

PATRICIA KARP

Appellant

v.

BALTIMORE CITY BOARD
OF SCHOOL COMMISSIONERS

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 15-39

OPINION

INTRODUCTION

Patricia Karp (Appellant) appeals the decision of the Baltimore City Board of School Commissioners (local board) to not renew her probationary teacher contract. The local board filed a Motion for Summary Affirmance, maintaining that its decision was not arbitrary, unreasonable, or illegal. Appellant responded to the motion and the local board replied.

FACTUAL BACKGROUND

Appellant was hired as a probationary first-year teacher for Baltimore City Public Schools (BCPS) during the 2014-15 school year. She was assigned to teach English and Language Arts at Dr. Carter Godwin Woodson Elementary/Middle School (C.G. Woodson). Principal Valerie Hooper was Appellant's direct supervisor. (Motion, Ex. 6).

Among the elements BCPS uses to evaluate its teachers is the submission of Student Learning Objectives (SLO). An SLO is "a specific, long-term goal for student learning, customized to a teacher's particular students." SLOs are "designed to both support instruction and measure student growth for teacher evaluation." Teachers are instructed to review baseline data of their students and set student growth goals for the year. During the 2014-15 school year, teachers were required to draft one SLO that would constitute 35 percent of their annual evaluation. (Motion, Ex. 8).

As part of this process, Appellant was assigned a "buddy teacher" to assist her in the SLO process. Her buddy teacher regularly met with her on Fridays to discuss her progress on the SLOs. Appellant never asked her buddy teacher any questions and the buddy teacher never saw Appellant's SLO or watched her input an SLO into the computer system. (Motion, Ex. 9).

Appellant also had a teacher mentor who provided coaching and guidance. Appellant's mentor found that Appellant was "not very receptive to feedback" and that she failed to attend many of the meetings her mentor scheduled in order to provide support. The mentor also heard Appellant "yelling and being demeaning to the students." A week prior to the due date for SLOs, Appellant's mentor reminded her of the due date and asked if she needed help. Appellant stated she was receiving assistance from another middle school teacher. (Motion, Ex. 10).

Teachers were required to submit their SLOs by February 19, 2015 in order to have them reviewed by an evaluator. (Motion, Ex. 8). On the morning of February 16, 2015, Appellant called her mentor and they spoke for 27 minutes about how to complete the SLO. Appellant had difficulty accessing documents through the computer system and her mentor talked her through the process. Her mentor also explained how to complete an SLO and described the content of her own SLO. During the conversation, Appellant explained that she was unable to access data on the computer system because she did not know her login. Her mentor suggested she contact the IT department and an assistant principal because the deadline for submitting SLOs was approaching. (Motion, Ex. 10).

According to Valerie Malinowski, the SLO Ambassador for C.G. Woodson, it was the responsibility of all teachers to create an SLO and input the data into the computer system. All teachers were provided training and support regarding SLOs and Malinowski sent out emails reminding staff of the SLO deadlines. Malinowski witnessed Appellant tell her buddy teacher she was too busy to meet about SLOs and would take care of it later. According to Principal Hooper, Appellant did not create an SLO for the 2014-15 school year. (Motion, Ex. 6, 8).

At various points during the school year, Principal Hooper documented other concerns about Appellant's performance through memos:

- In a memo dated November 7, 2014, Principal Hooper criticized Appellant for failing to stop her students from putting holes and graffiti on the classroom walls and otherwise vandalizing the classroom.
- In a memo dated December 8, 2014, Principal Hooper summarized her observations of a classroom visit that took place a few days earlier. Principal Hooper found that there was no learning objective written on the board; the students were "not doing any constructive, rich or rigorous activity"; and when asked for her lesson plan, Appellant explained that she ran out of ink and could not print it. Principal Hooper emphasized that not having a lesson plan was "unacceptable" and that the plans should be available and reviewable by classroom visitors.
- A memo dated January 26, 2015 documented two incidents involving Appellant and students in her classroom. In one incident, Appellant was accused of hitting a student with a broom while chasing another student. Although the student's parents were not upset, Principal Hooper stated she had "grave concerns" about Appellant's classroom environment. In a separate incident, Appellant was accused of grabbing a student's collar after she tried to take a paper off of Appellant's desk. Principal Hooper explained that touching students as a means of redirection is not acceptable. Appellant denies both of these incidents occurred.
- In a memo dated February 3, 2015, Principal Hooper faulted Appellant for not turning in a seating chart for her classes as requested.
- In a memo dated April 15, 2015, an assistant principal criticized Appellant for leaving her classroom during instructional time, which led to students knocking over a desk

and chairs and the room becoming “very chaotic.”

- In a separate memo dated April 15, 2015, the assistant principal described Appellant as being insubordinate for yelling at another individual during a school assembly and then yelling at the assistant principal when she was confronted about it.

(Motion, Ex. 6).

