

BRIAN CORBIN,

Appellant

v.

NEW BALTIMORE CITY BOARD
OF SCHOOL COMMISSIONERS,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 00-44

OPINION

In this appeal, a tenured teacher employed by the New Baltimore City Board of School Commissioners challenges the local board's decision to remand the termination case to the Chief Executive Officer (CEO) to consider amended charges of insubordination and a rehearing. The local board has filed a Motion to Dismiss maintaining that the State Board lacks jurisdiction over the appeal and that the case is not ripe for review because no final decision or order has been rendered by the school board. Appellant has submitted an opposition to the local board's motion.

FACTUAL BACKGROUND

Appellant, a science teacher at Lake Clifton-Eastern High School No. 40, has been employed by the Baltimore City Public School System ("BCPSS") for approximately 25 years. On May 13, 1999, the BCPSS police arrested Appellant on charges of extortion.¹ The background is set forth in the Statement of Charges submitted by the CEO:

1. On May 6, 1999, a female student from Brian Corbin's class reported to Bernard Barnes, principal of Lake Clifton-Eastern High School, that Mr. Corbin had removed her from the class and that she could not return to the class unless she paid him \$3.00. The student's statement was corroborated by a teacher with whom the student had discussed the matter and who also saw a hall pass that Mr. Corbin gave the student. The hall pass was marked with a written notation that read '\$3.00.'
2. On May 13, 1999, as a follow-up to the student's statement, the Baltimore City Public School System police met with the student, the student's mother, and school officials to investigate the student's allegation. At the meeting, the student reported that Mr. Corbin had already approached her earlier that day to inquire about the \$3.00. The BCPSS police instructed the student to pay Mr.

¹These charges were ultimately *nol prossed*.

Corbin with three (3) marked one-dollar bills. The BCPSS police advised her that they would be within close proximity to view the transaction. After the police observed the student pay Mr. Corbin and confirmed his acceptance of the money, the police proceeded to arrest him.

3. Since Mr. Corbin's arrest, at least four other students have written statements confirming Mr. Corbin's practice of demanding money from students for certain acts.

The CEO recommended Appellant's dismissal as a teacher for misconduct in office and immorality.

In accordance with the procedure set forth in §6-202 of the Education Article, Appellant was granted a hearing² before a hearing examiner who disagreed with the CEO's recommendation to dismiss Appellant:

In his defense, Mr. Corbin admitted in his testimony that he had loaned money to students since he began teaching in 1974. His unimpeached testimony related the loan of three dollars (\$3.00) to Qutyra Shields and her repayment to him of that amount on May 13, 1999. Two (2) student witnesses corroborated his testimony regarding loans to students and his habit of writing the amounts due on pieces of paper for the awareness of individual student borrowers. Although it is at least inappropriate for a teacher to become involved in the practice of loaning money to their students, there is not evidence that Mr. Corbin benefitted from gain, imposed any penalties, applied any pressures or did in any manner, abuse the practice. It appears as he stated, that he did it for students he trusted.

After a careful review of all of the evidence, it appears to this Hearing Officer that the burden imposed upon the C.E.O. to prove the Statement of Charges brought against Brian Corbin by a preponderance of the evidence has not been met. The charges are not substantiated by the evidence.

The hearing examiner recommended that Appellant be reinstated and transferred to another school, mandated to cease and desist the practice of loaning money to students, receive counseling, and be monitored through the rest of the 1999-2000 school year and the first four months of the 2000-01 school year. Neither the CEO nor Appellant filed exceptions to the

²Appellant was represented by legal counsel during the hearing.

hearing officer's report and recommendation. By letter dated May 26, 2000, the Executive to the New Baltimore City Board notified Appellant:

Please be advised that at the Executive Session of the New Board of School Commissioners, on May 10, 2000, the Board voted to remand this case to the Chief Executive Officer to consider amended charges of insubordination and a rehearing in this matter. The Board's decision will be announced at the next public business meeting on May 30, 2000.

The local board announced the decision publicly at its board meeting on May 30, 2000.

ANALYSIS

Appellant argues that the local board violated Section 6-203(e)(1) of the Education Article by failing to make a decision on the hearing examiner's recommendation. The local board responds that the matter is not yet ripe for review because the decision was to remand to the CEO for consideration of additional charges and a rehearing. Appellant responds that that action is in contravention of §6-203(e)(1). We concur with the Appellant.

Section 6-203(e)(1) provides:

- (1) After it reviews the record and the recommendation of the hearing examiner, the county board³ shall make a decision.
- (2) The decision may be appealed to the State Board as provided in this article.

Consistent with the plain meaning of §6-203(e)(1), we find that the local board must decide whether to accept or reject the hearing examiner's report and recommendation.⁴ In doing so, the local board must provide "a clear statement of the rationale" for its decision. *See Department of Health and Mental Hygiene v. Shrieves*, 100 Md. App. 283, 311 (1994) where the Court of Special Appeals remanded an appeal to the Secretary of Personnel to provide a clear statement of her rationale for rejecting an administrative law judge's recommendation on an employee discharge matter.

CONCLUSION

³In §1-101(d) of the Education Article, county board means "the board of education of a county and includes the New Baltimore City Board of School Commissioners".

⁴In accepting or rejecting a report and recommendation, the local board may also modify a recommended sanction.

For these reasons, we are remanding this matter to the New Baltimore City Board of School Commissioners. Within 30 days from the date of this opinion, the New Baltimore City Board shall issue a written decision accepting or rejecting the hearing examiner's report and recommendation and include the rationale for its decision. If Appellant is not satisfied with the decision, he may appeal to the State Board as provided in § 6-202(a)(4) of the Education Article, Annotated Code of Maryland.

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October 2, 2000