

NORTHWOOD APPOLD COMMUNITY
ACADEMY PUBLIC CHARTER SCHOOL,

Appellant

v.

BALTIMORE CITY BOARD OF
SCHOOL COMMISSIONERS,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 14-04

OPINION

INTRODUCTION

Northwood Appold Community Academy, Inc., which operates the Northwood Appold Community Academy Public Charter School (“Northwood Appold”), has appealed the decision of the Baltimore City Board of School Commissioners (Local Board) to renew its contract for three years instead of five. The local board filed a Motion for Summary Affirmance maintaining that its decision was not arbitrary, unreasonable, or illegal. Appellant filed a Memorandum in Opposition to the Motion, to which the local board replied.¹

FACTUAL BACKGROUND

Northwood Appold opened as a charter school on August 29, 2005, in Baltimore City. (Memorandum in Opposition, Ex. 2). Appellant filed an application with Baltimore City Public Schools (“BCPS”) to renew its charter on September 21, 2012. (Motion, Ex. 4). The BCPS Office of New Initiatives (“ONI”) and the New and Charter School Advisory Board (“Advisory Board”) reviewed the application and conducted an evaluation of the school. ONI representatives met with Dr. Cecil Gray, president and operator of Northwood Appold, on January 9, 2013 to share their report on the renewal application and their proposed recommendation of a three-year renewal. (Motion, Exs. 6, 8). A second meeting was held on January 22, 2013, which also included a member of Northwood Appold’s board of directors and a parent. (Motion, Ex. 8). Appellant presented its application and BCPS staff announced the prospective three-year recommendation to the local board during a January 30, 2013, work session. (Motion, Exs. 7, 9).

The local board approved the three-year renewal during its Feb. 12, 2013 meeting, and Dr. Andrés Alonso, the chief executive officer of BCPS, formally notified Dr. Gray of the decision in a Feb. 25, 2013 letter.² (Motion, Ex. 1). This appeal to the State Board followed.

¹ Appellant asks for a hearing on its case. The State Board may decide an appeal on the record without a hearing or oral argument, COMAR 13A.01.05.06.B, and neither are required in this case.

² The current renewal is valid from July 1, 2013 to June 30, 2016. (Motion, Ex. 1).

STANDARD OF REVIEW

The denial of an application to establish a public charter school may be appealed to the State Board pursuant to the Annotated Code of Maryland, § 4-205(c) of the Education Article. *See* Baltimore City Board of School Commissioners Policy IHB III.D.7. (Motion, Ex. 12). The matter under review here was not a denial. Accordingly, the decision will be treated the same as any other decision of the local board involving the application of a board policy. The local board's decision is presumed to be *prima facie* correct. COMAR 13A.01.05.05A. The State Board will not substitute its judgment for that of the local board unless the decision is shown to be arbitrary, unreasonable, or illegal. *Id.* The Appellant has the burden of proof by a preponderance of the evidence. COMAR 13A.01.05.05D

LEGAL ANALYSIS

The initial term for a public school charter in Baltimore City is five years. Policy IHB III.K.2. At the end of the term, the charter school must apply for renewal. *Id.* As part of the renewal process, the charter school is evaluated in multiple areas, including student achievement, school climate, financial management and governance, and compliance with applicable federal, state, and other laws and rules. *Id.* After reviewing a renewal application, the board may revoke the charter, grant a full renewal (five years), or grant only a partial renewal (three years). Policy IHB III.K.3.

Appellant does not argue that the local board's decision was illegal. Instead, Appellant contends that the local board's decision to renew the charter for three years, rather than five, was unreasonable, arbitrary, and capricious. (Memorandum in Opposition). 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 conclusion the local board reached. COMAR 13A.01.05.05B.