Based on concerns about Appellant’s performance, Principal Hooper placed her on a Performance Improvement Plan (PIP) in January 2015. The goals for the PIP were: handing in lesson plans three days in advance of implementing her lessons; meeting with administrators weekly to review lesson plans; using the curriculum guide to create lessons; developing and implementing procedures to create a safe and orderly classroom; and collecting, grading, and handing back student work at least three times a week. In turn, the principal pledged to make bi-weekly visits to the classroom and participate in weekly meetings to provide feedback to Appellant. (Motion, Ex. 5).

As part of the PIP, Principal Hooper conducted two formal observations of Appellant’s classroom. The first observation took place on February 6, 2015. Principal Hooper noted that Appellant had not submitted her lesson plans in advance for review. At that time, Principal Hooper reviewed the elements of a lesson plan with Appellant. (Motion, Exs. 5, 6).

A second observation took place on March 13, 2015. Principal Hooper found that Appellant still had not implemented her prior suggestions for effective lesson planning. After Appellant explained the difficulty of submitting lesson plans three days in advance, Principal Hooper agreed that the lesson plans could be submitted 24 hours in advance instead. On April 13, 2015, Principal Hooper sent a memo to Appellant explaining that she had failed to timely send her lesson plans to the principal for review. On that particular day, Appellant sent that day’s lesson plan to Principal Hooper at 6:07 a.m. Principal Hooper explained that less than a day’s notice was too short of a time frame in which to provide feedback. (Motion, Exs. 5-7).

In Principal Hooper’s view, Appellant failed to improve between observations. Principal Hooper gave Appellant poor marks on her evaluations and concluded that Appellant was “not conscientious, thorough, accurate, or reliable when completing tasks.” She also faulted Appellant for failing to collaborate with colleagues, failing to take responsibility for her work and be open to feedback, and failing to meet school system expectations, in particular by failing to meet deadlines for submitting progress reports, grades, and attendance data. Principal Hooper noted that Appellant did not receive a score in her evaluations for her SLO because she “failed to create and input an SLO as required.” (Motion, Ex. 6).

On May 1, 2015, Appellant was informed by letter that her contract would not be renewed for the 2015-16 school year. (Motion, Ex. 1). A Teacher Effectiveness Evaluation Results report dated May 29, 2015 concluded Appellant was “ineffective.” (Motion Ex. 3).

Appellant appealed the decision to the local board and requested a hearing. She made the following arguments: (1) data concerning her performance was not entered into the computer

system, specifically her SLO “was never computed”; (2) there was “overwhelming and abundant evidence” to discredit the principal’s statements against her; (3) the school system did not follow its protocol for evaluations; and (4) the administration had been arbitrary. (Motion, Ex. 2).

In support of her appeal she included an anonymous note she received at school telling her that her hard work “does not go unnoticed”; a letter of support from a school nurse who described her as a caring and committed teacher; a letter from a technology media specialist who opined that teaching middle school students had been challenging for Appellant but that she would likely be successful teaching K-5; and a letter from a parent of a former student who praised Appellant as an excellent teacher. She also included an undated SLO and receipts for hundreds of dollars of office supplies that she said she purchased for her classroom.

The hearing officer first determined that Appellant’s case should proceed based on the documents submitted by the parties without an evidentiary hearing or oral arguments. The hearing officer reached this conclusion after determining that there were no constitutionally protected liberty or property interests at stake and local board regulations did not otherwise require a hearing. (Motion, Ex. 2). As to the merits, the hearing officer concluded that there was a lack of objective documentation from the Appellant to back up her assertions. By contrast, the hearing officer found ample evidence from the local board that Appellant was provided with support and counseling but failed to “fully engage, seemed reluctant to accept help, failed to submit required SLO documents” and was viewed as ineffective by her principal. The hearing officer recommended upholding the CEO’s decision to not renew Appellant’s probationary teaching contract. (Motion, Ex. 2).

On August 11, 2015, the local board adopted the hearing officer’s recommendation. This appeal followed.

STANDARD OF REVIEW

The local board’s decision not to renew a probationary contract will be upheld unless the Appellant meets her burden to show that the decision is illegal or a result of unconstitutional discriminatory action. *See Anker v. Harford County Bd. of Educ.*, MSBE Op. No. 11-17 (2011).

LEGAL ANALYSIS

The probationary period for new teachers in a school system lasts for three years. Md. Code, Educ. §6-202(b). During this probationary period, a certificated teacher is hired under a one year contract that automatically terminates at the end of the school year and must be renewed again the following school year. *Id.* School systems have a large degree of flexibility in deciding not to renew a probationary teacher’s contract so long as the reason for the nonrenewal is not illegal or discriminatory. *See Anker*, MSBE Op. No. 11-17. Appellant offers the following arguments as to why her nonrenewal was illegal and discriminatory.¹

¹ One of Appellant’s claims is that she is owed compensation from the local board from her time as a teacher. This ground was not raised before the local board and is outside the scope of this appeal.

Lack of a hearing

Appellant argues her case was “never properly heard” and that the local board merely “rubber-stamped” a decision. She contends that she was entitled to a hearing and would have offered additional evidence from witnesses if she had been granted one.

