

MICHAEL D. BELLOTTE,
Appellant

v.

ANNE ARUNDEL COUNTY
BOARD OF EDUCATION,
Appellee

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION
Opinion No. 03-08

OPINION

In this appeal, Appellant challenges the local board's decision dismissing his appeal of the decision of the principal of Severna Park High School not to hire him as a temporary emergency coach of the boys' varsity lacrosse team for the 2002 season. The local board has submitted a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable, or illegal. Appellant has filed an opposition to the local board's Motion.

FACTUAL BACKGROUND

In 1998, the principal of Severna Park High School ("SPHS") hired Appellant to serve as temporary emergency boys' varsity lacrosse coach. Although Appellant was not a teacher or certificated professional educator employee of the local board, he was hired under the regulatory provisions that allow a non-employee to serve as a coach "[i]f no acceptable and qualified coaches are available. . ." See COMAR 13A.06.03.04B(2). Under such circumstances, a temporary emergency coach may only be hired for a specific coaching assignment for one season at a time. Mr. Bellotte was hired to coach the boys' varsity lacrosse team at Severna Park each year from the 1998 season through the 2002 season.¹ For each coaching season, Mr. Bellotte was hired on a single season contract which expired at the end of the season.

For the 2002 lacrosse season, Appellant and an Anne Arundel County Public School teacher, Brien McMurray, were both interviewed for the position of coach for the SPHS boys' varsity lacrosse team.² The principal of SPHS, William Myers, initially offered the position to Appellant because he scored higher on one of the interview questions. See affidavit of William Myers. Through an MSTA representative, Mr. McMurray challenged the decision of Mr. Myers, alleging that Mr. Myers did not base the hiring decision on the appropriate legal standard. The

¹During Appellant's last season as coach, the lacrosse team won the Anne Arundel County Championship and competed in the Maryland State Championship.

²A certificated teacher, Mr. McMurray, taught physical education. He previously coached many sports, including lacrosse at five different high schools in Anne Arundel County as head coach and assistant coach. In 1997, Mr. McMurray was named lacrosse coach of the year by the *Sun*, the *Capital*, and U.S. Lacrosse.

local superintendent directed Mr. Myers to reconsider his decision in light of the correct standard. Mr. Myers reconsidered his decision and determined that despite the difference in the interview scores, Mr. McMurray was an acceptable and qualified candidate under the law. Although the position had already been offered and accepted by Appellant, Mr. Myers offered the position to Mr. McMurray, who agreed to take the position for the 2003 lacrosse season so as not to interfere with the 2002 season.

Appellant coached the SPHS lacrosse team for the 2002 season and completed his contract for which he was paid in full. At the end of the 2002 season, Mr. Myers notified Appellant that he was no longer needed as an emergency coach for the following year because an acceptable and qualified coach who was a certificated professional employee of the local board was available to serve as lacrosse coach beginning in the 2003 season.³ Thus, no contract was offered to Appellant for the 2003 lacrosse season.

Appellant requested that the Interim Superintendent of Schools review the principal's decision not to extend him a contract for the 2003 lacrosse season. Following an informal hearing on June 20, 2002, the Interim Superintendent found that Appellant lacked standing to appeal the matter, as he had no direct interest or injury arising from the hiring of a professional employee who was fully qualified to be a coach when Appellant had no expectation in continued employment as a temporary emergency coach. The Interim Superintendent explained that if an acceptable and qualified educator is available to fill the coaching position, then that person must be offered the position before potential candidates who are not educators are even considered. The Interim Superintendent further stated, in part:

As to your concerns regarding the procedural issues in this matter, I find that nothing in the manner in which this matter has been handled constitutes sufficient grounds for overruling Mr. Myers' decision. First, you refer to Mr. Myers' decision as one to "dismiss" you. In fact, Mr. Myers' decision was to chose a teacher for the position rather than employ you again as a temporary emergency coach with the Anne Arundel Public Schools (AACPS). As a temporary coach, you are not entitled to continued employment with AACPS. Each year, your contract, as well as all contracts for temporary emergency coaches, has been a one-year contract. Therefore, you are not entitled to notice or an opportunity to "provide any input, either written or oral, prior to the decision being made" or to a written explanation by Mr. Myers.

³Meanwhile, the local board posted an advertisement of employment for the lacrosse coach position for the 2003 season. Appellant's request for an interview for the position was denied.

Your second procedural concern seems to be with the fact that the coaching position for the 2003 season has not been advertised and filled in accordance with school system guidelines. Please bear in mind that Mr. Myers' decision to offer the position to Mr. McMurray was a decision made in reconsideration of an earlier decision, which may have been made based on an erroneous understanding of the applicable law. After being directed to reconsider that decision under the applicable legal standard, Mr. Myers did so, and found Mr. McMurray to be an acceptable and qualified teacher candidate. His decision could have resulted in early termination of your contract for the 2002 season and an offer to Mr. McMurray to coach that season as the appropriate remedy for the erroneous decision. Instead, you coached the 2002 season (and were paid in full for your contract), and Mr. McMurray's selection was made effective for the 2003 season.

