

SUSAN GRUZS,

Appellant

v.

BALTIMORE CITY BOARD OF
SCHOOL COMMISSIONERS,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

Opinion No. 09-04

OPINION

INTRODUCTION

The Appellant has requested that this Board reconsider its decision of August 26, 2008 in *Susan Gruzs v. Baltimore City Bd. of Sch. Comm'rs*, MSBE Op. No. 08-41. The Baltimore City Board of School Commissioners (local board) has filed a Response to the Request for Reconsideration.

FACTUAL BACKGROUND

In *Susan Gruzs v. Baltimore City Bd. of Sch. Comm'rs, supra*, this board dismissed Appellant's appeal of the Chief Executive Officer's (CEO) denial of her grievance of her unsatisfactory performance evaluation. This Board did so because Appellant did not appeal the grievance of her evaluation to the Baltimore City Board of School Commissioners before appealing to the State Board and, thus, failed to exhaust her administrative remedies.

STANDARD OF REVIEW

A decision on a request for reconsideration shall be made in the discretion of the State Board except that a decision may not be disturbed unless there is sufficient indication in the request that:

- (1) The decision resulted from a mistake or error of law; or
- (2) New facts material to the issues have been discovered or have occurred subsequent to the decision.

The State Board may refuse to consider facts that the party could have produced while the appeal was pending. The State Board may, in its discretion, abrogate, change, or modify the original decision. COMAR 13A.01.05.10D.

ANALYSIS

Appellant maintains that the State Board erred in dismissing her appeal for failure to

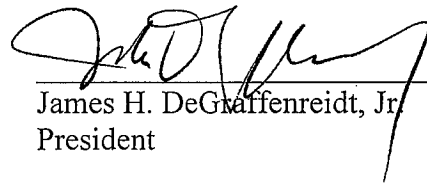
exhaust administrative remedies. She explains that under the terms of the collective bargaining agreement between the local board and the Baltimore Teachers Union (Union), only the Union may appeal a grievance to the local board. Because the Union chose not to appeal her case, she argues that her only recourse was to appeal directly to the State Board. She did so on the advice of her Union representative.

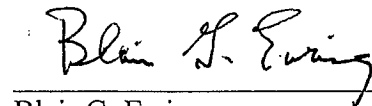
Pursuant to § 4-205(c)(3) of the Education Article, all controversies and disputes that involve the rules and regulations of a local board and the proper administration of the local school system must first be appealed and decided by the local board of education before they can be reviewed by the State Board. Appellant's grievance regarding her performance evaluation is such a dispute. Neither she nor her Union filed an appeal to the local board. As this Board stated in *Susan Gruzs v. Baltimore City Bd. of Sch. Comm'rs*, MSBE Op. No. 08-41, "because there is no local board decision, there is nothing for the State Board to review."

Contrary to Appellant's contentions, the State Board understood the provision in the negotiated agreement which states that only the Union can appeal a grievance to the local board. Unfortunately for Appellant, the Union chose not to appeal the CEO's decision in her case. It does not follow, however, that Appellant had a right to then appeal directly to the State Board. As a matter of law, under § 4-205(c)(3), an appeal to the State Board can only be taken from a decision of a local board.

CONCLUSION

For these reasons, we deny Appellant's Request for Reconsideration.

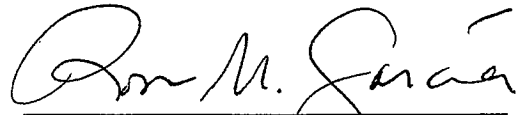

James H. DeGraffenreidt, Jr.
President

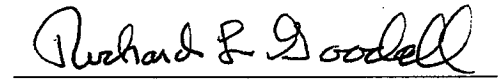

Blair G. Ewing
Vice President


Dunbar Brooks

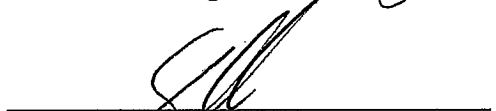

Charlene M. Dukes

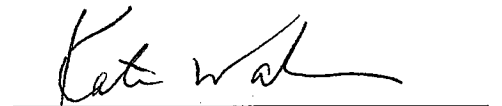

Mary Kay Finan


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February 24, 2009