

IN THE MATTER OF
REQUEST FOR REMOVAL
OF LOCAL BOARD MEMBERS

BEFORE THE
MARYLAND

MARSHA B. HERBERT,
KENNETH A. KILER,
TARA A. BATTAGLIA, AND
DONNA M. SIVIGNY

STATE BOARD
OF EDUCATION

Order No. OR 21-14

ORDER

██████████, a resident of Carroll County, requests the removal of Carroll County Board of Education Members Marsha B. Herbert (President), Kenneth A. Kiler (Vice president), Tara A. Battaglia, and Donna M. Sivigny, alleging incompetency and willful neglect of duty based on their actions at the local board's August 30, 2021 meeting. He maintains that the vote by these board members to implement the State Board's then proposed emergency regulation requiring masks in Maryland's public school facilities only after approval by the Administrative, Executive, and Legislative Review Committee ("AELR") contradicted Centers for Disease Control and Prevention recommendations.¹ As to board members Kiler and Sivigny, ██████████ also maintains that, at the meeting, they spread misinformation regarding the efficacy of wearing masks.

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. §3-401(e), the State Board may remove a voting member of the Carroll County Board of Education for immorality; misconduct in office; incompetency; or willful neglect of duty.

██████████ request for removal contains no affidavit as required by COMAR 13A.01.05.12(B)(1). Because there is no affidavit, the request for removal is facially deficient and must be denied.

Therefore, it is this 7th day of December 2021, by the Maryland State Board of Education, ORDERED, that the request to issue charges for removal of Marsha B. Herbert, Kenneth A. Kiler, Tara A. Battaglia, and Donna M. Sivigny, as members of the Carroll County Board of Education is denied.

MARYLAND STATE BOARD OF EDUCATION

Signature on File:

Clarence C. Crawford
President

¹ On September 14, 2021, the AELR Committee approved the emergency regulation, COMAR 13A.01.07, and the regulation became effective immediately upon its approval.