

ANDREW ROWDEN,

Appellants

v.

CARROLL COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 25-10

OPINION

INTRODUCTION

This is an appeal of the Carroll County Board of Education’s (“local board’s”) decision affirming the Superintendent’s Designee’s exclusion of Appellant, a non-certificated employee, as a substitute teacher for Carroll County Public Schools (“CCPS”). The local board filed a response to the appeal maintaining that its decision is not arbitrary, unreasonable, or illegal and should be upheld. Appellant responded, and the local board replied.¹

FACTUAL BACKGROUND

Andrew Rowden (“Appellant”), a non-certificated employee, was excluded from substitute teaching at any CCPS school in the future pursuant to local board policy after administrators at three separate CCPS schools excluded him from serving as a substitute teacher based upon numerous and well documented complaints about Appellant’s performance. The CCPS Substitute Teacher Handbook, General Information, Section VII, explains that substitute teachers are at-will employees who may be terminated from their employment with CCPS at any time. (R. 54). Section VII of the Handbook also provides notice of local board policy that substitute teachers who have been excluded from three schools in any one year will be automatically terminated from substitute teaching in the future. (R. 54).

During the spring of the 2023-2024 school year, Appellant was briefly employed as a substitute teacher at various CCPS schools. On February 1, 2024, an administrator at Friendship Valley Elementary School excluded Appellant from substitute teaching at Friendship Valley for not following the lesson plan and poor classroom management. (R. 32). On March 14, 2024,² an administrator at Cranberry Station Elementary School excluded Appellant due to Appellant’s

¹ On October 14, 2024, the State Board received the local board’s reply and State Board procedures set forth in COMAR 13A.01.05.03 do not permit any additional filings by either party. On October 15, 2024, the Appellant submitted an additional filing with the State Board, and pursuant to a request sent in error, on October 22, 2024, the local board filed a response. Thereafter, the Appellant continued to submit additional filings. The pleadings submitted after the local board reply filed on October 14, 2024, are not permitted under COMAR 13A.01.05.03 and are not accepted as part of the record.

² There is a typographical error on this exclusion form. The date is incorrectly listed as “3/14/2023” but the actual date is “3/14/2024.” See Local Board Response at p. 2.

leaving students unattended in the classroom, poor classroom management, and poor interactions with students or staff. (R. 31). On March 27, 2024, an administrator at Robert Moton Elementary School excluded Appellant for short notice of cancellation, not following lesson plans, poor classroom management, and poor interaction with students or staff. (R. 33).

The administrators' decisions were based upon documented negative feedback on Appellant's performance from various teachers including the following:

- On January 18, 2024, a teacher reported the classroom aids were very concerned with the Appellant's inability to manage a classroom of first graders and they both had to assist Appellant with classroom management. (R. 35).
- On February 6, 2024, a teacher reported that Appellant allowed students to walk in the hallways without shoes, and did not allow enough time for students to go to lunch, use the bathroom, or wash their hands prior to eating. (R. 42).
- On February 15, 2024, a teacher reported that Appellant scared the students and students cried throughout the day due to Appellant's treatment of them. (R. 34).
- On March 4, 2024, a teacher reported that her assistant discovered the Appellant left most of the class unattended when he stepped out to the playground and an administrator had to support the Appellant with the class for the afternoon because he could not manage the classroom. (R. 43).
- On March 13, 2024, a teacher reported that she was told by students that Appellant kept ringing a loud bell that hurt their ears, and it was reported that about half the class was left in tears. (R. 44).
- On March 26, 2024, a teacher reported that Appellant had "inappropriate interactions with more than one student." (R. 39).

On April 11, 2024, Ms. Mahle, Human Resources Supervisor, notified Appellant that he was excluded from substitute teaching at any CCPS school in the future because three schools had excluded him. (R. 22). That same day, Appellant filed bullying and harassment complaints against the administrators at the schools which excluded him for substitute teaching. (R. 45, 47, & 48). Human Resources staff contacted Appellant and explained that school administrators have the responsibility to manage to select or exclude substitute teachers, and that exercising their responsibility to exclude substitutes to best manage their schools is not bullying or harassment. (R. 22).

On July 1, 2024, Appellant filed an appeal with the local board pursuant to §4-205(c) of the Education Article. (R. 26-27). In his appeal, the Appellant argued against his exclusion alleging that his shortcomings were due to the failure of administrators and the human resources department to properly observe him and to train him on how to improve his performance. (R. 26). He also requested another chance to demonstrate that he learned from his mistakes, and he shared his plans to improve his performance. *Id.* On July 10, 2024, the Appellant submitted an additional statement in support of his appeal expounding upon his arguments that the human resources department and the administrators did not properly observe or train him and his strategies to improve his performance. (R. 28-30).

On July 10, 2024, Jonathan D. O’Neal, Assistant Superintendent of Operations and the Superintendent’s Designee, issued the final decision to the Appellant’s appeal finding that the Appellant’s at-will employment as a substitute teacher was properly terminated in accordance with the applicable policy as three administrators determined to exclude Appellant from substituting based upon complaints from multiple classroom teachers across multiple schools about Appellant’s abilities. (R. 21-24). On July 15, 2024, Appellant submitted a response to Superintendent’s Designee’s decision and shared his strategies to improve his substitute teaching. (R. 14-20).

