

NANCI PAUL,
Appellant

v.

ALLEGANY COUNTY
BOARD OF EDUCATION,
Appellee

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION
Opinion No. 02-20

OPINION

In this appeal, Appellant maintains that her unsatisfactory evaluation for the 2000-2001 school year was arbitrary, illegal, and contrary to sound educational policy, and that it was issued in retaliation for her filing of an administrative appeal challenging the principal's uneven enforcement of the student dress code. The local board has filed a Motion for Summary Affirmance maintaining that the evaluation is not arbitrary, unreasonable, illegal or contrary to sound educational policy. Appellant has filed a reply in opposition to the local board's motion.

FACTUAL BACKGROUND

Appellant is an English teacher at Fort Hill High School in Allegany County. She is involved in the school's student council, peer mediation, and student assistance program. She does curriculum drafting, Tr. 37, and is also the faculty representative for the Allegany County Teachers' Association. Tr. 29.

During the 2000-2001 school year, Appellant was observed several times. The first classroom observation occurred on August 28, 2000, at the start of the school year. Mary Lousie Jones, Director of Public Information, Research and Assessment and Appellant's central office supervisor, found Appellant competent in all areas observed, noting "[Appellant] seems to be prepared for the academic school year."

Ms. Jones conducted a second observation on April 2, 2001. She found Appellant competent in all but one area observed: Professional Responsibilities - demonstrating dependability in performing professional duties. She noted that Appellant's "teaching capabilities seem to be more than competent," but also noted the following:

[T]here has been some discussion about classroom management procedures and professional responsibilities. I have asked Mrs. Paul to make certain that in case there is a substitute in her class, that a lesson plan, seating chart and anything else a substitute needs to know be available. In addition, procedures need to be followed for student field trips including permission slips and coverage for classes. Mrs. Paul will adhere to established rules and regulations in the future.

By memorandum of April 2, 2001, Stephen M. Lewis, Principal of Fort Hill, indicated that after monitoring Appellant's performance over the course of the semester and dealing with coverage of her class of March 29 and 30, 2001, he needed to apprise her of his concerns about her performance. He advised Appellant to have students seated in assigned seats and in traditional rows, to have a seating chart on file in the substitute folder in his office, and to submit daily lesson plans at the beginning of each week. He further stated:

I will be observing you and evaluating your progress after you have had time to implement these changes. I am ready to assist you in any way possible, but I think the real need probably is for self-motivation to correct management skills, application of effort, and attention to detail. I hope you evaluate this conference and respond accordingly.

On April 20, 2001, Kim Green, an assistant principal at Fort Hill, conducted a classroom observation of Appellant. She rated Appellant unsatisfactory in six of the areas observed. Some of the comments included the following:

- Overall, Mrs. Paul communicated effectively, but improvement is needed with the depth and clarity of large group directions. Mrs. Paul communicated behavioral expectations to students, and she tried to monitor classroom behavior, but the arrangement of the learning area definitely needs to be reorganized for optimal classroom management.
- Lesson plans were vague and didn't contain objectives or goals. Core learning goals were not documented in the lesson plan. The introduction was weak, and goals / [objectives] were not emphasized to the students. The lesson closure was too brief and unclear.
- Materials were available and bulletin board did display student work. However, the arrangement of the room does not allow for effective instruction or classroom management. In addition, the room is cluttered, and it has an untidy, disorderly appearance.
- A basic review of the previous day was not given to class. In addition, assignment deadlines and pertinent concepts necessary to the completion of tasks were not communicated in a clear manner to the class.
- Timely feedback concerning the various steps of the research project was not evident during the lesson. Though I found many examples of student work from the ninth grade in the student assessment portfolios, I located very few examples of student writing and other classroom work for the tenth grade in the folder.
- Teacher was not present to greet students upon arrival to first period.

On April 27, 2001, Karen Bundy, Director of Secondary Education, conducted another classroom observation. Ms. Bundy rated Appellant unsatisfactory in two areas of Instructional Planning - planning lessons which focus on learning outcomes and planning lessons with specific components. She also rated Appellant unsatisfactory in Instructional Delivery - implementing instructional plans. She rated Appellant competent in the other areas observed.

Appellant had additional classroom observations on April 18 and May 16, 2001, which were disregarded based on procedural irregularities. Appellant has indicated in her letter of appeal that the two observations purport to document concerns about her performance.

On May 25, 2001, Appellant received her 2000-2001 evaluation with unsatisfactory ratings in the areas of instructional delivery, classroom management, professional responsibilities, and professional relationships, and an overall rating of unsatisfactory.¹

Meanwhile, on March 19, 2001, Appellant had filed an administrative appeal alleging a dispute and controversy concerning the enforcement of the Fort Hill High School Student Dress Code. Appellant alleged that both the principal and the assistant principal of Fort Hill failed to enforce the policy by giving a student permission to wear a bandanna in school. The student was given permission to wear the bandanna based on confidential reasons which were not disclosed to Appellant because the student was not in Appellant's class.² Appellant maintained that the administration's failure to enforce the dress code equally for all students inhibited her ability to enforce school rules. The superintendent upheld the action by the administration of Fort Hill High School. The matter was not appealed to the State Board.

On June 15, 2001, Appellant appealed her evaluation to the superintendent. After conducting his own investigation, the superintendent found Appellant's 2000-2001 evaluation to be "an accurate reflection of her teaching performance;" that there was no relation between Appellant's filing of the appeal concerning the student dress code issue and her receiving the unsatisfactory evaluation; and that there were no violations of the local board Policy GCN-1 - Evaluation of Professional Staff-Teachers. The superintendent noted that all observers found weaknesses in the areas of instructional planning, classroom management, professional responsibilities, and professional relationships. *See* 7/17/01 decision of superintendent.

