

ROBIN VICE,
Appellant
v.
CARROLL COUNTY
BOARD OF EDUCATION,
Appellee

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION
Opinion No. 08-50

OPINION

INTRODUCTION

Appellant, a school bus driver for Carroll County Public Schools (CCPS), appeals the decision of the Carroll County Board of Education (local board) affirming her ten day suspension for falsifying her bus route manifest in violation of the CCPS School Bus Driver Discipline Policy. The local board has submitted a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal. Appellant has submitted a response in opposition to the local board's motion.

FACTUAL BACKGROUND

The Appellant is an employee of the ARC of Carroll County (ARC). The local board's Department of Transportation Services certified her to operate a school bus to transport students attending CCPS. Appellant drives bus #146, which is a special education bus owned by the ARC.

Prior to her employment as a bus driver, Appellant received pre-service training which included training on the proper procedures for filling out a school bus manifest. As a special education bus driver, Appellant also attended a required training session in October 2006 during which the bus drivers were informed that they must notify the CCPS Transportation Services Department when a student is absent for several days. (*See In-Service Notice*).

During the 2006-2007 school year, Appellant's bus was scheduled to transport students with special needs to Carroll Springs School as well as Robert Moton Elementary School. Appellant's route included a severely disabled student who attended Carroll Springs School. Due to health reasons, this student was unable to return to school in January of 2007. The student's mother notified Appellant of this change in December of 2006. Appellant confirmed this information with school staff. After the December break ended, Appellant no longer

provided transportation services for this student.

Appellant stated that she reported the route change to her supervisor at the ARC, Ted Stonesifer, who served as the ARC's Assistant Transportation Manager. According to the Appellant, Mr. Stonesifer advised her to keep the student on her manifest until the ARC received word from the school system's Transportation Services Department to do otherwise. (Doolan Decision at 1-2).

The ARC and the Appellant are compensated based on the hours and miles indicated on monthly bus manifests. On January 12, March 16, and August 31, 2007, the Appellant completed bus manifests that included the time and mileage to transport the student, despite the fact that the student was no longer using the bus and Appellant did not regularly travel to the student's house. Appellant indicated in her manifests that she transported this student for 2 hours for a distance of 36 miles. Appellant signed these bus manifests as true and correct. (*Id.* at 2-4). The bus assistant reported that Appellant drove to the student's house only on the days in January, March and August when the manifest was to be completed. (Hardesty Decision at 2).

On September 6, 2007, James Bullock, Area Supervisor of the CCPS Transportation Services Department, observed the Appellant returning with bus #146 to the ARC lot at 8:45 am. The Appellant's manifest, however, indicated that the usual route brought her back to the lot at 10:30 am. On September 7, 2007, Mr. Bullock observed that bus #146 did not report to the aforementioned student's home as indicated on the September 2007 manifest. (*Id.* at 2). Upon discovering the falsified information, Michael J. Hardesty, the Supervisor of Transportation, suspended Appellant for 10 days. The suspension became effective on October 4, 2007 after it was determined from a conference with the Appellant that she received compensation for services that were not performed.

The Appellant filed an appeal to Mr. James L. Doolan, Director of Transportation Services. Mr. Doolan held an evidentiary hearing on November 5, 2007 which the Appellant attended with her lawyer. Appellant claimed that she was never advised to report student absences to the Transportation Services Department, and that she reported the schedule change to Mr. Stonesifer who told her to leave the student on the manifest until they heard otherwise from Transportation Services. (Doolan Decision at 1-2). Area Superintendent Bullock testified that the bus drivers are trained to contact the Transportation Services Department when a student was no longer riding the bus. (*Id.* at 2).

In a written decision issued November 19, 2007, Mr. Doolan upheld Mr. Hardesty's decision to suspend Appellant for ten days. He found that the Appellant falsified records. He stated that:

The integrity of the driver must be such that they would never knowingly falsify a report. [Appellant] not only falsified the report once, but perpetuated the untruth over and over again.

The fact, that she knew she was falsifying the report, and the fact, that she went to the supervisor, does not allow her to continue to collect compensation for that lie.

(Doolan Decision at 5).