Probationary teachers do not have a constitutional right to a hearing before a superintendent declines to renew their teaching contract. *See Parker v. Board of Ed. of Prince George’s County*, 237 F. Supp. 222, 228 (D. Md. 1965). The contracts by their very nature are designed to last one year and do not provide any guarantee of employment beyond that point. Having the opportunity to present one’s argument against nonrenewal is sufficient due process in such a situation. *Id.*

The local board’s policy is consistent with this legal principle. Policy BLA.III.B.8 states that appeals taken from the decision of the CEO shall be considered based on the documents and arguments submitted by the parties without an evidentiary hearing or oral argument. The policy places the burden on the appealing party to demonstrate a hearing is required because a constitutionally protected liberty or property interest is at stake or there are specific factual allegations of unlawful discrimination or arbitrariness.

Although Appellant claimed her nonrenewal was illegal, she failed to make specific claims and provide supporting evidence. The State Board has consistently held that an Appellant must support allegations of illegality with factual evidence. *See King v. Baltimore Bd. of School Commissioners*, MSBE Op. No. 14-19 (2014). As part of her appeal, Appellant presented documentary evidence to the hearing examiner and made arguments against her nonrenewal. This provided her with the due process to which she was entitled under the local board’s policy.

Bias of hearing officer

Appellant argues that the hearing officer contradicted herself, that she failed to address the evidence and arguments Appellant made in her appeal, and that she was biased.

Appellant does not explain how the hearing officer contradicted herself. As to the evidence that Appellant argues was ignored, the record shows that the hearing officer did acknowledge the evidence presented by Appellant. This included positive statements about Appellant from fellow school employees and a parent. Appellant’s claim about bias rests mainly on her feeling that the hearing officer failed to credit her claims over the affidavits and documents submitted by the school system. Hearing officers are not required to give equal weight to all of the evidence and their failure to agree with an Appellant’s view of the evidence does not mean their decisions are arbitrary, unreasonable, or illegal. *Glover v. Baltimore City Bd. of Sch. Comm.*, MSBE Op. No. 15-25 (2015).

Unfair evaluation

Appellant argues that it was unfair to consider the SLO in her evaluations because technical problems prevented her from submitting the SLO on time. An undated SLO from

Appellant is included in the record but Appellant does not explain when or if she submitted it for review. Affidavits submitted from the school system indicate that Appellant failed to submit an SLO on time and did not seek assistance in writing her SLO until a few days before it was due. Appellant had training on completing an SLO and numerous offers of assistance, including from her buddy teacher and teacher mentor. Given this record, it was not unreasonable to factor in her failure to submit an SLO as part of the nonrenewal decision.

Lack of school support

Appellant complains that she was not provided sufficient resources and support from the school system. Specifically, she had to purchase many of her own school supplies and she faults the school system for failing to provide her with a Smart Board, a computer, and a locking door. In her appeal documents, however, Appellant acknowledges that she did receive a classroom computer and Smart Board, but that her students immediately put pornography on the computer screen and destroyed a computer pen and keyboard, leaving the computer inoperable. She also acknowledges that the lock on her door was fixed but maintains that it took a long time for the school system to make the repair. In our view, it was not unreasonable for the local board to conclude that these reasons did not excuse Appellant's poor teaching performance.

In addition, Appellant contends that the school environment itself was unsafe. Appellant presented two employee incident reports dated November 25, 2014. In the first incident, a student grabbed Appellant's right forearm and pulled. In the other incident, Appellant was knocked down while two students were fighting, and hit her head on the floor and her elbow on a table. After this second incident, Appellant received medical treatment. Appellant also presented an unsigned statement describing two incidents of vandalism to her car in May 2015. Although the hearing officer and local board were free to consider the challenging school environment in deciding whether to renew Appellant's contract, these incidents alone did not require the local board to retain a teacher who did not perform satisfactorily.

Credibility of Principal Hooper

Finally, Appellant focuses most of her argument on attempting to discredit Principal Hooper. She complains that all of the memos written about her contained "outrageous fabrications" and that her PIP was fraudulent. Although Appellant alludes to a large amount of evidence that would support her claims, she presented none of it as part of her appeal. We have previously rejected attempts by probationary teachers to blame administrators and the school system for their "own failure to become a teacher the school system wished to retain." See *Anker*, MSBE Op. No. 11-17. The record shows multiple instances of Appellant failing to live up to expectations and numerous attempts by school officials to help her improve her performance. In light of her failure to do so, it was not unreasonable for the local board to uphold the decision not to renew Appellant's probationary contract.

CONCLUSION

For all of these reasons, we affirm the decision of the local board because it is not arbitrary, unreasonable, or illegal.

Guffie M. Smith Jr.

Guffie M. Smith, Jr.
President

Absent

S. James Gates, Jr.
Vice-President

Absent

James H. DeGraffenreidt, Jr.

Linda Eberhart
Linda Eberhart

C.E.F.
Chester E. Finn, Jr.

Larry Giammo

Michele Jenkins Guyton
Michele Jenkins Guyton

Absent
Stephanie R. Iszard

Madhu Sidhu

Andrew R. Smarick/MR
Andrew R. Smarick

Laura Weeldreyer/MW
Laura Weeldreyer

December 8, 2015