

IN THE MATTER OF
REQUEST FOR REMOVAL
OF LOCAL BOARD
MEMBER
PENNY NICHOLSON

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION

Order No. OR 20-21

ORDER

Darci Wilson, a parent of a student(s) attending Somerset County Public Schools (“SCPS”), requests the removal of Somerset County Board of Education Member and Chairperson Penny Nicholson.

COMAR 13A.01.05.12(B)(1) requires that the request for the State Board to issue removal charges “shall set forth in a detailed affidavit, with all supporting documentation, the factual basis to support a statutory ground for removal.” Before the State Board issues charges to begin a removal proceeding, it must assess whether the information before it is factually and legally sufficient. COMAR 13A.01.05.12(E). A factually sufficient request shall (1) be made by a person who has personal knowledge of the facts supporting the request and reason to believe they are true and (2) state the act or acts complained of in concise language, with a detailed description of the date, location, and nature of each act. COMAR 13A.01.05.12(E)(3). A legally sufficient request shall create a reasonable belief that the actions committed could constitute a ground for removal from office. COMAR 13A.01.05.12(E)(4). Pursuant to Education Art. §3-1201(e), the State Board may remove a member of the Somerset County Board of Education for immorality; misconduct in office; incompetency; or willful neglect of duty.

The parent requests removal of Ms. Nicholson from the board alleging that she committed willful neglect of duty based on her statements in a September 25, 2020 email to John B. Gaddis, Superintendent of Schools for SCPS, regarding resuming school sports, that Ms. Nicholson mistakenly sent to a parent who was in the email chain. (Attached to Request). The email was bluntly worded and expressed some frustration and concern about parents putting pressure on Dr. Gaddis regarding the resumption of sports, particularly football, when Ms. Nicholson believed the focus should be on education. Ms. Nicholson stated she intended to reach out by letter to the parents on the athletics issue.

In the education context the State Board has defined willful neglect of duty as occurring “when the employee has willfully failed to discharge duties which are regarded as general teaching responsibilities.” *Baylor v. Baltimore City Bd. of Sch. Comm’rs*, MSBE Op. No. 13-11 (2013). It is an intentional failure to perform some act or function that the person knows is part of his or her job. *See Lasson v. Baltimore City Bd. of Sch. Comm’rs*, MSBE Op. No. 15-21 (2015). Applying these standards in the context of removal of a local board member, we would need to find that the information in the request creates a reasonable belief that Ms. Nicholson intentionally failed to perform some act or function in her capacity as a local board member. We find that the request is not legally sufficient for us to reach such a conclusion or to support other

grounds for removal. We further find that the request is factually insufficient and fails to otherwise comply with COMAR 13A.01.05.12. For these reasons, the State Board declines to issue charges for removal.

Therefore, it is this 8th day of December 2020, by the Maryland State Board of Education, ORDERED, that request to issue charges for removal of Penny Nicholson as a member of the Somerset County Board of Education is denied.

MARYLAND STATE BOARD OF EDUCATION

Signature on File:

Clarence C. Crawford
President