

PETER STEPHAN,

Appellants,

v.

PRINCE GEORGE'S
COUNTY BOARD OF
EDUCATION

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 20-26

OPINION

INTRODUCTION

Peter Stephan (“Appellant”) appeals the decision of the Prince George’s County Board of Education (“local board”) affirming his “ineffective” rating on his final evaluation for school year 2018-2019. The local board filed a brief in response to the appeal maintaining that its decision is not arbitrary, unreasonable or illegal. The Appellant responded to the memorandum and the local board replied.

FACTUAL BACKGROUND

Appellant began teaching for Prince George’s County Public Schools (“PGCPS”) approximately five years ago. During the 2018-2019 academic year, Appellant was a special education teacher assigned to Surrattsville High School. As part of his evaluation, he was required to complete two separate Student Learning Objectives (“SLOs”) for a select group of students.¹ For evaluation purposes, the SLOs are identified as SLO 1 and SLO 2. The SLOs are part of the overall Student Growth assessment on teacher evaluations and account for 30% of a teacher’s overall end of year evaluation. (Batenga Affidavit).

At the beginning of the 2018-2019 school year, all PGCPS teachers, including the Appellant, received training on their specific obligations for completing SLOs, including the requirement that they complete certain SLO activities and enter them into the MyPPS system. All teachers also received a copy of the Teacher Student Learning Objective (SLO) Handbook (“SLO Handbook”) for the 2018-2019 school year, which identified applicable SLO deadlines and other evaluation requirements for PGCPS teachers. In addition, all teachers had access to a step-by-step instruction guide for completing their development activities, with deadlines, in the MyPPS electronic module. *Id.*

The SLO development activities included selecting students that would be included in a teacher’s SLOs, giving those students a baseline assessment to determine their current competency level (pre-assessment scores), and establishing a target the teacher believes those

¹ An SLO is a “specific, rigorous, long-term goal for groups of students that educators create to guide their instruction and administrative efforts.” (Brief, Ex. B).

students would be able to meet by the end of a defined time period. SLO development activities were to be completed by November 12, 2018. *Id.*

On November 2, 2018, Appellant accessed the MyPPS. (Brief, Ex. C). He maintains that he attempted to enter his SLO 2 data. Appellant did not ensure that the data had been submitted. (*See* Appeal, p. 5). The screenshot of Appellant’s SLO development activities provided by the local board shows that the following 3 activities were not completed: (1) Review, (2) Submit, and (3) SLO Acceptance (Administrator).² (*See* Brief, Ex. C). On November 7, 2018, PGCPS notified the Appellant that his SLO development activities for SLO 2 were incomplete, and that he needed to input the data into the system by November 12, 2018.³ The Appellant did not thereafter access the MyPPS by the November 12, 2018 deadline to submit the SLO 2 development data.

On February 21, 2019, Appellant attempted to enter his SLO 2 closeout data in MyPPS, but he was unable to do so. On March 5, 2019, Appellant emailed Edgar Batenga in the PGCPS Office of Employee Performance and Evaluation seeking to have the MyPPS platform unlocked so he could input his SLO post assessment data. Mr. Batenga responded that the office “only take[s] requests from administrators who have locked SLO.” Appellant then contacted the assistant principal, Ms. Gasaway, and requested that she contact Mr. Batenga on his behalf. Ms. Gasaway emailed Mr. Batenga for assistance, stating that the Appellant was unable to input his post assessment scores for the SLO 2 because the system was locked. Mr. Batenga informed Ms. Gasaway that Appellant “has the ability to enter scores and has never been locked out.”

Although not entirely clear from the email exchange, what happened here was that the Appellant could not input his post-assessment scores for his SLO 2 in February 2019 because he missed the November 12, 2018 deadline for inputting the development activity data, which includes pre-assessment scores. In March 2019, the Appellant sought to input retroactively his pre-assessment data for the students after he already had the post assessment data for those same students. The Office of Employee Performance and Evaluation did not allow the Appellant to re-open the SLO development activity module in order to protect the integrity of the SLO closeout process. The local board explains that if this were allowed, teachers could retroactively change the baseline data for their SLOs and improperly manipulate their SLO data in order to ensure an effective evaluation.

As a result of the Appellant’s failure to timely complete the entry of the SLO 2 data, he received a score of 0 for his SLO 2 on his evaluation. This caused the Appellant to receive an “ineffective” rating on his end of year evaluation on June 6, 2019.

On June 27, 2019, Appellant appealed the ineffective rating. By letter dated October 21, 2019, Monica E. Goldson, Chief Executive Officer, advised the Appellant’s union representative that the appeal was denied. She explained that the Appellant received an ineffective rating on his end of year evaluation because he completed closeout of his SLO-1 on March 6, 2019, after the teacher deadline, and because his SLO-2 post-test scores were not entered within the deadline.

² When the teacher submits the SLO data, the system notifies the administrator that it is available for review and acceptance. (SLO Handbook at 10).

³ Appellant did not receive this notification for SLO 1 because he completed and submitted those development activities before the deadline.

On February 24, 2020, the local board issued a decision upholding the ineffective evaluation rating. The local board found that the Appellant had received training and information on the SLO data entry process, including all of the applicable deadlines, and that he failed to enter the SLO data in a timely manner. The local board found Appellant's explanations for his failure to do so to be insufficient.

This appeal followed.

STANDARD OF REVIEW

Decisions of a local board involving a local policy or a controversy and dispute regarding the rules and regulations 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.01.05.05A.

LEGAL ANALYSIS

The Appellant maintains that he should not have received an ineffective rating on his 2018-2019 year-end evaluation due to "an inadvertent failure to enter SLO data," and that such a failure says nothing about the Appellant's performance as a teacher and the instruction that students received in class. He essentially argues that it is arbitrary, unreasonable and illegal to allow such an "oversight" to affect his overall rating.

