

MARY CROSIER,

Appellant

v.

PRINCE GEORGE'S COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 01-01

OPINION

In this appeal, a former JROTC instructor challenges the nonrenewal of her employment contract, claiming that she was denied due process and that the evidence in this case does not support the termination decision. The local board has submitted a Motion for Summary Affirmance maintaining that the termination decision is not arbitrary, unreasonable or illegal. Appellant has filed an opposition to the local board's motion.

Following a full evidentiary hearing, the local hearing officer submitted a comprehensive report containing her findings and recommendations in this case. The local board adopted the hearing officer's report and recommendation to uphold the termination.

FACTUAL BACKGROUND

Appellant was a JROTC instructor at Largo High School in Prince George's County.¹ By letter dated August 20, 1999, Appellant was advised that her employment with Prince George's County Public Schools was terminated for (1) use of inappropriate, abusive and/or disrespectful language; (2) threatening and assaultive behavior toward other adults; and (3) insubordination toward her commanding officer.

On December 16, 1999, a hearing was held regarding Appellant's termination before Hearing Officer and Superintendent's Designee, Dorothy B. Stubbs. Testimony during the hearing described various situations in which Appellant's supervisor, Lt. Col. Anthony Brown,² believed Appellant failed to meet certain behavior expectations as required by the AFJROTC Instructor Management Agreement. For example, Lt. Col. Brown testified that Appellant did not comply with the requirement that all instructors wear a service uniform every school day and on other occasions when instructors are acting in their official capacity before the general public, Tr.

¹Prior to Appellant's assignment at Largo High School, she was an instructor in the JROTC program at DuVal High School. Due to problems that Appellant had with her immediate supervisor at DuVal, she was transferred to Largo High School. Tr. 8-10.

²Lt. Col. Brown is a Senior Aerospace Instructor at Largo High School. He is responsible for the management and conduct of the JROTC program there. Tr. 26.

21-24; Appellant failed to follow directions during an awards ceremony, Tr. 41-44; and Appellant used profanity towards a student.³ Tr. 58-59.

Evidence presented during the hearing includes a February 2, 1999 evaluation report in which Appellant received a poor performance rating in the category for “adaptability” based on her inability to adapt to the high school environment. Lt. Col. Brown commented as follows:

This special report was caused by an incident in which a student had cursed MSgt Crosier. The student used the four letter f-word. MSgt Crosier’s response included “get the f— out of my office.” I had ordered the student to stay out of MSgt Crosier’s classroom and not to go near her. MSgt Crosier had told me earlier that she despised and hated this student. At that time, I told her that it was unprofessional for a teacher to hate a student. Although the student was wrong and will be disciplined for misconduct, MSgt Crosier’s response was unprofessional and unacceptable. I felt these incidents made both her ability to adapt to the high school environment and her empathy with students questionable. . . .

Lt. Col. Brown also mentioned that Appellant had walked out of a meeting with the guidance counselor and the student’s parents in connection with the incident, and that she also walked away from him on different occasions when they were discussing the incident.

On February 3, 1999, Lt. Col. Brown gave Appellant the evaluation report and instructed her to sign and return it to him. Appellant did not return the report to Lt. Col. Brown. Instead she gave it to Mr. James Smallwood, an administrator at the school.⁴ On February 9, 1999, Lt. Col. Brown issued Appellant a memorandum admonishing her for her behavior and indicating that her failure to return the report to him constituted “disrespect and insubordination.”

Lt. Col Brown also testified regarding an incident where Appellant put a choke hold on Mr. Koonce, a program volunteer.⁵ Appellant denied putting a choke hold on Mr. Koonce and

³Appellant admits to using profanity while speaking to some students. Tr. 122.

⁴Appellant acknowledged that ROTC officers operate under a dual system, and that they are to inform both their commanding officer and the school administration of a request for leave. (T. 104-106). However, Appellant left the school premises that day without advising Lt. Col. Brown. Moreover, although Mr. Smallwood apparently approved her leave, Appellant did not leave instructions for her substitute. Tr. 53.

