YVETTE THOMASSON	BEFORE THE
Appellant,	MARYLAND
v.	STATE BOARD
PRINCE GEORGE'S COUNTY BOARD OF EDUCATION	OF EDUCATION
	Opinion No. 21-53
Appellee.	

OPINION

INTRODUCTION

Yvette Thomasson ("Appellant") appeals the decision of the Prince George's County Board of Education ("local board") upholding her 30-day suspension for willful neglect of duty due to her failure to comply with Prince George's County Public Schools ("PGCPS") grade change policies. We referred this case to the Office of Administrative Hearings ("OAH") for review by an Administrative Law Judge ("ALJ") as required by COMAR 13A.01.05.07(A)(1)(b). On October 16, 2019, the ALJ issued a proposed decision recommending that the State Board uphold the local board's decision.

The Appellant filed one general exception and eight specific exceptions to the proposed decision and the local board responded. The Appellant requested postponement of oral argument until the State Board was meeting again in person following the virtual meetings held due to the COVID-19 pandemic. Oral argument was held on October 26, 2021.

FACTUAL BACKGROUND

The full factual background in this case is set forth in the ALJ's proposed decision, Stipulated Finding of Fact, p. 4 and Findings of Fact, pp. 4-13. We summarize some of the essential facts below.

Appellant has a bachelor's degree in psychology, three master's degrees and a doctorate in organizational leadership. She worked as a high school guidance counselor for PGCPS for 21 years with no previous disciplinary action. During the 2016-17 school year, the Appellant was the chair of the guidance department and also served as a guidance counselor during her first year of assignment to [redacted] High School ("[redacted]HS").

Administrative Procedure 5121.3, Grading and Reporting for High Schools Grade Nine Through Twelve ("AP 5121.3"), sets forth the policy and procedure for the authorization of grade changes. The parties have stipulated that for purposes of this appeal, the controlling

version of AP 5212.3 is the 2014 version.[1] The 2014 version of AP 5121.3 provides the following procedures for authorizing a grade change:

> Authorization of Grade Change
>
> 1. The principal is responsible for following standard procedure for the authorization and recording of all grade changes.
> 2. A Grade Change Authorization Form (PS-140) will be used to authorize and record the specific reasons for requesting each grade change.
> 3. Form PS-140 must be signed by the teacher of the course for which the grade change is requested and by the school principal.
> 4. Upon effecting the grade change in the appropriate database, the authorized data entry person must sign the PS-140. Appropriate staff must refer to the transcript guide when changing grades.
> 5. If a grade change involves a final grade, the original grade as recorded on the electronic report and the final report card will be reprinted. The new grade, recorded by the registrar, will be recorded on the documents, initialed, and dated by the principal.
> 6. Form PS-140 must be filed in the student's cumulative record folder, with copies distributed as indicated on the form.
> 7. School staff will contact the Department of Technology Applications for the computation of the quarterly Grade Point Average if a grade change is authorized.

Prior to her assignment at [redacted]HS, the Appellant learned about the PGCPS policies for making grade changes, including AP 5121.3, while she worked as a school counselor, master scheduler, and grade manager at Tall Oaks High School from about 2006 to 2011. During her tenure at Tall Oaks, she received grade changing training in master scheduler meetings and was provided with a manual and reviewed AP 5121.3 policy. *Id*.

A new version of AP 5121.3 became effective on August 15, 2016, and the differences between the 2014 and 2016 policies was a part of Appellant's defense. Under the 2016 policy, the procedures for authorizing a grade change remained the same with the following additional provision:

> If the principal deems that a quarter grade submitted for a student should be different than what is reflected on the report card, the principal is required to submit a Grade Change Authorization Form (PS-140) to the School Instructional Team (SIT) with evidence and rationale for changing the grade.

Prior to the change in the 2016 version of AP 5121.3 policy, the regular practice at [redacted]HS was for the teacher to submit supporting makeup work documentation for inclusion with the PS-140

[1] An updated version of AP 5121.3 was published in August 2016, but [redacted]HS staff were not trained on the revised policy until November of 2017.

form, demonstrating the basis for the grade change. In addition, the principal's signature was required on the PS-140 form before a grade change could be made. Except for limited unrelated exceptions, if the principal did not sign the PS-140 form, the grade change was not made.

