

WILLIAM JOHNSON,

Appellant

v.

SOMERSET COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 14-38

OPINION

INTRODUCTION

Mr. William Johnson appeals his transfer from principal of Washington Academy High School (WAHS) to principal of Promise Academy, an alternative school. The Somerset County Board of Education (local board) filed a Motion for Summary Affirmance to which Mr. Johnson responded. The local board filed a Reply.

FACTUAL BACKGROUND.

Mr. Johnson became principal at Washington Academy High School during the 2012-2013 school year. It appears from the record that Mr. Johnson focused his first year as principal on reducing disciplinary problems and he seems to have made progress on that goal. Many teachers and students supported him; but others did not.

At the March 19, 2013 meeting of the local board, the Vice Chair of the Board, Robert Wells, addressed the board from the audience as a parent asserting that Washington High School was “out of control.” He was followed by his wife who, among other things, complained that there was “unequal treatment when it comes to sports teams,” that discipline was a problem, and it was time to “get the bad kids out of there and take care of the good kids.” Next, Board member Dan Kuebler put himself “officially ‘on the record’ ... calling for the Superintendent’s action plan for leadership change, recouping control, and removing the total ‘chaos’ infestation of the school.” (#1, *Chrisfield-Somerset Times*, March 27, 2013).¹ Mr. Kuebler followed up his comments with an e-mail on March 21, 2013 to all board members reiterating that the school was “out of control.” (#2, March 21, 2013 e-mail).

¹ Because the record was voluminous and was submitted by both parties in a repetitive and disorganized fashion, the documents cited in this Opinion are attached.

#1 *Crisfield-Somerset County Times*, 3/27/13

#2 Kuebler e-mail to Board, 3/21/13

#3 *Delmarva Now.Com*, 4/5/13

#4 Student Petition , 4/4/13

#5 *The Daily Times*, 5/20/13

#6 Closed Meeting Minutes, 6/5/13

#7 Decision of Local Board, 9/17/13

At the April 5, 2013 board meeting, William Johnson's supporters packed the room and claimed that the attacks on Mr. Johnson were racially motivated. Students and supporters spoke on behalf of Mr. Johnson. A petition signed by approximately 100 students was filed.² Some speakers called for Board members Wells and Kuebler to resign. (#3, Delmarva Now. Com April 5, 2013; #4, Student Petition).

On May 20, 2013, Dr. Marjorie Miles, the Superintendent of Schools, decided to resign effective July 1, two years before her term would end. (#5, Delmarva Now. Com, May 20, 2013 attached). Finishing out her year, Dr. Miles investigated the circumstances at Washington Academy High School. She presented her report to the Board on June 5, 2013 in a closed session. It appears from the record that Dr. Miles used a two page outline, which is set forth below, to make her report.

Findings:

I. Achievement

- Benchmark Data
- Teacher Data (?????)

II. Evaluation Meetings with Director of Curriculum & Instruction

- C & I Team found:
 - A reluctance to accept suggestions/assistant from Supervisor & Director
 - Lack of follow through (e.g. 8th grade scheduling, math interventions were put in Dec. versus September)
 - Lack of consistency
 - Lack the finesse to deal with difficult problems
 - Time Management
 - Inexperience with delegation

III. Student Support Services:

- MDS3 2013 Climate Survey for WAHS (Teachers) as compared to CAHS (Teachers)

IV. Grievance

- Current grievance filed by _____ (Teacher was reprimanded for leaving students in a classroom alone.
- Previous threatened grievance was about _____ (Classroom management is problematic given the number of office referrals that she submitted and the number of referrals that have been submitted since she went on maternity leave (1)).
- We believe that current grievance will be resolved at the Superintendent's level with recommendations made today. We

² Over 500 students attend Washington Academy High School.

(Ms. Whitelock and I) will respond to Mr. Parker by or before Friday – June 7, 2013.

Performance Improvement (based upon the findings)

Strengths:

- Building relationships with students
- Work ethic
- Articulation with community resources
- Tackling tough problems that have been ignored for years
- Bridge planning started late, however, Mr. Johnson personally took on the project to ensure that every student completed their bridge project ensuring graduation for students.

Areas in Need of Improvement

- Delegation
- Time Management
- Consistency with Referrals (conferring & documentation)
- Acceptance of suggestions and assistance

Recommendations:

- Transfer to Promise Academy (no announcement until June 18, 2013) with a documented Performance Improvement Plan – PIP (written and implemented by Dave Elebash)
- The PIP will inclusive of all of the areas in need of improvement and who will assist Mr. Johnson in his efforts to improve and how Mr. Johnson will help himself.
- Training on the contract (Beth Whitelock)
- On-going PD for WAHS Staff on working with difficult students and progressive discipline in the classroom (Student Support Services – Renee McLaughlin and new SSS Supervisor)

The minutes of the closed meeting (which the Board released for the purpose of this appeal) state:

Dr. Miles presented a detailed investigation report regarding the performance of Mr. Johnson. She stated that he has had several interventions. After the investigation it was concluded that Mr. Johnson receive increased professional development on handling disruptive [sic] and discipline issues. Dr. Miles stated that 90% of the allegations against Mr. Johnson were not true and that she, along with the administrative staff, collectively concluded to move Mr. Johnson to the Promise Academy.

Board Attorney Jeffers advised Ms. Whitelock to inform Mr. Johnson of the transfer to the Promise Academy before JC Parker, representative of the Union, is informed.

A motion was called upon by Mr. Sumpter, seconded by Ms. Green-Gale and passed to accept Dr. Miles' recommendation to transfer Mr. Johnson from Washington High School to the Promise Academy and transfer Mr. Sidney Hankerson from Promise Academy to the Washington High School. The motion carried with Mr. Sumpter, Mr. Kuebler, and Ms. Green-Gale voting in favor of the move. Vice Chariman Wells recused himself from voting on this matter.