The local board conducted a review based upon the record, and by unanimous Decision dated September 11, 2024, affirmed the Superintendent’s Designee’s decision to exclude the Appellant from future service as a substitute teacher for CCPS. (R. 5-11). On September 12, 2024, the Appellant filed this appeal to the State Board. (R. 2-4).

STANDARD OF REVIEW

In *Venter v. Howard Cnty. Bd. of Educ.*, MSBE Op. No. 05-22 (2005), *aff’d* 185 Md. App. 648, *cert. denied*, 410 Md. 561 (2009), the State Board held that a professional, non-certificated employee is entitled to an administrative appeal of a termination pursuant to § 4-205(c)(3) of the Education Article. The standard of review that the State Board applies to such a termination is that the local board’s decision is considered *prima facie* correct. The State Board will 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 by a preponderance of the evidence. COMAR 13A.01.05.06D.

LEGAL ANALYSIS

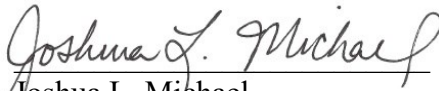
The record before us establishes that at all relevant times, Appellant was a non-certified, at-will employee of CCPS. An employer can terminate an at-will relationship “for any reason – good or bad, fair or unfair, and at any time – so long as the motivation for the termination does not violate some clear mandate of public policy or some statutory prohibition against termination.” *King v. Baltimore City Bd. of Sch. Comm’rs*, MSBE Op. No. 14-19 (2014)(quoting Maryland Employment Law § 3.03 (2013)). In *King*, the State Board held that because the substitute teacher was an at-will employee, BCPS was not required to provide her a reason for her termination, conduct an investigation, or hold an evidentiary hearing or oral argument. *Id.* An at-will employee can be fired with or without cause so long as the reason for the termination is not illegal, discriminatory, or against Maryland public policy. *Id.*, *see also Stafford v. Baltimore City Bd. of Sch. Comm’rs*, MSBE Op. No. 20-37 (2020).

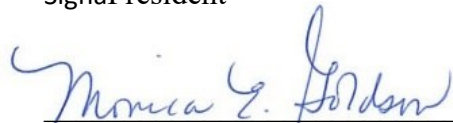
In his appeal to the State Board, the Appellant for the first time alleges that his termination was discriminatory based upon his disability. However, the Appellant failed to raise any issues of disability discrimination in his appeals before the Superintendent’s Designee and before the local board. It is the longstanding policy of this Board to consider arguments not raised before the local board to be waived on appeal. *Stafford v. Baltimore City Bd. of Sch. Comm’rs*, MSBE Op. No. 20-37 (2020)(citing decisions). Thus, the Appellant waived this issue of disability discrimination, and any claims of discrimination are not properly before this Board for consideration.

In support of his claim of disability discrimination, on September 27, 2024, Appellant submitted a response to the local board’s response and referenced two attachments³ which were not submitted to the local board during its appeal proceedings. The first is a Maryland State Department of Education 7-page document entitled “ADAAA REASONABLE ACCOMMODATIONS PROCEDURES” and a “REQUEST FOR REASONABLE ACCOMMODATION FORM” completed by Andrew Rowden with dates of 12/20/2023 and 9/26/2024.⁴ In his response, the Appellant states that he never sent the form to Dr. McCabe. *See* Appellant’s Response at pp. 2 & 3. Because the Appellant waived this issue by not raising any issues of discrimination before the local board, we find that these documents are not material to the appeal before us and do not accept them as part of the record pursuant to COMAR 13A.01.05.04C.

CONCLUSION

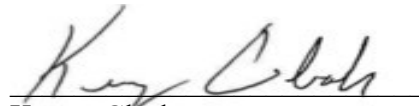
For the reasons stated above, we find that the Appellant has failed to show by a preponderance of the evidence that the decision of the local board was arbitrary, unreasonable, or illegal. Accordingly, we affirm the decision excluding the Appellant from substitute teaching at any CCPS schools in the future.


Joshua L. Michael
SignaPresident


Monica Goldson
Vice-President



Chuen-Chin Bianca Chang

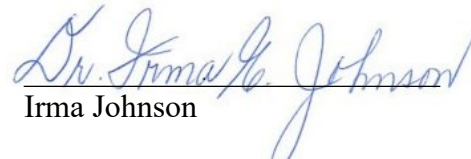

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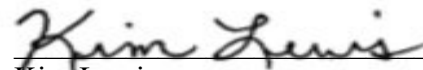

Kenny Clash

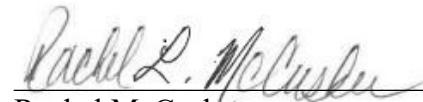

Clarence C. Crawford

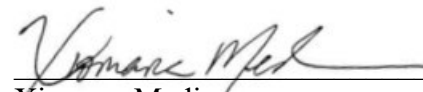
³ The attachments referenced in the Appellant’s response were submitted to the State Board on September 26, 2024, and are the last two exhibits attached to Appellant’s filing at pp. 27-36.


Nick Greer


Irma Johnson


Kim Lewis


Rachel McCusker


Xiomara Medina

Absent:
Joan Mele-McCarthy
Samir Paul

February 25, 2025