Appellant's defense relied on the "Good Faith Effort" policy that was added to the 2016 version of AP 5121.3 policy. The Good Faith Effort policy states the following:

> Teachers shall assign a minimum grade of 50% to assignments for which the student made a good faith effort, as defined by completing at least 50% of the assignment, to meet the basic requirements. If a student does not work on an assignment or assessment, the teacher shall assign a grade of zero.

The Appellant had knowledge of the Good Faith Effort policy based on discussions with the [redacted]HS administration and the Regional Instructional Director, Dr. Kathleen Brady, in March 2017.

The Multiple Pathways to Success Handbook ("MPTS Handbook") for the 2016-17 school year at [redacted]HS set forth the procedure and timing for student grade changes. The Appellant received a copy of the MPTS Handbook. Included in the MPTS Handbook was the Quarter Learning Module ("QLM") program that was offered to students to enable them to recover a failing grade within a respective grading period. Only students who had earned a 50-59% as a quarter grade were eligible for use of QLMs. In addition, QLMs were authorized for students only in the following courses: Algebra 1, Algebra 2, Biology, Chemistry, English 9-12, Geometry, LSN Government, US History, and World History. Students were eligible to receive no more than ten points added to their applicable quarter grade and could not receive more than sixty-five percent for the quarter grade after completing the QLM work. Throughout the school year, each quarter had specific dates for student completion, scoring, and the release of QLMs and grade results, and for the return of QLM packets to the main office. For the 2016-17 school year, the quarterly deadlines were: December 14, 2016; March 15, 2017; and May 5, 2017.

The [redacted]HS Administration, through a series of emails and meetings, including Resident Principal [redacted], Assistant Principal [redacted], and Dr. Brady, unilaterally instituted an unapproved in-house safety net for seniors and special education students that conflicted with PGCPS written grade change policies. The [redacted]HS Administration urged staff to participate in what they called a "senior blitz" at the end of the school year and discussed strategies with the Appellant and the other counselors and staff to assist senior students who were in jeopardy of not graduating. [redacted]HS staff were encouraged to provide students with additional learning opportunities or to utilize a learning module located in the guidance suite to assist students to achieve passing grades.

The Appellant subsequently made 57 grades changes involving six senior students in the SchoolMAX grading system between May 10, 2017, and May 24, 2017. None of the six students would have graduated without the grade interventions. Thirty-five of the grade change forms completed by the Appellant were in the record before the ALJ and contained the following errors:

- All thirty-five of the grade changes were made by the Appellant after quarterly grade-change deadline set forth in the MPTS Handbook for QLM work;
- Twenty-one of the PS-140 forms signed by the Appellant did not include a teacher's signature;
- Fifteen of the PS-140 forms were signed by the Appellant and grade changes made on a date before the forms were signed by a principal;
- Nine of the PS-140 forms signed by the Appellant had no box checked designating a reason for a grade change. The Appellant did not know the reason for the change on those forms;
- Seven of the PS-140 forms signed by the Appellant did not include a principal's signature;
- Seven of the PS-140 forms signed by the Appellant did not include a teacher's signature;
- Five of the PS-140 forms which involved QLM-qualifying courses did not meet the minimum grade requirement of 50% eligibility for grade recovery under the QLM program; and
- Only two of the PS-140 forms signed by the Appellant stated they were based on the QLM program. One form involved a grade change for the second quarter from 23 to 70, and the second form involved a grade change for the second quarter from 47 to 65. The Appellant did not receive any QLM documentation to support either of these two PS-140 forms.

On July 3, 2017, the school system received an anonymous tip regarding allegations of inappropriate grade changes. Dr. Kevin Maxwell, PGCPS CEO, requested that an internal audit be conducted at [redacted]HS regarding the grade change allegations. Kelvin Campbell, an internal auditor, investigated the grade change allegations for graduating seniors at [redacted]HS and found that the grade changes made did not comply with the 2016 version[2] of AP 5121.3 and the 2016-17 MPTS Handbook. The internal audit concluded that inappropriate grade changes were made for the graduating seniors in the two weeks leading up to the [redacted]HS graduation in May 2017; students received diplomas based on inappropriate grade changes; student files did not have the required supporting documentation; and PS-140 forms were either not on file or were not properly authorized.