The preliminary renewal report, dated January 30, 2013, rated Appellant in three main categories. (Motion, Ex. 6). Those categories and the corresponding ratings³ are as follows:

- Is the school an academic success? Effective
- Does the school have a strong school climate? Developing
- Has the school followed sufficient financial management and governance practices? Developing

The report noted that, while Northwood Appold received highly effective ratings for its 2012 Maryland School Assessment scores (90 percent for reading, 84.9 percent for math), other problems existed. There remained an achievement gap between the general education population and students with disabilities (more than 17 percentage points in reading and math). The report noted that staff, school leadership, and parents had raised issues with providing support for

³ A school could be rated as not effective, developing, effective, or highly effective. (Motion, Ex. 6).

students with disabilities. Based on the Chicago 5Essentials survey,⁴ which posed a variety of questions to Northwood Appold's teachers, the school rated as "not effective" in teacher satisfaction. The report further noted that Appellant failed to have a certified principal in place for the then-current school year. The report raised concerns about having a principal affiliated with another school, overseen by the same operator, conduct teacher evaluations. The report questioned Appellant's ability to provide instructional leadership to its staff. (Motion, Ex. 6)

Angela Alvarez, of the BCPS Office of New Initiatives, further explained the three-year recommendation in a January 30, 2013 letter to Dr. Gray. She explained that other schools that received a five-year renewal recommendation scored "effective" or "highly effective" in all three categories measured. Under the three measured categories, Alvarez identified sub-categories where Northwood Appold scored as "developing" or "not effective": highly effective instruction, talented people, teacher satisfaction, cohort retention, student attendance, suspensions, effective academic programming for students with disabilities, audit content, state and federal charter grant money, and strategic leadership and governance. (Motion, Ex. 11).

Alvarez's letter detailed additional concerns that contributed to the recommendation. These included:

- Failing to timely implement a federally mandated Title I program despite receiving funding for the 2012-13 school year
- Failing to submit a federally mandated highly qualified teacher attestation form by the Sept. 20, 2012 deadline
- Lacking a certified principal on staff from July 21, 2012 to the date of the letter, January 30, 2013
- Lacking a consistent strategy for addressing chronic student absences and suspensions

Appellant maintains that a thorough review of its operations should have led the local board to conclude that the school had "earned and won" a five-year renewal. In its Memorandum in Opposition to the Motion, Appellant focuses on four main points in support of its argument that the local board's decision was arbitrary and unreasonable:

- **Title I compliance.** Appellant argues that, during the time the school district claims it was non-compliant with Title I regulations, it was "in contact with individuals at Baltimore City Public Schools regarding Title I compliance." Appellant states it made a good faith effort in the fall of 2012 to reduce costs to taxpayers by not accepting Title I funds that it thought were unnecessary. In support, Appellant offers portions of various email exchanges that took place between it and BCPS in the fall of 2012 in which Appellant sought more information on Title I and stated that it was not participating in the program. (Memorandum in Opposition, Exs. 6-9). The local board, meanwhile, submitted a Dec. 7, 2012 letter from Dr. Sonja Santelises, chief academic officer of BCPS, outlining how Appellant had not complied with Title I and

⁴ The 5Essentials system, developed by the University of Chicago, surveys students and teachers in five areas believed to be indicative of school success: ambitious instruction, effective leaders, collaborative teachers, involved families, and supportive environment. The 5Essentials survey was conducted at Northwood Appold in the fall of 2012 and polled only teachers, not students. (Motion, Ex. 13).

was not responsive to requests from BCPS staff. (Motion, Ex. 14). This letter supports the BCPS claim that Appellant was notified of its duty to comply with Title I requirements and failed to take prompt action. Given the importance of Title I compliance, it was not arbitrary or unreasonable for the local board to consider this evidence when making its renewal decision.

- **Teacher Attestation.** Appellant does not dispute that it failed to submit a highly qualified teacher attestation form for one of its teachers by the Sept. 20, 2012 deadline, but claims that it “followed appropriate processes to comply.” Appellant states that one of its kindergarten teachers, who was certified to teach grades one through six, was still in the process of studying for and taking the PRAXIS exam required for her kindergarten certification at the time of the deadline. Appellant states that parents were provided updates on the teacher’s status during the school year. The teacher obtained the appropriate scores on the PRAXIS exam on April 13, 2013, and has since been certified as highly qualified. (Memorandum in Opposition, Ex. 11). Although the local board could have credited Appellant’s explanation, it did not act in an arbitrary or unreasonable fashion by taking evidence of the missed deadline into account when making its renewal decision.