Appellant appealed to the local board. A full evidentiary hearing was held. The local board unanimously approved the action of the superintendent and adopted the superintendent's written decision of July 17, 2001.

¹Appellant submitted a response to be included in her personnel file rebutting the unsatisfactory evaluation.

²Appellant believes the student was suffering from hair loss. *See* 3/19/01 letter from Benson to Aumiller.

ANALYSIS

Appellant maintains that the unsatisfactory rating on her performance evaluation for the 2000-2001 school year was the culmination of a concerted effort to retaliate against her for her filing of the March 19, 2001, administrative appeal which challenged the principal's alleged uneven enforcement of the student dress code. Appellant bases her retaliation claim on the fact that the less than satisfactory classroom observations and the unsatisfactory year end evaluation came shortly after her filing of the complaint on the student dress code issue. Appellant also bases this on her perception that after she filed the administrative appeal, the principal and vice principal essentially stopped talking to her, as she testified during the hearing before the local board. Tr. 30. Appellant further contends that the classroom observation reports on April 24, 2001 and May 16, 2001 by Kim Green and Karen Bundy³ do not accurately reflect her performance on those dates and do not support the overall rating of unsatisfactory on her year end evaluation, particularly in the area of professional relationships.

The local board maintains that the 2000-2001 unsatisfactory performance evaluation has no relation to the filing of Appellant's March 19, 2001 administrative complaint and that the evaluation is an accurate reflection of Appellant's performance. In support, the local board notes that the formal classroom observations that were considered in completing Appellant's year end evaluation were conducted by individuals not involved in the administrative appeal filed by Appellant on March 19, 2001. Although Mr. Lewis authored the year end evaluation, he did so in conjunction with Mary Louise Jones, Appellant's immediate supervisor, who, like the other observers, was not involved in the complaint about enforcement of the dress code.

In its memorandum to the State Board, the local board also references earlier performance evaluations as evidence that this was not the first time there had been concerns about Appellant's performance. As stated in the superintendent's decision:

In a letter dated September 13, 1999, Mr. Steven Benson, UniServ Director for ACTA, requests [sic] a meeting with Mr. Steve Lewis to discuss Ms. Nanci Paul's evaluation dated June 10, 1999. The letter states in part, "It is her position that the evaluation is not an accurate representation of her teaching performance." In a subsequent letter written on behalf of Ms. Nanci Paul, dated October 8, 1999, Mr. Benson proposes that ". . . area 1.0 - Instructional Planning will be changed from 'unsatisfactory' to 'competent.'" He continues in part ". . . It is also agreed that if Ms. Paul's 1999-2000 evaluation is satisfactory, her 1998-99

³This reference is actually to the classroom observations on April 20, 2001 by Kim Green and on April 27, 2001 by Karen Bundy, signed by Appellant on April 24 and May 16, respectively.

evaluation will be removed, and she will not have an evaluation for the 1998-99 school year in her file.”

While the content of the 1998-99 evaluation is not available, the above referenced correspondence clearly establishes that Ms. Paul has received previous unsatisfactory evaluations that precede the March 19, 2001, Section 4-205 (c) appeal and serves to refute the assertion that “all observations received by Ms. Paul prior to filing a 4-205 (c) appeal on March 19, 2001, were favorable.”

Superintendent’s Decision at 5.

The record discloses other concerns with Appellant’s performance that the Principal, Mr. Lewis, found to be serious. He testified regarding problems related to Appellant’s planning of a student field trip to Frostburg State University to see a production of the *Scarlet Letter*. He also testified regarding problems getting emergency lesson plans and a seating chart from Appellant. Tr. 48-51. During the hearing before the local board, Mr. Lewis stated:

[Appellant’s] had several personal issues to deal with, and I’ve been very sensitive to these issues But, during the last personal problem, her performance dropped off too much to go unaddressed. My addressing the problem and asking for simple things like lesson plans, and seating charts, I didn’t feel were too much to ask. I didn’t know how much she was going to be in and out of the building. She was experiencing - I’m not going to go into the problems . . . and I had to make sure that there were seating charts and lesson plans there. Of course, they weren’t . . .

Tr. 66-67.

Regarding Appellant’s contention that there is no support for the observations by Kim Green and Karen Bundy, we note that Appellant did not submit written comments on the observations as the procedures allow her to do, nor has she presented any evidence in this appeal to support her allegations. We therefore find that the superintendent’s belief that the observations were accurate portrayals of Appellant’s performance is supported by the record evidence.

Based on our review of the record and of the substantive and thoughtful comments supporting the overall unsatisfactory rating on Appellant’s performance evaluation for the 2000-2001 school year, we do not find that the overall unsatisfactory rating was retaliatory in nature or otherwise arbitrary, illegal, or contrary to sound educational policy.

CONCLUSION

For these reasons, we affirm the decision of the Board of Education of Allegany County.

Marilyn D. Maultsby
President

Reginald L. Dunn
Vice President

JoAnn T. Bell

Dunbar Brooks

Clarence A. Hawkins

Walter S. Levin, Esquire

Karabelle Pizzigati

Edward L. Root

Walter Sondheim, Jr.

DISSENT

We dissent from the majority opinion in this case. It is difficult to understand how such an experienced teacher who is involved as a student council advisor, a peer mediator, and a faculty representative for the Teachers Association can receive unfavorable evaluations. Accordingly, we feel that referral to the State Office of Administrative Hearings for a hearing would help resolve these questions.

Philip S. Benzil

John L. Wisthoff

May 22, 2002