On August 30, 2017, PGCPS held a pre-discipline hearing for the Appellant. The Appellant was advised of the allegations against her regarding improper grade changes for graduating seniors at [redacted]HS and she was afforded an opportunity to respond to the allegations. After Appellant's pre-discipline hearing, there were several other pre-discipline hearings for other [redacted]HS staff since the grade change issues involved more than one individual.

On October 31, 2017, Alvarez & Marsal ("A&M") was hired to conduct an independent performance audit of PGCPS based on complaints of grade manipulation to alter/increase graduation rates within PGCPS. The external audit identified 5,496 students with late grade change increases for seniors and concluded in part that:

[2] Although the internal audit focused on the 2016 version of AP 5121.3, we agree with the ALJ's conclusion that the Appellant violated numerous provisions of the controlling 2014 version of AP 5121.3.

- The District does not consistently monitor adherence to the grading policies and procedures. Leadership generally trusts school-based staff will follow policies and procedures but does not verify adherence.
- Many policies and procedures examined by this audit lack clarity and are silent on the implications of non-compliance.[3]

After all the pre-discipline hearings were completed, determination letters were issued. On March 7, 2018, CEO Maxwell issued a letter to Appellant recommending that she be terminated on the basis of misconduct and willful neglect of duty related to improper grade changes due to her failure to adhere to administrative policies and procedures and established guidelines governing grade changes for students.

On June 28 and 29, 2018, local Hearing Examiner Mareco U. Edwards conducted an evidentiary hearing, with both sides represented by counsel, and granted the parties an opportunity to present live testimony and documentary evidence. Counsel for each side submitted closing briefs to the Hearing Examiner.

On August 26, 2018, the Hearing Examiner issued a written decision finding that the Appellant did not commit misconduct in office, but that she engaged in willful neglect of duty due to her role in changing the grades. The Hearing Examiner did not accept the CEO's recommendation to terminate the Appellant. Instead, he recommended that the Appellant receive a reasonable suspension and training related to the 2016 version of the AP 5121.3, the MPTS Handbook and training related to anti-retaliation and whistleblower protection.

The Appellant appealed to the local board. The local board heard oral arguments on January 14, 2019. On February 13, 2019, the local board issued a decision and order rejecting the CEO's recommendation to terminate the Appellant and instead imposing a 30-day suspension for willful neglect of duty and payment of any back pay owed to Appellant.

On February 21, 2019, the Appellant filed an appeal to the State Board. On February 27, 2019, the State Board transmitted the case to the OAH for a *de novo* hearing pursuant to COMAR 13A.01.05.06F, 13A.01.05.07(1)(b). A prehearing conference was held before ALJ Douglas E. Koteen on April 16, 2019, during which counsel for the Appellant proffered the basis to present additional testimony from two witnesses, including the Appellant and Ms. Angela Joyner of PGCPS' Employee & Labor Relations. On April 19, 2019, the ALJ issued a Prehearing Conference Report and Order holding in part that additional testimony proffered by counsel for the Appellant was not relevant to the ALJ's determination and that the Appellant failed to present good reasons for the failure to offer the requested testimony in the proceeding before the local board. On May 24, 2019, the ALJ conducted a hearing during which the parties relied upon the testimony of the witnesses and documentary evidence presented at the evidentiary hearing before the Hearing Examiner. The ALJ held the record open for counsel for the parties to file post hearing briefs. Counsel for both parties filed post hearing briefs.

[3] Neither the Hearing Examiner nor the local board relied upon the external audit in making their decisions in this case.

On October 16, 2019, the ALJ issued a proposed decision concluding that the Appellant committed willful neglect of duty because she failed to perform certain acts and functions that she knew were part of her job responsibilities as chair of the guidance department and held that the 30-day suspension was reasonable and appropriate and should be sustained.

On October 29, 2019, counsel for Appellant filed one general exception and eight specific exceptions to the ALJ's decision. On November 18, 2019, local board counsel filed opposition to exceptions. The Appellant requested oral argument before the State Board be postponed until in-person arguments resumed.