State Board regulation requires that local school systems in Maryland have a teacher evaluation system. COMAR 13A.07.09.04. The evaluation system shall be "based on standards, such as the INTASC Model Core Teaching Standards or other Department-approved or nationally recognized standards for teaching. . ." which are "used to evaluate the teacher's professional practice and student growth." COMAR 13A.07.09.04(B)(1). Indeed, COMAR 13A.07.09.04(B)(2)(e) specifically identifies student growth as one of the mandatory elements for teacher evaluation. *See also* COMAR 13A.07.09.04(B)(6)(a) (requiring a local school system evaluation system to demonstrate rigor, determined, in part, by "the establishment of student growth as a significant component of the evaluation."). The regulation recognizes SLOs as a measurement to assess student growth. COMAR 13A.07.09.04. Thus, the SLO data is an important component of the evaluation system.

It was the Appellant's responsibility as a teacher to provide the SLO data that was to be used in his evaluation. Given that the SLO data comprised a significant component of the Appellant's evaluation, the responsibility to complete this task was not a matter to be taken lightly. Although the Appellant would like to classify this issue as a simple data entry mistake, he failed to complete one of the requirements of his job by not ensuring that his SLO data was submitted within the given time frame. The Appellant was familiar with the SLO process and had ample notification of its requirements, including step-by-step instructions. In fact, the Appellant had already successfully entered his data for SLO 1. Moreover, PGCPSS notified the Appellant on November 7, 2018, several days after he had accessed the MyPPS, that his SLO 2 development activities were incomplete and that he needed to input the data into the system by November 12. Appellant, however, did not timely rectify the situation to ensure that his data was submitted by the November 12 deadline. Instead, he waited several months, until March 2019, to address the issue, which was simply too late.

The PGCPS SLO Handbook explains to teachers the planning process and steps for developing SLOs in the MyPPS, including the steps for entering data. The SLO Handbook states as follows:

It is important to follow the SLO Timeline, located in the Resources tab in MyPPS, and to meet all deadlines. Teacher SLO Development activities cannot be submitted in MyPPS after the established deadline as there is a system lock after the posted date. Administrators have a window of time after teachers submit in order to review and provide feedback. However, they can only ‘accept’ SLOs that have been submitted by the deadline. **Teacher SLOs that are not submitted within the appropriate timeframe will not be scored and may negatively impact the overall evaluation rating.**

(Emphasis added.). (Brief, Ex. B). PGCPS clearly put its teachers on notice of the importance of submitting the SLO data in compliance with the deadlines and that a consequence for failure to do so was a lower evaluation rating.

Appellant cites to *Dabrowski v. Bd. of Educ. of Anne Arundel County*, 7 Ops. MSBE 97 (1995) and *Cover v. Allegany County Bd. of Educ.*, 2 Ops. MSBE 279 (1981), to support the notion that the ineffective rating is a punishment for an error that he does not believe should be a determinative factor in his evaluation. Both cases concern the arbitrary application of discipline to teachers who lacked notice of the school systems’ standards. Neither of these cases support the Appellant’s claims here. In fact, one could view them as lending more support to the local board’s position given that the Appellant was on notice that he had to comply with certain evaluation requirements, including successfully entering the SLO data by set deadlines, in order to receive an effective evaluation. This is not a case in which the Appellant lacked notice of the impact of failing to provide the SLO data by the deadline, or lacked notice that he had not complied with the data submission requirement.

The Appellant also argues that the “newness of the SLO data entry process must also serve as a valid defense to the claim that an ineffective rating should be based on such an entry.” The process is not so “new.” SLOs were introduced during the 2014-2015 school year and have been actively used for teacher evaluations since 2016-2017. *See* COMAR 13A.07.09.04. Again, this is not a case in which the Appellant was unfamiliar with the process. He had notice of the requirements and of the consequences for failure to comply. In addition, as the local board points out, the Appellant had several years of experience and had successfully completed this job requirement for two prior school years. (Local Bd. Reply at 6-7).

The local board followed its standardized evaluation procedure that required all teachers to enter SLO pre-assessment and post-assessment data for a group of students. The entry of this data is of critical import to the evaluation process to assess student growth. The procedure requires teachers to submit the SLO pre-assessment data by a communicated deadline. It does not allow teachers to retroactively input baseline data in the system for their SLOs after they have the post-assessment data in order to protect the integrity of the SLO closeout process. Teachers are on notice that failure to submit the SLO data by the deadline may negatively impact

their evaluation. *In Bingham v. Baltimore City Bd. of Sch. Commrs.*, MSBE Op. No. 17-33 (2017), this Board stated that when a decision “results from an evaluation process in which rules are clear and applied strictly across the board to all teachers, such a decision could be found to be reasonable – that is, not arbitrary or capricious or a violation of sound educational policy.” Here, we find that the rules were clear and strictly applied. The Appellant failed to complete a mandatory requirement of his evaluation. There is no evidence in the record to suggest that his failure to do so was the fault of anyone other than himself. To make an exception for the Appellant in this case would undermine the concept of a standardized evaluation process.

CONCLUSION

For the reasons stated above, we find that the decision of the local board was not arbitrary, unreasonable and illegal. We therefore affirm the local board’s decision upholding the Appellant’s ineffective rating on his 2018-2019 year-end evaluation.

Signatures on File:

Warner I. Sumpter
President

Jean C. Halle
Vice-President

Gail H. Bates

Clarence C. Crawford

Charles R. Dashiell, Jr.

Vermelle D. Greene

Justin M. Hartings

Rose Maria Li

Joan Mele-McCarthy

Lori Morrow

Michael Phillips

David Steiner

June 23, 2020