

CAROL EMEL,
Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,
Appellee

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION
Opinion No. 00-37

OPINION

In this appeal, a guidance counselor at Einstein High School challenges the local board's decision to dismiss her appeal. While Appellant's letter of appeal to the State Board consists of a myriad of allegations, essentially Appellant complains of harassment, slander, verbal abuse, and other violations of workplace rights allegedly committed by the head of her department, as well as the school system's failure to effectively address her concerns. The local board has submitted a Motion to Dismiss for failure to state a legally cognizable claim upon which relief can be granted. Appellant has submitted an opposition to the motion.

FACTUAL BACKGROUND

On June 22, 1999, Appellant represented by counsel submitted a letter to the superintendent alleging that her department head, Mr. Monte, had created a hostile working environment by harassing and slandering her, and that the principal of the school, Dr. Richard Towers, and the Human Relations Advocate, Dr. Gregory Bell, took no action to rectify the situation despite Appellant's repeated complaints. The superintendent referred the matter to Ms. Elizabeth L. Arons, Director of the Department of Personnel Services. She responded to Appellant's letter indicating that Appellant's previous complaints had not alleged that she was being harassed or slandered based upon any legally protected characteristic, and that the information provided merely suggested a personality conflict between the parties. Ms. Arons invited Appellant to participate in mediation with Mr. Monte to resolve their differences, an offer which Appellant had previously refused. *See* Arons letter of July 8, 1999.

Appellant replied by letter to Ms. Arons reiterating concerns about Mr. Monte and indicating her refusal to participate in mediation. Ms. Arons responded, again reiterating the school system's conclusion that the situation was a result of personality problems contributed to by both Appellant and Mr. Monte. Ms. Arons advised Appellant that the Montgomery County Education Association ("MCEA") was available to assist her with her concerns, and that she had not yet exhausted the resources available to her through the school system. Ms. Arons also noted that Appellant had been offered the opportunity to address her concerns through mediation facilitated by the Department of Human Relations, but that Appellant had declined the offer. *See* Arons letter of August 9, 1999.

In September 1999, Appellant submitted an appeal to the local board claiming that the school system's "failure to address an ongoing and proven hostile environment is a violation of the regulations and policies of the Montgomery County Public School Board." Appellant requested relief in the form of: (1) appropriate disciplinary action against Mr. Monte up to and including either transfer or dismissal; (2) an apology by the administration; (3) compensatory damages for the stress, humiliation and damage to Appellant's personal and professional integrity; (4) expungement of all derogatory materials in Appellant's personnel and any other file; and (5) payment of all attorney fees and costs incurred in pursuing this matter.

The matter was referred to the local superintendent for his review. The superintendent denied the relief requested by Appellant, characterizing the issues raised as "conflicts of personality and leadership style or skill." The superintendent found that the incidents specifically identified by Appellant had been satisfactorily resolved or amounted to mere office disputes which did not require resolution by the superintendent. With regard to Appellant's general allegations, the superintendent determined that there was no way in which to investigate these claims due to lack of specific facts. The superintendent suggested that Appellant consider seeking a transfer to another school if she was displeased with her assignment, in order to work with another supervisor with whom she may be more compatible. See Weast letter of December 3, 1999.

Appellant appealed the superintendent's decision to the local board. The local board dismissed the appeal stating:

While the authority of the Board of Education under §4-205(c)(4) is broad, it does not extend to areas that are specifically governed by other mechanisms such as personnel matters. The responsibility for the appointment, transfer, promotion and discipline of professional personnel is committed by law, in the first instance, to the superintendent of schools pursuant to a process that includes notification to, and participation of, the affected professional. This is the exclusive process for dealing with personnel matters, and §4-205(c)(4) of the Education Article may not be utilized to usurp this established process.

ANALYSIS

In this appeal, Appellant urges the State Board to take some type of action to resolve the alleged dispute between her and her employer. However, given the circumstances of this case, we believe that an appeal to the State Board is not the appropriate forum for review of these issues. While it is not abundantly clear what laws, policies or rights Appellant claims have been violated, there are other appropriate avenues that exist to address the issues raised by Appellant. For example, the appropriate forum for addressing Appellant's complaints of harassment is through Title VII procedures. Appellant's grievances against her superior should be addressed through

the grievance procedure provided by the negotiated agreement between the MCEA and the Montgomery County Public School System. From our review of the record, it does not appear that Appellant has availed herself of any of the applicable procedures in place to address these concerns.

To the extent that Appellant requests that the State Board take some type of disciplinary action against Mr. Monte, we believe that Appellant lacks standing to raise this claim. The authority to discipline teachers lies with the local board upon the recommendation of the local superintendent pursuant to statutorily mandated procedures. *See* Md. Code Ann., Educ. §6-202. *See also Edler v. Board of Education of Prince George's County*, 7 Op. MSBE 304 (1996)(ROTC instructor employed by school system lacks standing to request disciplinary action against school principal and school administrator); *Schlamp v. Board of Education of Howard County*, 7 Op. MSBE 27 (1995)(parent of student lacks standing to request disciplinary action against school principal). Moreover, an individual employee's disagreement with the judgment of the superintendent and the local board about disciplinary actions that should or should not be taken against a supervisor does not constitute negligence, transgress workplace rights, or violate any applicable due process provisions.

Here, although Appellant has made many generalized allegations, she has not demonstrated that any legally protected right has been violated.

CONCLUSION

For these reasons, we believe this appeal is inappropriate for review by the State Board. Accordingly, we dismiss the appeal for failure to state a claim upon which relief may be granted.

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