STANDARD OF REVIEW

Because this appeal involves the suspension of a certificated employee pursuant to §6-202 of the Education Article, the State Board exercises its independent judgment on the record before it in determining whether to sustain the suspension. COMAR 13A.01.05.06F.

The State Board transferred this case to OAH for an evidentiary hearing and the ALJ issued proposed findings of fact and conclusions of law. In such cases, the State Board may affirm, reverse, modify or remand the ALJ's proposed decision. The State Board's final decision, however, must identify and state reasons for any changes, modifications or amendments to the proposed decision. *See* Md. Code Ann., State Gov't §10-216.

LEGAL ANALYSIS

Appellant identifies nine exceptions to the ALJ's findings of fact and conclusions of law which we have grouped into three categories. The first category is a general exception in which the Appellant argues there was no justification for the 30-day suspension. The other two categories include: (1) the ALJ's finding that the external state audit was not relevant to the local board's decision in this case; and (2) the ALJ's decision to exclude additional testimony during the OAH hearing of the Appellant and Ms. Angela Joyner of PGCPS' Employee & Labor Relations Office that no other PGCPS high school guidance counselors outside of [redacted]HS were disciplined.

Willful Neglect of Duty

The Appellant's first general exception states that the "Appellant generally excepts to the Decision as it suggests that Appellant's thirty (30) day suspension was justified." The Appellant offers no specific argument in support of this general exception. Before the ALJ and the local board, the Appellant argued she was only a data entry person and she was following the directives of the [redacted]HS administration in defense of her implementing the inappropriate grade changes. It is not disputed that the Appellant entered 57 grade changes into the [redacted]HS SchoolMax system in violation of the controlling 2014 AP 5121.3 policy, the Good Faith Effort Policy and the MPTSS and QLM programs. The record supports the ALJ's conclusion that given Appellant's notable educational achievements and her extensive educational work experience and position responsibilities Appellant was not merely a data entry person who was following the orders of her superiors when entering the grade changes. The Appellant, as an experienced school professional, was obligated to adhere to all grade change policies and

procedures despite the adoption of unapproved policies by [redacted]HS administration. The Hearing Examiner specifically tailored the Appellant's discipline to include training on anti-retaliation and whistleblower protection to ensure she was aware of the policies in place to protect her in these unfortunate circumstances.

We agree with the ALJ's conclusion that the Appellant willfully neglected her duties when she knowingly acted in violation of PGCPS grade change policies. Section 6-202(a)(1) of the Education Article provides that the county board may suspend the Appellant for willful neglect of duty. We have defined willful neglect of duty as "an intentional failure to perform some act or function that the person knows is part of his or her job." *Johnson v. Prince George's County. Bd. of Educ.*, MSBE Op. No. 16-47, 6 (2016). The record supports the conclusion that the Appellant was trained in grade change policies and knew she was violating numerous provisions of the grade change authorization policies when she entered grade changes in the computer system based on PS-140 grade change forms that lacked proper signatures, lacked the reasons for the changes, lacked quarter grades of at least 50% and raised grades more than 10 points. We find, therefore, that the Appellant's actions and omissions constitute willful neglect of duty.

The State Audit

The Appellant takes exception to the ALJ's finding that the independent state audit was "irrelevant" to the appeal. This is essentially an argument that the ALJ should have given weight to certain evidence that was part of the record. It is well established that "hearing officers are not required to give equal weight to all of the evidence." *Hoover v. Montgomery County Bd. of Educ.*, MSBE Op. No. 19-03, 8 (2019) *citing Karp v. Baltimore City Bd. of Sch. Comm'rs.*, MSBE Op. No. 15-39 (2015). As the fact finder, it is the ALJ's job to sort through the evidence and reach factual conclusions based on the weight the ALJ assigns to that evidence. *Balt. Educ. Trust for Young Men, Inc. v. Baltimore City Bd. of Sch. Comm'rs.,* MSBE Op. No. 20-38, 9 (2020). The ALJ admitted the independent performance audit into evidence but gave it no weight because he concluded that it did not weigh into the local board's suspension decision.