On November 21, 2007, the Appellant filed an appeal with the local Superintendent, Dr. Charles I. Ecker. Dr. Ecker referred the matter to his designee, Stephen H. Guthrie, the Assistant Superintendent of Administration. Mr. Guthrie conducted a paper review and upheld the decision to suspend the Appellant. (Guthrie Decision, 1/15/08).

Appellant filed an appeal with the local board. On March 26, 2008, the local board affirmed Mr. Guthrie's decision upholding the suspension. In its decision, the local board stated the following:

Having considered the record and the arguments put forth by the parties, we are of the opinion that the preponderance of the evidence plainly demonstrates that the decision to suspend [Appellant] was amply supported and was not arbitrary, unreasonable, or illegal. It is well documented and undisputed that [Appellant] recorded manifests with the time and mileage for a student she no longer transported, which amounted to falsification of records. [Appellant] signed these manifests knowing that she was recording incorrect information and received compensation based on these false manifests. As demonstrated in the CCPS's School Bus Driver Discipline Policy, [Appellant's] suspension is in accordance with a first offense for falsifying reports and/or records.

This appeal to the State Board followed.

STANDARD OF REVIEW

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. COMAR 13A.01.05.05A.

ANALYSIS

Appellant was suspended for ten days for falsifying information on her bus manifests. She believes that the suspension was unfair because she did not intentionally falsify the records. She explains that on several occasions she advised her supervisor, Mr. Stonesifer, that the student

was no longer riding the bus, and that Mr. Stonesifer told Appellant to keep the student on the bus manifest until the Transportation Services Department contacted them about it. (Hardesty Decision at 1; Appellant's Response to Motion). Mr. Stonesifer confirmed that, although he could not recall this student specifically, he advises his drivers to carry a student who is no longer riding the bus on the route manifest until CCPS confirms the information. (Hardesty Decision at 2).

The fact that Mr. Stonesifer appears to have advised Appellant to keep the student on the manifest does not absolve the Appellant of responsibility for falsifying the manifests. Appellant could have chosen some other course of action rather than signing off on information that she knew to be incorrect. She could have kept the student on the manifest but not logged in the time or mileage for a transport that did not occur. She also could have contacted the Transportation Services Department herself to resolve the situation. While Appellant testified that the ARC does not like it when bus drivers contact the Transportation Services Department directly, there is no evidence that Appellant was specifically advised by Mr. Stonesifer not to do so in this case. (Doolan Decision at 2).

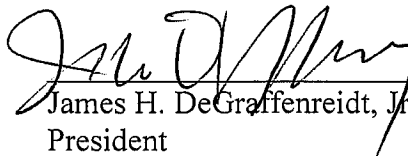
Appellant also argues that the Transportation Services Department was aware that the student was no longer on the route because she marked the student absent on her attendance sheets for each day that the student did not ride the bus. She claims that she submitted the attendance sheets to Mr. Stonesifer, who in turn handed them in to CCPS. (Appellant's Reply to Motion). Appellant has provided no evidence of this. Nor does the fact that she marked the student as absent on one form negate the fact that she submitted incorrect manifests stating that she transported the child on days when she did not.

In addition, Appellant claims that she was unaware that she needed to contact the Transportation Services Department directly regarding the student's absence. Yet, there was testimony at the appeal hearing that Mr. Hardesty conducted training for special education bus drivers in October 2006 in which he advised them to contact the Transportation Services Department if a student is consistently absent. (Doolan Decision at 3). There was also evidence that Appellant was present at that training. (Training Form).

In light of these facts, we do not find the ten day suspension unreasonable.

CONCLUSION

Based on the record in this case, we conclude that the local board's decision is not arbitrary, unreasonable or illegal. Accordingly, we affirm Appellant's ten day suspension.


James H. DeGraffenreidt, Jr.
President

Blair G. Ewing

Blair G. Ewing
Vice President

Lelia T. Allen

Lelia T. Allen

Dunbar Brooks

Dunbar Brooks

absent

Charlene M. Dukes

Mary Kay Finan

Mary Kay Finan

Rosa M. Garcia

Rosa M. Garcia

Richard L. Goodall

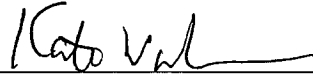
Richard L. Goodall

Karabelle Pizzigati

Karabelle Pizzigati



Ivan C.A. Walks



Kate Walsh

October 28, 2008