- **Lack of a principal.** Dr. Gray, the operator, served as acting principal of Northwood Appold pending the hiring of a full-time principal during the 2012-2013 school year. (Motion, Ex. 19; Memorandum in Opposition Ex. 4). He also served in this capacity for several months during the 2010-11 school year, an arrangement that was presented to the local board as an informational item. (Memorandum in Opposition, Exs. 4, 13). Appellant claims that the local board “approved” of Dr. Gray serving as acting principal during the 2012-13 school year, but provides no evidence of this fact. While an acting principal might satisfactorily fulfill all of the duties of the role, it is not unreasonable for a school system to prefer full-time principals who can provide for continuity in leadership from year-to-year. Therefore, the local board did not act in an arbitrary or unreasonable manner by considering the lack of a full-time principal at Northwood Appold when making its renewal decision.

- **School Climate.** Appellant argues that its school climate was inappropriately classified as “developing.” It maintains that the 5Essentials survey, which raised questions about teacher satisfaction, contradicted Appellant’s later “debriefing session” where teachers expressed strong satisfaction with the school. It should not be surprising that teachers, when confronted by their employer, might not publicly share the same type of concerns that they would through an anonymous survey. It was not arbitrary or unreasonable for the local board to consider this information in making its renewal decision. Additionally, Appellant challenges its rating of “developing” in the area of student suspensions and absences. Appellant argues that it has had low suspension and absence rates, except for an “outlier year” when it had in place an “unqualified principal.” While it may be that the suspension and absence data come from an outlier year, that fact may discount the weight of the data but does not make taking into account this “outlier year” arbitrary or unreasonable. Finally, Appellant disagrees with the school system’s use of a percentage instead of raw

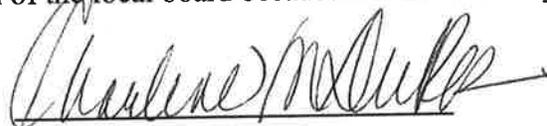
numbers when discussing the suspension of students with disabilities in the 2011-12 school year. The raw numbers show that there were 26 students with disabilities during that time period and seven suspensions of those students, compared to zero suspensions among this population in the previous year and only one suspension in the year prior to that. (Memorandum in Opposition, Ex. 17). It is not unreasonable for the school system to consider it a priority that students with disabilities receive equal educational opportunities. A higher number of suspensions among this population as compared to previous years could indicate that these students are not receiving that equal education. As such, it was not arbitrary or unreasonable for the local board to view this increase in suspensions as a potential area of concern when it made its renewal decision.

In many ways, Appellant's argument boils down to an assertion that, because of its academic success, it should have received a five-year renewal. It states that the problems addressed by the school system have been "remedied, mitigated, completely rectified, or approved by the Board itself." (Memorandum in Opposition).

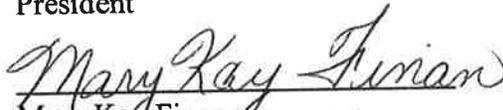
Based on our standard of review, the State Board does not decide whether the school system's evaluation process is the *best* method for considering charter school renewals, or whether BCPS should have given more or less weight to the factors discussed above. BCPS has a rubric that it uses in evaluating charter schools. From our review of the record, it does not appear that BCPS used this rubric in an arbitrary, unreasonable, or illegal fashion. The concerns raised by BCPS centered on the school's management, not its academics, and BCPS provided concrete examples to support its determination. We cannot say that the local board's decision to award Northwood Appold a three-year renewal was contrary to sound educational policy or a conclusion that a reasoning mind could not have reasonably reached.

CONCLUSION

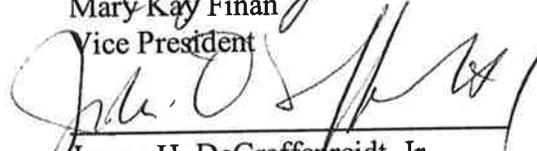
For all these reasons, we affirm the decision of the local board because it is not arbitrary, unreasonable, or illegal.



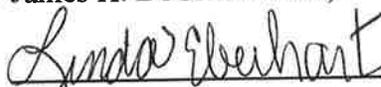
Charlene M. Dukes
President



Mary Kay Finan
Vice President



James H. DeGraffenreidt, Jr.



Linda Eberhart

Absent

S. James Gates, Jr.

Absent

Larry Giammo

Absent

Luisa Montero-Diaz

Absent

Sayed M. Naved

Madhu Sidhu

Madhu Sidhu

Donna Hill Staton

Donna Hill Staton

Guffie M. Smith, Jr.

Guffie M. Smith, Jr.

February 25, 2014