On further appeal, in a unanimous decision the local board found that Appellant lacked standing to challenge the appointment of an acceptable and qualified professional educator as a coach.

ANALYSIS

Because this case involves a local policy or dispute regarding the rules and regulations of a local board, the standard of review is that the decision of the local board shall be considered prima facie correct, and the State Board may not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. COMAR 13A.01.01.03E(1).

COMAR 13A.06.03.04B

B. MPSSAA Coaching Eligibility

- (1) Member MPSSA schools shall employ as coaches only teachers or certificated professional educator employees of the local Board of Education for a specific coaching assignment.
- (2) If no acceptable and qualified coaches are available from the teachers or certifiable professional educator teachers employed by the local board of education, temporary emergency coaches may be employed if the following procedures are followed:
 - a. With no acceptable professional staff members available to fill the coaching vacancy, the local school system shall attempt to locate as a coach a

person certifiable as a professional educator by the State Department of Education according to COMAR 13A.12.01;

- b. With no acceptable and certifiable professional educator available, a person acceptable to the local school system may be employed as an emergency coach;
- c. Any person employed as a coach under the emergency provision shall comply with the following:
 - (i) The person shall be officially appointed by the local Board of Education on a 1-season basis for a specific coaching assignment. . .

Standing

As a preliminary matter, the local board maintains that Appellant lacks standing to bring this appeal. We concur. As the State Board noted in *Adams, et al. v. Montgomery County Board of Education*, 3 Op. MSBE 143, 149 (1983), the general rule on standing is that “for an individual to have standing, even before an administrative agency, he must show some direct interest or ‘injury in fact, economic or otherwise’.” See also *Schwalm v. Montgomery County Board of Education*, MSBE Opinion No. 00-10 (February 23, 2000); *Vera v. Board of Education of Montgomery County*, 7 Op. MSBE 251 (1996); *Way v. Howard County Board of Education*, 5 Op. MSBE 349 (1989).

Here, Appellant is not a teacher or other certificated professional educator in the Anne Arundel County Public School System. Nor is he a local board employee or an individual who was dismissed from his position. He was hired by contract on an annual basis as a temporary emergency coach when no acceptable and qualified professional educator was available. Appellant has no legal interest which extends beyond his contract term. Because this appeal concerns the principal’s decision to hire a certificated employee who was acceptable and qualified as coach of the lacrosse team for the 2003 lacrosse season, Appellant who has no legal interest in that position cannot demonstrate any interest or injury. Thus, we find that Appellant does not have standing to appeal.

Merits

Even if the State Board were to consider the merits of this case, we believe that the local board’s decision is not arbitrary, unreasonable, or illegal. COMAR 13A.06.03.04B requires the employment of professional, certificated educators who are acceptable and qualified for athletic

coaching positions. A temporary emergency coach may be employed only if no acceptable and qualified professional certificated educator is available.

Based on our review of the record in this case, we find that the principal initially did not apply the legal standard set out at COMAR 13A.06.03.04B(1) & (2). On reconsideration from an appeal of that decision, the principal determined there was an AACPS teacher who was acceptable and qualified to serve as coach of the boys' varsity lacrosse team for the 2003 lacrosse season.⁴ Once that determination was made, there was no need to look beyond the pool of teachers or certificated professional educator employees of the local board to which Appellant did not belong. The fact that Appellant enjoyed success as the SPS lacrosse coach was not a factor to be considered. Furthermore, Appellant could not have relied on the expectation that he would continue as coach of the lacrosse team since the contract for a temporary emergency coach is an annual contract and the school system was not bound to enter into a new contract with him from year to year.

CONCLUSION

For these reasons, we affirm the decision of the Board of Education of Anne Arundel County that Appellant lacks standing to maintain this appeal. *See* COMAR 13A.01.01.03J(1).

Marilyn D. Maultsby
President

JoAnn T. Bell

Philip S. Benzil

Dunbar Brooks

Clarence A. Hawkins

Walter S. Levin, Esquire

Karabelle Pizzigati

⁴There is no evidence to support Appellant's claims that Mr. Myers' decision to hire Mr. McMurray was not his own, but rather was a decision of the local board forcing Mr. Myers to hire Mr. McMurray.

Edward L. Root

Walter Sondheim, Jr.

John L. Wisthoff

Marilyn D. Maulsby
President

JoAnn T. Bell

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John L. Wisthoff

Reginald L. Dunn participated in the deliberations on this appeal and voted to affirm the local board decision, but passed away prior to the issuance of this opinion.

February 26, 2003