

JON EVERHART,

Appellant

v.

PRINCE GEORGE'S COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 10-42

OPINION

INTRODUCTION

This is an appeal of the Appellant's unsatisfactory ratings on his interim and annual teaching evaluations for the 2008-2009 school year. The Prince George's County Board of Education ("local board") has filed a Motion for Summary Affirmance maintaining that its decision should be upheld because it is not arbitrary, unreasonable or illegal. The Appellant has opposed the Motion and the local board has responded.

FACTUAL BACKGROUND

The Appellant is a teacher with the Prince George's County Public Schools ("PGCPS") where he has been employed for approximately eight years. During most of that time he taught 11th and 12th grade English and received satisfactory evaluations. (T. 5). For the 2008-2009 school year, however, Appellant taught 9th grade English at Largo High School and received unsatisfactory ratings on his interim and annual evaluations.

During the 2008-2009 school year, the Appellant had five formal classroom observations conducted by several school administrators. The evaluations took place as follows: September 16, 2008 by Angelique Simpson-Marcus, Principal; November 13, 2008 by Tanya Washington, Vice Principal; February 12, 2009 by Henrietta Holmes, Regional Instructional Specialist; February 19, 2009 by James Smallwood, Vice Principal; and March 23, 2009 by Ms. Simpson-Marcus. (Local Bd. Mtn., Ex. 10). The Appellant also had several informal observations during the school year.

These observations disclosed problems with the Appellant's performance. Observers made various recommendations to the Appellant to assist him in improving his teaching. Some of the recommendations were as follows:

- Use the DTA time allotments as outlined in the Standards for Excellence document (9/16/08, 11/13/08, 2/12/09, 2/19/09, 3/23/09);

- Plan differentiated and rigorous lessons (9/16/08, 11/13/08, 3/23/09);
- Implement the use of Cornell Notes for students to ensure development of organizational skills and learning processes (9/16/08);
- Monitor instruction throughout lesson and use student feedback to stimulate further instruction (11/13/08);
- Convey a positive environment for learning in the classroom (2/12/09, 2/19/09);
- Reduce loss of instructional time due to inefficient classroom routines and procedures, transitions and performance of non-instructional duties (2/12/09);
- Establish a seating chart to eliminate pockets of students who exhibit inappropriate behavior and monitor to make sure students remain in their seats (2/12/09);
- Make sure objectives follow correct format, including correct grammar and spelling, and concur with current lesson (2/19/09, 3/23/09);
- Keep classroom free of debris at all times (2/19/09); and
- Ensure that grade book meets PGCPs standards per Administrative Procedure 5121 (3/23/09).

Appellant also received various communications regarding incidents during the school year. On September 30, 2008, Ms. Simpson-Marcus issued the Appellant a written reprimand for his failure to submit first quarter progress report grades. (Local Bd. Mtn., Ex. 1). On December 3, 2008, Ms. Simpson-Marcus issued a counseling memorandum regarding the disorganization and uncleanliness of his classroom. (Local Bd. Mtn., Ex. 7). On January 5, 2009, Ms. Simpson-Marcus issued the Appellant a letter of reprimand for receiving a personal check from a parent payable to the Appellant for a lost book in violation of PGCPs policy. (Local Bd. Mtn., Ex. 7).

On November 25, 2008, Ms. Simpson-Marcus issued the Appellant an Interim Teacher Evaluation with an "Unsatisfactory" rating. She rated him as needing improvement in the following areas:

- Implements lessons which provide for instruction of students at appropriate achievement levels, and reflects an appropriate sequencing of instruction, based on approved curricular objectives;
- Creates a classroom climate that is warm and inviting. Promotes the development of positive self concepts for all students;
- Involves students at all instructional levels in each lesson

and encourages and receives inquiries, ideas and opinions that relate to those lessons from the students involved;

- Maximizes the use of time for instructional purposes, with all students being involved in meaningful learning activities;
- Uses a wide range of assessment information (including but not limited to observations by the teacher, CRT, etc.) to regularly adjust student instruction;
- Provides prompt and appropriate feedback on work completed by students;
- Demonstrates a keen understanding of the needs, concerns, abilities and interest of each student in such a manner that leads to the delivery of needed instructional or other resources;
- Performs so that there is observable satisfactory growth in children;
- Demonstrates accuracy in record keeping and promptness in meeting deadlines;
- Follows established school policies and procedures.

(Local Bd. Mtn., Ex. 2).

On February 20, 2009, Dr. Sylvester Conyers, Director of PGCPS High School Consortium Office, met with the Appellant to discuss ways to improve Appellant's performance. Dr. Conyers developed and implemented an action plan for the Appellant. (Local Bd. Mtn., Exs. 6/Action Plan and 10/Hite Letter).

Meanwhile, the Appellant appealed the Interim Evaluation to the local superintendent. (Local Bd. Mtn., Ex. 4). William R. Hite, Jr., Interim Superintendent of Schools, found no merit to the Appellant's claims. Although Appellant maintained that he was unable to access his classroom to prepare each day because he did not have a key, Dr. Hite found that Ms. Simpson-Marcus worked with the custodial staff and administrative team to make sure the Appellant's classroom was opened daily by 8:05 a.m. until Appellant received a key in October 2008. In response to Appellant's claims that problems with his computer prohibited him from familiarizing himself with the SchoolMax program thereby causing him to miss the deadline for submitting student progress report grades, Dr. Hite found that Appellant's computer was operational and that Appellant was familiar with the SchoolMax program given that he used it

each day to submit attendance. Dr. Hite determined that Ms. Simpson-Marcus had reasonable grounds to issue the unsatisfactory Interim Evaluation and denied the Appellant's appeal. (Local Bd. Mts., Ex. 5).

