

WARDELL HARMON,

Appellant

v.

BALTIMORE CITY BOARD OF
SCHOOL COMMISSIONERS,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 02-58

OPINION

Appellant, a tenured teacher at the Laurence G. Paquin Middle/Senior High School,¹ appeals the unsatisfactory rating he received on his 1999-2000 annual evaluation, maintaining that there were procedural flaws with regard to the process employed in reaching the ultimate rating. Specifically, Appellant argues that the principal was required to conduct at least one of the observations which led to the unsatisfactory annual evaluation. The local board has submitted a response to the appeal, which we are treating as a motion for summary affirmance, maintaining that its decision is not arbitrary, unreasonable, or illegal. Appellant has filed a response opposing the local board's motion.

FACTUAL BACKGROUND

On April 25, 2000, Appellant received an unsatisfactory rating from his principal, Dr. Rosetta Stith, on his annual evaluation for the 1999-2000 school year. Appellant's annual evaluation was preceded by three observations: two by his assistant principal, Gracie Dawkins, and one observation by an instructional specialist from an area office, Norma Villanueva.² Dr. Stith did not conduct any observation herself. Appellant did not raise objections to any of the observations.

On May 5, 2000, Appellant filed a Uniform Grievance Report alleging that procedural flaws existed with regard to the process employed in reaching his evaluation. The grievance was denied by his principal at Level I and denied on further appeal at Level II by Patricia Abernathy, the Area Executive Officer. On appeal to Level III, the matter was heard by hearing examiner, James A. Ruckle, who also denied Appellant's grievance. On further appeal, the local board determined that Appellant's grievance was not supported by the evidence and affirmed the decision of the hearing officer.

¹Lawrence G. Paquin School is a Baltimore City public school for expectant and for young mothers.

²Principals, assistant principals, school based department heads, and area and central office instructional support staff constitute qualified observers under the Baltimore City School System's performance-based evaluation system. See BCPSS Performance-Based Teacher Evaluation Handbook (August 1999), p.11

ANALYSIS

Appellant argues that COMAR 13A.07.04.02A(5) requires an unsatisfactory evaluation include at least one observation by an immediate supervisor, and that in this case the principal, who Appellant claims is his immediate supervisor, did not conduct any of the observations. In response, the local board maintains that the provision at issue requires that at least one observation be conducted by an individual who is not the immediate supervisor. The local board indicates that two of the observations were conducted by the assistant principal who is Appellant's immediate supervisor and one of the observations was conducted by an individual who is not Appellant's immediate supervisor.

COMAR 13A.07.04.02A provides in relevant part as follows:

(4) An evaluation shall be based on at least two observations during the school year.

(5) An unsatisfactory evaluation shall include at least one observation by an individual other than the immediate supervisor.

We believe the plain meaning of the regulation is clear and unambiguous. *See Mayor & City Council of Baltimore v. Chase*, 360 MD. 121, 128 (2000); *Chesapeake and Potomac Tel. Co. of Md. v. Dir. of Fin. For Mayor and City Council of Baltimore*, 343 Md. 567, 578 (1996) (in construing the meaning of a statute, where words are clear and unambiguous, the inquiry ends.) Regulation .04.02A(5) states that someone other than the individual's immediate supervisor must conduct at least one of the observations if the resulting evaluation is unsatisfactory. The regulation does not specify that the immediate supervisor conduct the other observation. Nor does the regulation require that the individual conducting the annual evaluation also conduct at least one of the observations supporting the evaluation. While Appellant cites to various passages in the Baltimore City Public School System Performance-Based Teacher Evaluation Handbook, those references do not support Appellant's conclusory position.

There is no dispute that Appellant's annual evaluation was based on three observations, one of which was by an area instructional specialist who is not Appellant's immediate supervisor. Appellant never raised any objections to the observations that were conducted. Given the above analysis, whether the other evaluations were conducted by Appellant's immediate supervisor is irrelevant to determining whether there was a violation of COMAR 13A.07.04.02A(5). Nonetheless, the local board indicates that the assistant principal who conducted two of the observations was Appellant's immediate supervisor. Moreover, the parties do not dispute that the principal was responsible for and did the annual evaluation in this case. However, we find nothing in COMAR 13A.07.04.02A(5) which requires the principal to perform an observation on which the evaluation is based. The principal may rely on the observations of qualified observers instead.

CONCLUSION

For these reasons, we do not find the local board's decision upholding Appellant's evaluation to be arbitrary, unreasonable or illegal. Accordingly, we affirm the decision of the Baltimore City Board of School Commissioners.

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December 4, 2002