

IN THE MATTER OF

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BEFORE THE BOARD

OF EDUCATION OF

CARROLL COUNTY

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DECISION OF THE BOARD OF EDUCATION OF CARROLL COUNTY

This is an appeal before the Board of Education of Carroll County pursuant to Section 4-205(c) of the Education Article of the Annotated Code of Maryland brought by _____, a former 11-month school counselor at _____, concerning a dispute in his final pay. For the reasons set forth below, we dismiss the appeal for failure to follow this Board's *Rules of Procedure for Appeals and Hearings*. Alternatively, we affirm on the merits because _____ has utterly failed to meet his burden of proof to demonstrate by a preponderance of the evidence that the decisions below were arbitrary, unreasonable, or illegal.

BACKGROUND

_____ submitted notice of his resignation on July 14, 2022, effective August 5, 2022. Disagreeing with his final payroll amount, _____ brought the matter to the attention of Mr. Ernesto Diaz, Director of Human Resources. Mr. Diaz rendered a decision on October 5, 2022, and _____ appealed that decision to Mrs. Cynthia McCabe, Superintendent of Carroll County Public Schools on October 19, 2022. Superintendent McCabe designated Mr. Jonathan D. O'Neal, Assistant Superintendent of Operations, as her designee on this appeal, and on November 14, 2022, Mr. O'Neal rendered a decision affirming Mr. Diaz's earlier decision.

On December 7, 2022, [REDACTED] submitted an appeal to this Board concerning his evident disagreement with the decision rendered by Mr. O'Neal as the Superintendent's Designee. On December 8, 2022, Mrs. Andrea Lucido, Executive Assistant to the Superintendent and Board of Education, sent an appeal packet to [REDACTED] in accordance with this Board's *Rules of Procedure for Appeals and Hearings* with instructions that [REDACTED] return the Appeal Information Form and any supporting documents no later than December 19, 2022. Nonetheless, [REDACTED] failed to submit the Appeal Information Form or any documentation in support of his appeal.

STANDARD OF REVIEW

In reviewing decision of the Superintendent or the Superintendent's Designee, the Board applies the standard set forth in COMAR 13A.01.05.06A. Pursuant to this standard, the Board will not substitute its judgment for that of the Superintendent or the Superintendent's Designee unless the decision is arbitrary, unreasonable, or illegal. A decision may be arbitrary or unreasonable if it is contrary to sound educational policy or a reasoning mind could not have reasonably reached the same conclusion. COMAR 13A.01.05.06B. Further, a decision may be illegal if it is (1) unconstitutional, (2) exceeds statutory authority or jurisdiction, (3) misconstrues the law, (4) results from an unlawful procedure, (5) constitutes an abuse of discretionary powers, (6) or is otherwise affected by an error of law. COMAR 13A.01.05.06C. Finally, the appellant bears the burden of proving a decision arbitrary, unreasonable, or illegal by a preponderance of the evidence. COMAR 13A.01.05.06D.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

To aid the parties and indeed this Board in the prompt review and consideration of appeals, it long ago adopted *Rules of Procedure for Appeals and Hearings* which include

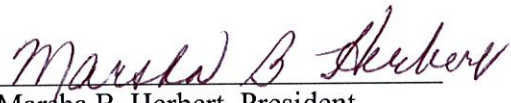
an Appeal Information Form and specific timelines. “Within ten (10) days after the Appeal Information Form has been sent to the appellant(s), the appellant(s) shall file the completed Appeal Information Form with the Board and shall also send a copy to the Superintendent. Failure to file the Appeal Information Form in a timely manner may result in the Board dismissing the appeal for lack of timeliness.” The *Rules of Procedure for Appeals and Hearings* go on to provide that “[w]ithin ten (10) days after the appellant(s) files the Appeal Information Form required by subsection (c)(1) of these Rules, the Superintendent may submit to the Board additional information or documentation in support of the decision which is the subject of the appeal. Copies of any information submitted by the Superintendent to the Board shall also be furnished to the appellant(s).” Thereafter, “[w]ithin five (5) business days after the Superintendent’s submission is sent, the appellant(s) may submit additional documentation in support of the appeal and in response to that submitted by the Superintendent and shall provide a copy to the Superintendent.”

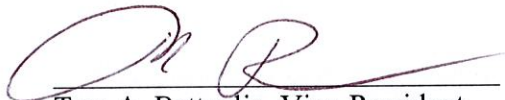
In this case, _____ failed to submit the Appeal Information Form or any other documentation in support of his appeal. Accordingly, we shall dismiss the appeal for failure to follow the *Rules of Procedure for Appeals and Hearings*. Alternatively, because _____ has the burden of proof, and his failure to submit documents and argument in support of his appeal leaves this Board without any basis whatsoever for determining that Mr. O’Neal’s decision as the Superintendent’s Designee was arbitrary, unreasonable, or illegal, we accordingly affirm that decision on the merits.

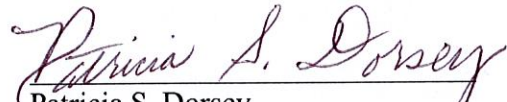
DECISION

For the reasons discussed above, this Board dismisses the appeal filed by _____ for failure to follow the *Rules of Procedure for Appeals and Hearings* and, alternatively, affirms the decision of the Superintendent’s Designee in this matter. Should

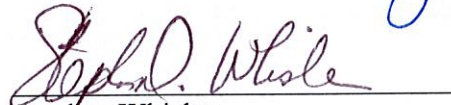
choose to do so, he may appeal this decision to the Maryland State Board of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, in writing, within thirty days of the date of this decision.

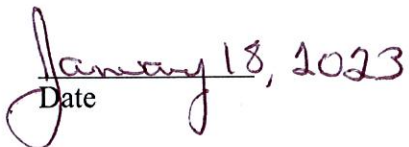

Marsha B. Herbert, President


Tara A. Battaglia, Vice-President


Patricia S. Dorsey


Donna M. Sivigny


Stephen Whisler


Date