We recognize that the independent state audit concluded that there were systemic problems throughout the PGCPS regarding violations of grading policies. Nevertheless, we agree that the evidence in the record before us supports the finding that the Appellant was disciplined based on her failure to comply with the relevant grading procedures and policies. We do not agree with the Appellant's argument that because other employees were allegedly doing the same behavior and suffered no discipline, the Appellant should not be held accountable for her violations. As discussed *infra*, the State Board agrees with the ALJ's conclusion that evidence of "comparators" is not relevant to this appeal.

Additional Testimony

The Appellant also excepts to the ALJ's failure to allow the Appellant to present evidence of "other similarly situated" guidance counselors who engaged in the same or similar misconduct as the Appellant and who were not disciplined. In Appellant's prehearing conference report and at the prehearing conference, counsel for the Appellant did not offer any reason why the Appellant failed to introduce such evidence before the Hearing Examiner concerning the discipline of other PGCPS employees. Both the Appellant and employee

relations advisor, Ms. Wanda Battle, who handled the Appellant's discipline, could have provided testimony about the specific discipline that other PGPCS employees received as the result of violations of grading policies. Counsel for the Appellant chose not to ask any questions regarding the discipline of any other PGCPS employees. The State Board has held that "choosing not to present evidence to the board, for whatever reason, is not a 'good reason. ' " for failing to offer evidence of additional testimony. *Sullivan v. Montgomery County Bd. of Educ*., MSBE Op. No 14-51 (2014). COMAR 13A.01.05.07C puts forth the standard for the introduction of additional testimony or documentary evidence by the parties and provides that such evidence may be introduced if the ALJ finds that the evidence is relevant and there were good reasons for the failure to offer the evidence in the proceedings before the local board. We agree with the ALJ's conclusion that Appellant failed to present any good reason for failure to introduce such evidence.

The ALJ further concluded that the evidence was not relevant to Appellant's discipline. Appellant argues that she and other [redacted]HS employees were unfairly disciplined for systemic problems throughout PGCPS school system because of the involvement of the press. The comparative evidence Appellant is attempting to introduce could be relevant to prove a case of unlawful discrimination on the basis of race, color, religion, sex, or national origin within the meaning of Title VII of the Civil Rights Act of 1964. But the Appellant is not making such an argument nor does the record support any inference of unlawful discrimination. In *Curtis v. Prince George's County. Bd. of Educ*., MSBE Op. No. 17-23 (2017), we concluded that a comparative evidence spreadsheet of other employees who appellant alleged received no discipline is not relevant because appellant has not claimed that PGCPS treated him differently based on a protected status. *See also, Baylor v. Baltimore City Bd. of Sch. Comm'rs.*, MSBE Op. 13-11 (2013)(Appellant's attempt to justify her lateness by claiming that tardiness was part of the culture at her school and the fact that other employees might have also been late does not excuse the Appellant's lateness). Thus, we agree with the ALJ's conclusion that the testimony proffered by the Appellant that other similarly situated guidance counselors were not disciplined is not relevant to this appeal.

We agree that the Appellant's actions constituted willful neglect of duty and that the 30-day suspension, rather than termination, is an appropriate sanction.

CONCLUSION

For all of these reasons, we adopt the recommendation of the ALJ, with the modifications set forth herein, and affirm the decision of the local board.

Signatures on File:

_____
Clarence C. Crawford
President

_____
Charles R. Dashiell, Jr.
Vice-President

_____
Gail H. Bates

_____
Chuen-Chin Bianca Chang

_____
Jean C. Halle

_____
Lori Morrow

_____
Warner I. Sumpter

_____
Holly C. Wilcox

Absent:
Vermelle Greene
Joan Mele-McCarthy

Abstain:
Shawn D. Bartley

Dissent:
Susan J. Getty

October 26, 2021

YVETTE THOMASSON,	*	**BEFORE DOUGLAS E. KOTEEN,**
APPELLANT	*	**AN ADMINISTRATIVE LAW JUDGE**
v.	*	**OF THE MARYLAND OFFICE**
BOARD OF EDUCATION FOR	*	**OF ADMINISTRATIVE HEARINGS**
PRINCE GEORGE'S COUNTY	*	**OAH No.: MSDE-BE-01-19-06165**

