

SUSAN GOTTHEIMER,

Appellant

v.

BALTIMORE CITY BOARD OF SCHOOL  
COMMISSIONERS,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 07-38

### OPINION

#### INTRODUCTION

In this appeal, Appellant challenges the Baltimore City Board of School Commissioner's ("City Board") decision denying her compensation at the doctorate level. Appellant claims that her Juris Doctor degree is equivalent to a doctorate degree and she should therefore be compensated at the doctorate level on the BCPSS pay scale. Appellant requests retroactive pay to the date of her hire. The City Board has filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal. Appellant has submitted an opposition to the Motion.

#### FACTUAL BACKGROUND

Appellant began teaching in the Baltimore City Public School System ("BCPSS") on August 28, 2000. She is currently an elementary school teacher at Guilford Elementary School.

Appellant holds a Bachelor of Arts degree ("B.A."), a Master of Arts degree in teaching ("M.A.") and a Juris Doctor degree ("J.D."). (Appellant's Memorandum). She has an advanced professional teaching certificate from the Maryland State Department of Education ("MSDE") in the areas of elementary education 1-6 and middle school. The certificate identifies Appellant's highest degree as a doctorate degree. (MSDE Certificate).

BCPSS has a Negotiated Agreement with the Baltimore Teachers' Union ("BTU") which provides four salary placement options for teachers: (1) Standard Professional Certificate; (2) Masters or Equivalent; (3) Masters plus 30 credits; and (4) Doctorate. Teachers compensated under the doctorate option receive the highest salary. (Negotiated Agreement 2005 – 2007 pay scale). Since the date of her hire, Appellant has been on the masters or equivalent salary option. (Appellant's Memorandum).

In late 2006, Appellant asked Ms. Lisa Wittington, a specialist in the BCPSS Division of Certification, about the salary designations and requested that she check to make sure Appellant was being compensated at the appropriate rate. After conferring with Dr. Gary Thrift, the BCPSS Director of Human Resources, Ms. Wittington advised Appellant that her current salary designation was appropriate based on her credentials. (Appellant's Memorandum).

Thereafter, Appellant filed a grievance requesting she be placed on the pay scale at the doctorate level. By letter dated December 20, 2006, the Director of Employee and Labor Relations for BCPSS, denied the grievance. (Letter from Director).

On further appeal, a Hearing Examiner conducted a full evidentiary hearing. The Hearing Examiner found that a preponderance of the record evidence supported the conclusion that Appellant did not possess a sufficient number of creditable graduate level credits, beyond her conferred M.A. in teaching, to qualify her for placement on the master's degree plus 30 credits or doctorate salary scale. The Hearing Officer noted the testimony of the BCPSS Certification Specialist who explained that in order to qualify under the master's degree plus 30 credits level, BCPSS requires 21 graduate credits in education, or comparable graduate credits in teaching nursery through grade twelve or related fields, and 15 MSDE approved professional development credits. In order to qualify for pay at the doctorate level, BCPSS requires a doctorate degree in the field of education, or a Ph.D. or Ed.D. The Hearing Officer recommended that BCPSS review and analyze Appellant's post graduate work in order to determine whether any of Appellant's J.D. or other courses are creditable for salary purposes. (Hearing Officer Decision at 6).

On May 8, 2007, the City Board affirmed the hearing officer's recommendation to deny Appellant's grievance.

#### STANDARD OF REVIEW

Because this appeal involves a decision of the local board involving a local policy, the local board's decision is 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. COMAR 13A.01.05.03E(1).

#### LEGAL ANALYSIS

The City Board establishes the terms of compensation for its certificated and non-certificated employees. Md. Code Ann., Educ. §4-311(a)(2)(iii). The salary scale is a part of the Negotiated Agreement between the City Board and BTU. The record discloses that, in the BCPSS, an individual is compensated at the doctorate level if that individual has a conferred doctorate degree in the field of education, a Ph.D or an Ed.D. BCPSS does not count a J.D. as a doctorate degree for purposes of salary and compensation. (T.71).

Appellant suggests that because her MSDE teaching certificate lists doctorate as the highest degree earned, she should be compensated at that level by BCPSS. Appellant holds an Advanced Professional Certificate issued by MSDE. This means that she has satisfied the certification requirements set forth in COMAR 13A.12.01.06E. Satisfaction of these requirements has nothing to do with the listing of the highest degree conferred on the certificate, which is required by COMAR 13A.12.01.09. For whatever reason, Appellant's certificate lists her highest degree as a doctorate rather than the specific degree of Juris Doctor. The manner in which the degree is listed on the certificate has no bearing, however, on how the degree is treated for purposes of compensation in the BCPSS.<sup>1</sup>

Appellant presented evidence that a few other jurisdictions in Maryland compensate individuals holding a J.D. at the doctorate level. (T. 48 – 50). This information also has no bearing on the manner in which BCPSS has chosen to compensate its employees as each school system sets its own pay scale.

Appellant holds a B.A., a M.A. in teaching and a J.D. Based on these degrees, BCPSS compensates Appellant at the masters or equivalent level. As already stated, Appellant does not qualify for compensation at the doctorate level in BCPSS because she does not hold a Ph.D. or an Ed.D. To be compensated at the masters plus 30 level, Appellant would need 30 credits above her M.A. in education. Credits unrelated to her teaching position would not count for compensation at the higher level. (T. 69 – 72). It is up to BCPSS to determine what credits, if any, from Appellant's J.D. could satisfy this criteria. We recommend that BCPSS conduct a review of Appellant's transcripts and courses to determine whether she should be compensated at the masters plus 30 level, as also recommended by the local Hearing Examiner.

### CONCLUSION

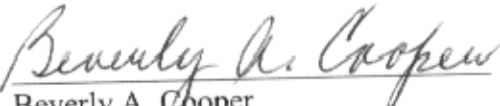
Because we do not find the City Board's decision to be arbitrary, unreasonable or illegal, we affirm the denial of Appellant's request to be placed on the doctorate salary scale.




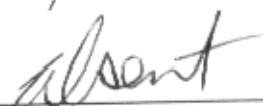
Dunbar Brooks  
President


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<sup>1</sup>Nor does it have a bearing on how that degree is treated by for certification purposes by MSDE. For example, MSDE does not consider a J.D. to be equivalent to a Ph.D.


  
Beverly A. Cooper  
Vice President


  
Lelia T. Allen

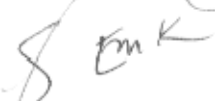
  
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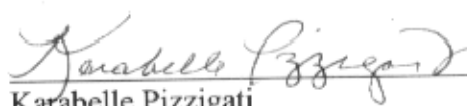
  
Charlene M. Dukes

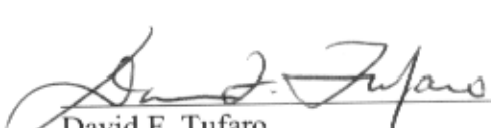
  
Blair G. Ewing

  
Mary Kay Finan

  
Rosa M. Garcia

  
Richard L. Goodall

  
Karabelle Pizzigati

  
David F. Tufaro

October 30, 2007