

IN THE MATTER OF

* BEFORE THE BOARD OF

*

* EDUCATION OF CARROLL COUNTY

*

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DECISION OF THE BOARD OF EDUCATION OF CARROLL COUNTY

This matter is before the Board of Education of Carroll County (the "Board") pursuant to Section 4-205(c) of the Education Article of the Annotated Code of Maryland pursuant to an appeal filed by _____ appeals the decision to deny him a sick leave payoff at the time he retired from the Carroll County Public Schools ("CCPS"). _____ was denied a sick leave payoff as based on a CCPS Human Resources procedure, only those employees with a hire date prior to July 1, 1997, are entitled to a sick leave payoff. His last hire date was August 22, 2001. _____ contends there are three reasons why the decision should be overturned: (1) the language of Human Resources (HR) Procedure ELT 101, (2) the duration of his break in service, and (3) the application of past practice of employees not included in the collective bargaining process. Acting as the Superintendent's designee, Jonathan D. O'Neal, Chief of Administration, determined that _____ did not qualify for the sick leave payoff for any of these reasons. _____ appeals that decision.

The Board has reviewed all of the written material submitted by _____ as well as the documentation submitted on behalf of the Superintendent in response to the appeal. The Board has determined that this appeal may be decided under its rules of procedure without an evidentiary hearing or oral argument. For the reasons set forth below, the Board has determined that the Superintendent's decision should be affirmed.

FINDINGS OF FACT

retired from the CCPS and requested a sick leave payoff in November 2021. Ernesto Diaz, the Director of Human Resources, denied the request on November 16, 2021, for reason that [redacted] date of hire was August 22, 2001, and the practice of the CCPS based on HR Procedure ELT 101 is to use the most recent hire date to determine eligibility for the sick leave payoff. [redacted] sought reconsideration by Mr. O'Neal, who upheld Mr. Diaz's decision.

Employment Dates: [redacted] was hired in August 1990 by the CCPS as a teacher. He resigned from employment with the CCPS or [redacted] and went to work for the [redacted] : Schools. [redacted] was rehired by CCPS on [redacted]

Human Resources Procedure ELT-101: HR Procedure ELT-101, Calculation of Sick Leave Payoff addresses the process for sick leave payoff for the executive leadership team ("ELT") staff. It is the same procedure for all employee groups. It applies only to "employees hired prior to July 1, 1997" and entitles those employees to a payment of their accumulated sick leave days based on a formula. There was no evidence submitted by [redacted] to show that HR Procedure ELT-101 has been applied to any employee with a break in service to give that employee the right to use the first date of employment in order to receive the sick leave payout. Mr. O'Neal contacted Chantress Baptist, former Director of Human Resources, who has an institutional knowledge of Human Resources in the CCPS. She had no recollection of any other interpretation or application of HR Procedure ELT-101.

filed a Maryland Public Information Act request in connection with the instant case seeking information about other employees who had a break in service. The PIA request showed that Chris Hartlove, former CFO, and Steve Johnson, former Assistant Superintendent, both left employment with the CCPS and returned at subsequent dates. Mr. Johnson received a sick leave payoff because his most recent date of hire was prior to July 1, 1997. Mr. Hartlove did not receive a sick leave payoff as he was rehired after July 1, 1997.

Collective Bargaining Agreements: was a member of the ELT of the CCPS. His employment was not subject to a collective bargaining agreement. Benefits negotiated for the collective bargaining units are not applicable to members of the ELT. Benefits for ELT employees are dependent upon Board Policy.

While the instant case does not involve seniority, it was noted that the agreements with AFSCME, CASE, and CCEA reference the "last date of hire" or the "most recent date of hire" for determining seniority. Additionally, under A&S 322, "(a) unit member shall lose seniority rights if he/she resigns"

STANDARD OF REVIEW

Under Section 4-205(c)(2), the Superintendent is charged with "decid[ing] all controversies and disputes that involve: (1) the rules and regulations of the county board; and (ii) the proper administration of the county public school system." Where, as here, an appellant challenges a Superintendent's decision, the appellant bears the burden

of demonstrating that the Superintendent's decision was arbitrary, unreasonable, or illegal. See COMAR 13A.01.05.05.¹

CONCLUSIONS OF LAW

There is no allegation that the Superintendent's decision was illegal. The decision of the Superintendent was not arbitrary or unreasonable. It logically followed HR Procedure ELT 101. ELT 101 is clearly written and not in any way confusing or ambiguous. did not provide evidence of any similarly situated employee with a separation and re-hire date after 1997 who received a sick leave payout. There is no policy, procedure, practice, basis, or reason to consider the brevity of separation of service when he left the CCPS to work for the Howard County Public Schools.

¹ Although COMAR 13A.01.05.05 sets forth the Maryland State Board of Education's standard of review with regard to the State Board's review of decisions of local boards, this standard is widely used by local boards to review the decisions of local superintendents. COMAR 13A.01.05.05 reads, in relevant part:

- A. General. Decisions of a local board involving a local policy or a controversy and dispute regarding the rules and regulations of the local board shall be considered prima facie correct, and the State Board may not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal.
- B. A decision may be arbitrary or unreasonable if it is one or more of the following:
 - (1) It is contrary to sound educational policy; or
 - (2) A reasoning mind could not have reasonably reached the conclusion the local board or local superintendent reached.
- C. A decision may be illegal if it is one or more of the following:
 - (1) Unconstitutional;
 - (2) Exceeds the statutory authority or jurisdiction of the local board;
 - (3) Misconstrues the law;
 - (4) Results from an unlawful procedure;
 - (5) Is an abuse of discretionary powers; or
 - (6) Is affected by any other error of law.
- D. The appellant shall have the burden of proof by a preponderance of the evidence.

It is not lost on this Board that _____ believes it unjust to apply ELT 101 to him as he had 31 years of service to the CCPS. But that does not mean the CCPS should have ignored ELT 101. Sick leave is meant to benefit employees so they can stay home and receive pay while they are recovering from an illness. It is not a retirement benefit. Some employees are fortunate enough that they do not need to use all of their sick leave. Others have to use their sick leave because they cannot work due to illness.

DECISION

We conclude that the Superintendent's decision to deny _____ his accrued sick leave payoff was not illegal, arbitrary, or unreasonable. We therefore affirm the Superintendent's decision.

April 4, 2022
Date

MEMBERS, BOARD OF EDUCATION OF
CARROLL COUNTY

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