City law on timing of the filing of financial disclosure statement was not similar to State ethics law).

For all of these reasons, we decline to exercise our jurisdiction based on a provision of local board policy that is not consistent with the State statutory law and the model regulations.

Request for Removal

The State Board clearly has jurisdiction to decide matters relating to the local board’s request for removal of a local board member for alleged misconduct pursuant to §3-4A-02 of the Education Article, Annotated Code of Maryland and our regulations COMAR 13A.01.05.12. The Appellant may properly challenge the local board’s petition for removal through this process and has done so.

CONCLUSION

For the foregoing reasons, we dismiss the appeal for lack of jurisdiction.

Signature on File:

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October 22, 2024