* * * * * * * * * * * * *

PROPOSED DECISION

STATEMENT OF THE CASE

On or about March 7, 2018, the Chief Executive Officer (CEO) of the Prince George's County Public Schools (PGCPS or County) notified Yvette Thomasson, Ph.D. (Appellant), a guidance counselor and chair of the Guidance Department at [redacted] High School , that the CEO was recommending the Appellant's termination on the grounds of misconduct in office and willful neglect of duty. On April 4, 2018, the Appellant appealed the recommendation of the CEO to the Board of Education of Prince George's County (Local Board). Thereafter, the Local Board appointed Hearing Examiner Mareco Edwards, Esq., to conduct an evidentiary hearing, which was held on June 28-29, 2018. The hearing examiner issued findings of fact and conclusions of law on August 26, 2018 in which he recommended that the Appellant's termination be overturned and that a reasonable suspension and training in certain relevant school policies be imposed. The Appellant appealed to the Local Board and the Local Board heard oral arguments on this matter on January 14, 2019.

On February 13, 2019, Alvin Thornton, Ph.D., Chair of the Local Board, issued a Final Written Decision and Order, in which he did not accept the recommendation of the Local Board's CEO to terminate the Appellant, and instead ordered that a thirty day suspension be imposed on the basis of willful neglect of duty and that the Appellant receive any back pay that she was owed. Md. Code Ann., Educ. § 6-202 (Supp. 2019).

On February 21, 2019, the Appellant filed an appeal to the Maryland State Board of Education (State Board) challenging the Final Decision of the Local Board. On February 27, 2019, the State Board transmitted the case to the Office of Administrative Hearings (OAH) for a *de novo* hearing pursuant to Code of Maryland Regulations (COMAR) 13A.01.05.06F, 13A.01.05.07A(1)(b).

I conducted a hearing on May 24, 2019 at OAH in Hunt Valley, Maryland. Shani K. Whisonant, Associate General Counsel, represented the Local Board. Damon R. Felton, Esquire, Maryland State Education Association (MCEA), represented the Appellant, who was present. I held the record open for the parties to submit post hearing briefs. The Local Board filed its post hearing brief on June 17, 2019. The Appellant filed a post hearing brief on July 8, 2019. The record closed on July 18, 2019, upon receipt of the Local Board's reply brief.

Procedure in this case is governed by the contested case provisions of the Administrative Procedure Act, the procedural regulations for appeals to the State Board of Education, and the Rules of Procedure of the OAH. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2014 & Supp. 2019); Code of Maryland Regulations (COMAR) 13A.01.05; COMAR 28.02.01.

ISSUE

Is the Appellant responsible for misconduct in office or willful neglect of duty and, if so, is a thirty-day suspension an appropriate sanction?

SUMMARY OF THE EVIDENCE

Exhibits

Prior to the hearing, the parties stipulated to the admissibility of the record generated below, including the following:

Termination Letter .....Record (R.) 1
Notice of Appeal .....R. 5
Day (1) Transcript (06/28/2018) .....R. 6
Day (2) Transcript (06/29/2018) .....R. 226

Exhibits:

CEO Exhibit 1: Multiple Pathways to Success Handbook- SY2016-2017.....R. 505-546
CEO Exhibit 2: Email Thread re: [redacted]HS Intensive "In-House" Safety Net .....R. 547-598

Appellant's Exhibit 1: Email Thread New Quarter Grade Publishing Procedures.....R. 599-600
Appellant's Exhibit 2: Administrative Procedure 5121.3 Grading and Reporting for High Schools Grade Nine through Twelve (August 2014) .....R. 601-650
Appellant's Exhibit 3: Email Thread re: QLM Submissions.....R. 651-652
Appellant's Exhibit 4: Email Thread re: In-House Safety Net for Seniors.....R. 653