⁵Mr. Koonce is a member of the JROTC Parent Booster Club, a school volunteer, and former cadet at Largo High School. Tr. At 26.

indicated that Koonce was the aggressor in the situation.⁶ Lt. Col. Brown investigated the incident and found Appellant at fault. Lt. Col. Brown's incident report states as follows:

On Tuesday 26 Jan 99 about 1730, upon my arrival to the unit's offices, Mr. Koonce informed me that MSgt Mary F. Crosier, an ASI⁷ of this unit, had grabbed him around the neck with both hands in a choke hold. He stated that he defended himself by grabbing her wrists and forcing her hands from around his neck. MSgt Crosier stated he attacked her and she defended herself. The incident occurred in a JROTC classroom with no one else present. The incident occurred during school activity period after Sgt Crosier had ordered all cadets to leave the cadet staff office. After the students left, Sgt Crosier asked Mr. Koonce why he had not left. Mr. Koonce informed her that he was not a student. Sgt Crosier said she wanted everyone out. Harsher words and the physical engagement followed.

Based on this incident, Ms. Toni Merchan, former Supervisor of the JROTC program,⁸ issued a memorandum dated February 26, 1999 to all JROTC instructors stating, in part:

On several occasions during her tenure on the Largo JROTC staff, MSgt. Crosier's behavior became bizarre, sometimes abusive, and disruptive of good order. The most recent incident involved a violent physical engagement in a classroom with a male volunteer worker. This incident must be considered in the light of a past incident in which she challenged a male administrator to a fight when she was on the JROTC staff at DuVal High School. Her present co-workers see her as unpredictable and capable of behavior calculated to undermine their reputations. Her misconduct seems to stem from her personal inability to adapt to the inevitable pressures of working in the high school environment.

The memorandum set forth policy guidelines for dealing with Appellant which included having a third party present during interactions between Appellant and JROTC staff. It was determined at that time that Appellant's employment would not be renewed for the following year.

⁶Lt. Col. Brown testified that Appellant had originally indicated that she put the choke hold on Mr. Koonce, but later denied doing so. Tr. 30-31.

⁷Aerospace Science Instructor.

⁸Ms. Merchan has since passed away.

On March 2, 1999, Appellant received another evaluation report in which she was rated as poor in the following areas: ability to adapt to high school environment; promotion of good community-AFJROTC relations; management of the Aerospace Science Program; supervisor/employee relations, and other. Lt. Col. Brown's comments reflect the history of problems that he encountered with Appellant in these areas. He stated that "her relations with me are poor, beyond repair" and that he is "uncomfortable working with her because she lacks integrity, and has a violent, vindictive nature." Ms. Merchan concurred with the ratings and comments given by Lt. Col. Brown and indicated the following in her comments:

Normally, Largo's Dean of Academic & Student Affairs is the indorsing official on MSgt Crosier's evaluation report. I became the indorser for this report because SASIs⁹ at two PGC JROTC units reported gross misconduct by MSgt Crosier while under their supervision. Her supervisor at DuVal High School had recommended that she be removed from the JROTC program at DuVal because he considered her unsuitable to work in any JROTC program. He also described MSgt Crosier as dishonest, uncooperative, and subject to irrational, extremely emotional behavior. Her tendency toward violence also became clear while at DuVal. She challenged a male administrator to a fight.

To allow MSgt Crosier to complete the remainder of the school year at Largo, I have established policy guidelines to cover her activities and the relationship of Largo JROTC instructors for the balance of the school year. The goal is to cause her the least stress practicable while protecting the interests of her co-workers and students. Her contract with PG County Schools will not be renewed.

Based on all of the evidence presented at the hearing, Hearing Officer Stubbs determined that the termination decision was appropriate. In her report, she stated as follows:

Appellant's JROTC contract with the school system is a twelve month contract from year to year that is renewed and rewritten for each school year. The school system has absolute discretion not to renew the contract of an individual employee. In this particular case, Appellant failed to maintain standards of appropriate conduct prescribed for the JROTC Air Force Program at Largo High School and failed to meet behavior standard expectations required of her Agreement, which led to the termination of her employment. This Hearing Officer is persuaded by the preponderance of the evidence,

⁹Senior Aerospace Science Instructors.

based upon testimony presented by school system employees in the JROTC program and documentary evidence, that Appellant's behavior fell below that standard of conduct outlined in the Air Force JROTC Instructor Management Duties and Responsibilities. The evidence presented at the hearing was sufficient to show that Appellant, in fact, used inappropriate language (profanity) in the presence of another student, was involved in an incident involving threatening and assaultive behavior toward the volunteer in the JROTC Program at Largo High School, and exhibited conduct amounting to insubordination towards her commanding officer. (Citations omitted).

The superintendent concurred with Hearing Officer Stubb's report and upheld the contract nonrenewal decision. Appellant appealed the superintendent's decision to the local board. Oral argument was heard by the local board on May 25, 2000. On August 3, 2000, the local board issued an order adopting the hearing officer's report and recommendation, thus upholding the employment termination decision.