Thereafter, on May 20, 2009, Ms. Simpson-Marcus issued an overall unsatisfactory rating on the Appellant's Annual Performance Evaluation. He received an unsatisfactory rating in all areas except "demonstrates punctuality at post of duty". She cited deficiencies in the Appellant's planning and preparation, learning climate, instruction, and professionalism. (Local Bds. Mtn., Ex.8). Ms. Simpson-Marcus commented that the action plan implemented after the Appellant's interim evaluation yielded limited positive results. (*Id.*). The appeal materials contain no elaboration on Ms. Simpson-Marcus' comment.

Appellant appealed the rating on his Annual Evaluation to Dr. Hite. (Local Bd. Mtn., Ex. 9). On July 14, 2009, Dr. Hite denied the Appellant's appeal. (Local Bd. Mtn., Ex. 10).

Appellant appealed Dr. Hite's rulings on both the Interim Evaluation and the Annual Evaluation to the local board. The local board issued a decision on September 28, 2009 upholding the Appellant's ratings on both. (Local Board Decision).

This appeal followed.

STANDARD OF REVIEW

Because this is a case involving local board policy and procedures, the local board's decision is considered *prima facie* correct and the State Board will not substitute its judgment for that of the local board unless its decision is arbitrary, unreasonable or illegal. COMAR 13A.01.05.05A.

ANALYSIS

The Appellant maintains that he should have received satisfactory ratings on his interim and annual performance evaluations. His primary argument is that the evaluations were a result of a discriminatory or illegal motive by Largo's Principal, Ms. Simpson-Marcus based on the fact that the Appellant is a Caucasian male. In support of this position, the Appellant alleges that approximately five years ago, when Ms. Simpson-Marcus was a gym teacher at Largo, she commented to one of her classes that the only reason a white man would teach at PGCPs is because he cannot get a job elsewhere. Appellant also alleges that Ms. Simpson-Marcus once stated that the Appellant would be first on her list to fire if she ever became principal of the school. He further alleges that Ms. Simpson-Marcus referred to herself as the "Chop Lady" at a meeting at the beginning of the school year, referring to the fact that she intended to terminate some people from their teaching positions. He also claims that Ms. Simpson-Marcus targeted three other Caucasian male teachers for dismissal. (Appellant's Memorandum, 12/21/09). The Appellant has submitted no evidence to corroborate his allegations

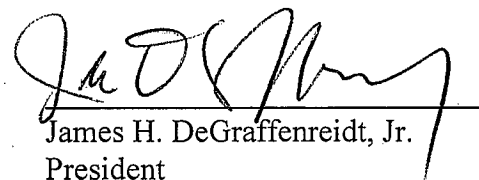
In contrast to the Appellant's unsupported allegations, the local board has submitted an affidavit signed by Ms. Simpson-Marcus denying any illegal motive and stating that she evaluated the Appellant in accordance with the standards and criteria set forth by the school system. Ms. Simpson-Marcus has denied Appellant's allegations that she made comments referring to herself as the "Chop Lady" or comments about Caucasian teachers in PGCPs. Since the time she became principal, Ms. Simpson-Marcus has hired at least eight Caucasian teachers and the majority of the Caucasian teachers who were at Largo when she started continue to receive satisfactory evaluations. Ms. Simpson-Marcus also denied the Appellant's claims regarding the three teachers allegedly targeted for dismissal. She has explained that one teacher resigned, another teacher continues to teach at Largo and receive satisfactory evaluations but is no longer a coach due to the expiration of his one year coaching contract, and the third teacher received a satisfactory annual evaluation upon improving after an unsatisfactory interim evaluation. (Simpson-Marcus Affidavit). Moreover, during the period in question, several administrators besides Ms. Simpson-Marcus observed the Appellant and found deficiencies in his performance. We therefore find that Appellant has not met his burden regarding the claim of discrimination or illegal motive here.

The Appellant also makes various claims that the interim and annual evaluations violated his Union contract but he does not fully develop these arguments or present any persuasive evidence to support his position. It is the Appellant's burden to show that the local board's decision was arbitrary, unreasonable or illegal. COMAR 13A.01.05.05D.

Based on our review of the record we find that the Appellant has failed to satisfy his burden in this case. Appellant's interim evaluation was supported by two formal classroom observations from two different administrators. Appellant's annual evaluation was supported by five formal classroom observations throughout the school year by four different administrators. In each of the observations, observers had various concerns about the Appellant's performance. Several of the concerns were the same or similar in nature. For example, every observer raised concerns about the Appellant's failure to pace his lessons and use time allotments as outlined in the Standards for Excellence document. In addition, at least two observers raised concerns about the Appellant's failure to provide differentiated instruction. Dr. Hite and the local board reviewed both the interim evaluation and the annual evaluation and determined that the ratings should be upheld. The Appellant has failed to demonstrate that the local board's decision was arbitrary, unreasonable or illegal.

CONCLUSION

For the reasons set forth above, we affirm the local board's decision.


James H. DeGraffenreidt, Jr.
President

Charlene M. Dukes ^{RES}

Charlene M. Dukes
Vice President

Mary Kay Finnan

Mary Kay Finnan

S. James Gates, Jr.

S. James Gates, Jr.

Luisa Montero-Diaz ^{RES}

Luisa Montero-Diaz

Sayed M. Naved

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Madhu Sidhu

Madhu Sidhu

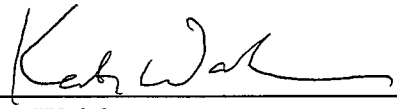
Guffie M. Smith, Jr.

Guffie M. Smith, Jr.

Donna Hill Staton

Donna Hill Staton

ABSENT
Ivan C.A. Walks


Kate Walsh

October 26, 2010