Joint Exhibit 1: Internal Audit Report- [redacted] High School Senior Class Grade Interventions .....R. 654-672
Joint Exhibit 2: PS-140 documentation.....R. 673-675
Joint Exhibit 3: Grade Change Authorization Forms.....R. 676-710
Joint Exhibit 4: Independent Performance Audit.....R. 711-922
Joint Exhibit 5: Loudermill Sign-In Sheet.....R. 923-923
Joint Exhibit 6: Loudermill Determination Letter.....R. 924-926
Joint Exhibit 7: Administrative Procedure 5121.3- Grading and Reporting Grades Nine through Twelve (August 2016).....R. 927- 976
Joint Exhibit 8.: Administrative Procedure 5123.2 -General Procedures Pertaining to Promotion, Retention and Acceleration of Students .....R. 977-996
Joint Exhibit 9: PGCPS Hotline Complaint PGCPS-17-07-0003.....R. 997-1000
Joint Exhibit 10: Addendum to [redacted]High School Grade Changes Investigation.....R. 1001

Closing Brief (CEO).....R. 1002
Closing Brief (Appellant) .....R. 1016
Findings of Fact & Recommendations (Local Board Hearing Examiner) .....R. 1033
Exceptions to & Notice of Defect in the Hearing Examiner's Decision .....R. 1054
Opposition to Exceptions to & Notice of Defect in the Hearing Examiner's Decision.....R. 1057
September 17, 2018 Email Reply to Opposition to Exceptions & Notice of Defect in the Hearing Examiner's Decision .....R. 1067
Surreply to the September 17, 2018 Email Reply .....R. 1069
November 19, 2018 Email from Pounds re: Board response to Exceptions to & Notice of Defect in the Hearing Examiner's Decision .....R. 1073

Testimony

No testimony was presented during the hearing before the OAH.

STIPULATED FINDING OF FACT

The parties stipulated to the following:

1. Though an updated version of PGCPS Administrative Procedure 5121.3 was published in August 2016 (represented in the record as R. 927-976) [Jt. Ex. 7], the parties agree that, for purposes of this case, the controlling version of PGCPS Administrative Procedure 5121.3 was the 2014 version (represented in the record as R. 601-650) [App. Ex. 2].

FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

1. The Appellant has been a PGCPS school counselor for twenty-one (21) years. The Appellant has a bachelor's degree in psychology, and three master's degrees in psychological services, school counseling, and forensic psychology. The Appellant also has a doctorate in organizational leadership. (R. 327).

2. The Appellant served as Chair of the Guidance Department at [redacted] High School ([redacted]HS), a PGCPS School, during the 2016-2017 school year. She also served as a Guidance Counselor at [redacted]HS. (R. 328). The Guidance Department included a total of five school guidance counselors. In her role as a Guidance Counselor, the Appellant had a full case load of students in grades 10 through 12, and had responsibility for students whose last names began with R through Z. (R. 414). During the school year, the Appellant's immediate supervisor was [redacted]HS Principal [redacted] and subsequently [redacted]HS Resident Principal [redacted]. (R. 329-332).

3. As Chair of the Guidance Department, the Appellant was responsible for ensuring that the comprehensive guidance plan and other guidelines were followed. She was also responsible for

overall supervision of the guidance counselors and knowing, understanding, and following policies, procedures, and regulations relating to the function of guidance counselors. (R. 1035-1036).

4. The Appellant has been a Guidance Counselor at various schools in Prince George's County for about twenty-one years. The 2016-2017 school year was Appellant's first year at [redacted]HS. (R. 327-330).

5. The Appellant learned the PGCPS policy and procedure for making grade changes when she served as a school counselor, as well as the master scheduler and grade manager, at Tall Oaks High School. She received training in master scheduler meetings and was also provided with a manual. She also reviewed the AP 5121.3 policy. (R. 332-334, 375, 435-436). She worked at Tall Oaks High School from about 2006 to 2011. (R. 414, 436).

6. Administrative Procedure 5121.3, Grading and Reporting for High Schools Grade Nine through Twelve (AP 5121.3), sets forth the policy and procedure for the authorization of grade changes. (App. Ex. 2; Jt. Ex. 7).