ANALYSIS

As a preliminary matter, Appellant claims that she was denied a fair hearing and due process. This claim appears to be based on Appellant's disagreement with the findings of the hearing officer. However, contrary to Appellant's assertion, the record in this case demonstrates that Appellant participated in a full and fair evidentiary hearing before Hearing Officer Stubbs where Appellant had the opportunity to call and cross examine witnesses, and present evidence to support her position. There is nothing in the record which indicates that the hearing was unfair or resulted in the denial of due process.

Additionally, based on the record in this case, we believe that the school system appropriately and fairly investigated the various incidents at issue that arose during the course of Appellant's employment. However, to the extent that Appellant alleges any procedural violations during the course of those investigations, such violations were cured by the full evidentiary hearing before the hearing officer. *See Cory Williamson v. Board of Education of Anne Arundel County*, 7 Op. MSBE 649 (1997) (failure to give prompt notice would be cured by local board's full evidentiary hearing on appeal); *West & Bethel v. Board of Commissioners of Baltimore City*, 7 Op. MSBE 500 (1996) (failure to hold conference within ten days was cured by the de novo administrative hearing on merits before the local board); *Harrison v. Somerset County Board of Education*, 7 Op. MSBE 391 (1996) (failure to grant conference with superintendent or his representative in timely fashion was cured by local board's full evidentiary hearing on appeal).

With regard to the merits of the case, based upon our review of the record including the transcript of the local level hearing, we do not find that the local board's decision was arbitrary,

unreasonable or illegal. Appellant's challenges to the local board's decision are essentially disagreements regarding the testimony of various witnesses and with documentary evidence that was presented during the hearing. Appellant asserts that her rendition of the events in question is correct, while the facts as presented by the school system are not. However, it is well established that determinations concerning witness credibility are within the province of the local board as trier of fact. *See, e.g., Board of Trustees v. Novik*, 87 Md. App. 308, 312 (1991), *aff'd*, 326 Md. 450 (1992) ("It is within the Examiner's province to resolve conflicting evidence. Where conflicting inferences can be drawn from the same evidence, it is for the Examiner to draw the inferences."); *Board of Education v. Paynter*, 303 Md. 22, 36 (1985)(same). Moreover, the State Board may not substitute its judgment for that of the local board unless there is independent evidence in the record to support the reversal of a credibility decision. *See Dept. of Health & Mental Hygiene v. Anderson*, 100 Md. App. 283, 302-303 (1994); *Kaleisha Scheper v. Baltimore County Board of Education*, 7 Op. MSBE 1122 (1998); *Corey Williamson v. Board of Education of Anne Arundel County*, 7 Op. MSBE 649 (1997); *Mecca Warren v. Board of Education of Baltimore County*, 7 Op. MSBE 328 (1996).

It is evident based on the local board's decision to uphold Appellant's termination that it found the documentary evidence and the testimony of witnesses presented by the superintendent more credible than Appellant's testimony.¹⁰ Although Appellant maintains that her testimony bears out the events as they actually occurred, we find this argument insufficient to support a reversal of the local board's credibility determinations in light of all the evidence in this case. At best, Appellant's testimony may demonstrate that the evidence in this case required the trier of fact to make certain credibility decisions in order to assess what took place. As noted above, however, the purview of the trier of fact is precisely to resolve conflicts in testimony.

In summary, we find that the evidence in the record is sufficient to support the determination that Appellant used inappropriate language in the presence of a student, that she was involved in an incident where she used threatening and assaultive behavior towards a volunteer in the JROTC program at Largo High School, and that she exhibited conduct amounting to insubordination towards her Commanding Officer. *See* Hearing Officer's Report, Findings of Fact at pp. 2 -- 19.

CONCLUSION

For these reasons, we affirm the termination decision of the Board of Education of Prince George's County.

¹⁰To the extent that Appellant's challenge is based on the admission of hearsay testimony, the proceedings consisted of a hearing before an administrative body which is not bound by the strict rules of evidence and in which hearsay evidence is admissible. *See, e.g., Travers v. Baltimore Police Dep't*, 115 Md. App. 395, 408 (1996); *Kade v. Charles H. Hickey Sch.*, 80 Md. App. 721, 725 (1989); *Eichberg v. Maryland Bd. of Pharm.*, 50 Md. App. 189, 192-193 (1981). Thus, we find no due process violation on this basis.

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