(#6, Minutes June 5, 2013).

Thereafter, on or about July 1, 2013, Mr. Johnson was transferred to Promise Academy. He appealed the transfer decision to the local board on July 6, 2013. On September 19, 2013, the local board issued its decision. When the decision was signed on September 17, 2013, however, Mr. Kuebler did not sign. The signatories were William Miles, Warner Sumpter, and Margo Gale-Green.

This appeal ensued.³

STANDARD OF REVIEW

The standard of review that the State Board applies in reviewing a local board decision concerning the reassignment of a school administrator is that the decision of the local board 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.01.05.05A.

LEGAL ANALYSIS

The law governing transfers and reassignments in school systems is straightforward and long-standing - a local superintendent has broad statutory authority to transfer personnel "as the needs of the system require." Md. Code. Ann., Educ. §6-201(b). Numerous State Board opinions, and the Court of Special Appeals in *Hurl v. Board of Educ. of Baltimore County*, 107 Md. App. 286 (1995), affirm that a transfer of personnel to a lateral position or to a position of lower rank is within the discretion of the local superintendent. See *Cain v. Wicomico County Board of Educ.*, MSBE Op. No. 12-36; *Mayhorne v. Harford County Bd. of Educ.*, MSBE Op. No. 00-17 (2000); *Heany v. New Bd. of Sch. Commissioners for Baltimore City*, MSBE Op. No. 99-2 (1999); *Hart v. Board of Educ. of St. Mary's County*, 7 Op. MSBE 740 (1997); *Chenowith v. Board of Educ. of Baltimore County*, 7 Op. MSBE 192 (1995); *Cameron v. Board of Educ. of Baltimore County*, 6 Op. MSBE 814 (1995). No tenure attaches to administrative positions. Rather, employees in administrative positions acquire and maintain tenure in employment with the school system and not in any particular position. *Cameron*, 6 Op. MSBE at 815-816.

³ In responding to the local board's Motion, Mr. Johnson has filed documents related to a second appeal concerning his Personal Improvement Plan. As that issue was not heard below, we will not consider it here.

Just like any other decision, the decision to transfer an employee to a different position must not be arbitrary, unreasonable, or illegal. We have reviewed the entire record of this case. The atmosphere in which the transfer decision was made raises serious issues about the reasonableness of the local board's decision. We note that two board members made strong, and we believe, inflammatory statements about the climate at Washington High School. We also point out that the board as a whole appeared to abdicate its role as education leaders by, among other things, silently accepting a comment from the audience that it was time "to get the bad kids out of [Washington High School] and take care of the good kids." That comment is antithetical to the goal of providing all students with an education designed to give them the skills to be college and career ready.

In the center of the transfer decision was the superintendent. She was in the process of resigning two years before her term expired. Suffice it to say that the relationship between the then superintendent and the board was a difficult one. Moreover, as the newspaper articles reflect, the board meetings leading up to the transfer decision appear racially charged. In all, it is our view, that Mr. Johnson got caught in the leadership vacuum and the high emotion swirling around the board and the community.

Although Mr. Johnson's record at Washington Academy High School reveals some problems with communication, responsiveness, and difficulty with some staff and parents, these do not seem like significant problems. Indeed, they were nowhere close to the many allegations hurled against him about a "school in chaos." The information in the record does not reflect a school in chaos. Moreover, the superintendent concluded that 90% of the allegations were not true. Indeed, when we look closely at the superintendent's report to the board, we see significant strengths reflected there. Specifically, Mr. Johnson built relationships with students, has a strong work ethic, accessed community resources, took personal responsibility to ensure that every student completed their Bridge projects and thus graduated. Most tellingly, the report states that Mr. Johnson tackled "tough problems that have been around for years." Instead of recognizing those strengths, the local board focused on issues that, in our view, were minor in the total scheme of things. Indeed, we would commend Mr. Johnson for all those attributes and for his attempt to improve discipline methods and to change the climate at the high school. Those are very difficult tasks, and regrettably they met with little or no support from the board. In fact, his efforts met with hyperbole about the leadership at Washington Academy High School which caused significant upheaval in the community and in Mr. Johnson's professional life.

To us, the record reflects a decision that was ruled by emotion rather than reason; a decision that was unfair to Mr. Johnson; and thus, a decision that was arbitrary and unreasonable.

CONCLUSION

For the reasons stated above, we must reverse the decision of the local board. We recognize that a year has passed since the transfer decision and that Mr. Johnson's reinstatement as principal of Washington Academy High School is the type of decision that has implications for other personnel. We leave it to the superintendent and the local board to discuss viable options with Mr. Johnson, one of which could be reinstatement as principal at Washington Academy High School. We direct the board and Mr. Johnson to report to this board within 30 days of this decision which option was adopted and whether it was acceptable to Mr. Johnson.

We also direct the board to discuss this decision publicly at the next board meeting and to explain on the record the rational for this decision.

Absent

Charlene M. Dukes
President

Mary Kay Finan
Mary Kay Finan
Vice President

James H. DeGraffenreidt, Jr.
James H. DeGraffenreidt, Jr.

Linda Eberhart
Linda Eberhart

S. James Gates, Jr.
S. James Gates, Jr.

Larry Giammo
Larry Giammo

Luisa Montero-Diaz^{MVP}
Luisa Montero-Diaz

Sayed M. Naved
Sayed M. Naved

Madhu Sidhu
Madhu Sidhu

Donna Hill Staton
Donna Hill Staton

Guffie M. Smith, Jr.
Guffie M. Smith, Jr.

July 22, 2014