7. The version of AP 5121.3 that became effective on August 19, 2014 provides the following procedures for authorizing a grade change:

> **Authorization of Grade Change**
>
> 1. The principal is responsible for following the standard procedure for the authorization and recording of all grade changes.
> 2. A Grade Change Authorization Form (PS-140) will be used to authorize and record the specific reasons for requesting each grade change.
> 3. Form PS-140 must be signed by the teacher of the course for which the grade change is requested and by the school principal.
> 4. Upon effecting the grade change in the appropriate database, the authorized data entry person must sign the PS-140. Appropriate staff must refer to the transcript guide when changing grades.
> 5. If a grade change involves a final grade, the original grade as recorded on the electronic report and the final report card will be reprinted. The new grade, recorded by the registrar, will be recorded on the documents, initialed, and dated by the principal.
> 6. Form PS-140 must be filed in the student's cumulative record folder, with copies distributed as indicated on the form.

7. School staff will contact the Department of Technology Applications for the computation of the quarterly Grade Point Average if a grade change is authorized.

(App. Ex. 2, R. 612).

8. A new version of AP 5121.3 became effective on August 15, 2016. The procedures for authorizing a grade charge remained the same with the following additional provision:

> If the principal deems that a quarter grade submitted for a student should be different than what is reflected on the report card, the principal is required to submit a Grade Change Authorization Form (PS-140) to the School Instructional Team (SIT) with evidence and rationale for changing the grade.

(Jt. Ex. 7, R. 939).

9. The Appellant was trained regarding the 2016 version of the AP 5121.3 policy in the fall of 2017 by substitute principal Brooks. (R. 334, 394-395). The Appellant had prior knowledge of the Quarterly Learning Modules (QLMs) that provide opportunities for students to perform additional work to increase their grade. (R. 335).

10. Notice and instruction on the changes to the 2016 version of AP 5121.3 occurred on or about November 7, 2017, when [redacted] (Mr. [redacted], Master Scheduler at [redacted]HS, advised [redacted]HS staff regarding revisions to the grade change procedures, including that the Grade Change Authorization Forms (PS-140) would be completed electronically, printed, and signed by the teacher and, among other items, that graded makeup work would be attached to the PS-140 Form. (App. Ex. 1); (R. 177-178, 599-600).

11. Prior to the change in the 2016 version of the AP 5121.3 policy, the regular practice at [redacted]HS was for the teacher to submit supporting makeup work documentation for inclusion with the PS-140 Form, demonstrating the basis for the grade change. (R. 188-191, 305, 311-312).

12. The principal's signature was required on the PS-140 Form before a grade change could be implemented. (R. 188). Except for limited unrelated exceptions, if the principal did not sign the PS-140 Form, then the grade change was not made. (R. 194-195).

13. SchoolMAX is a student information system that manages student data, including grades, attendance records, and schedules.

14. The Appellant was given administrative rights to the SchoolMAX system based on her position as Chair of the Guidance Department. Administrative rights included the Appellant's authority to input grade changes into SchoolMAX for [redacted]HS students. (R. 241-242, 397).

15. The "Good Faith Effort" policy was added to the 2016 version of the AP 5121.3 policy. The Good Faith Effort policy stated the following:

> Teachers shall assign a minimum grade of 50% to assignments or assessments for which the student made a good faith effort, as defined by completing at least 50% of the assignment, to meet the basic requirements. If a student does not work on an assignment or assessment, the teacher shall assign a grade of zero.

(Jt. Ex. 7, R 930).

16. The Multiple Pathways To Success Handbook (MPTS Handbook) for the 2016-2017 school year at [redacted]HS set forth the procedure and timing for student grade changes. (R. 505-546). The Appellant received a copy of the MPTS Handbook by email. (R. 398).

17. Included within the MPTS Handbook was the Quarter Learning Module (QLM) program that was offered to students to enable them to recover a failing grade within a respective grading period. (R. 535).

18. Only students who had earned a 50-59% as a quarter grade were eligible for use of QLMs. In addition, QLMs were authorized for students only in the following courses: Algebra 1, Algebra 2, Biology, Chemistry, English 9-12, Geometry, LSN Government, US History, and World History. (R. 535).

19. Students who successfully completed and passed QLMs were eligible to receive no more than ten (10) points added to their applicable quarter grade and could not receive more than sixty-five percent (65%) for the quarter grade after completing QLM work. (R. 536-537, 306-307).

20. The Area Office is required to retain all graded student QLM answer sheets for one (1) year. Individual schools are required to keep for one year a spread sheet of students who participated in a QLM for each quarter, and are also required to copy and scan grade change forms and results from the QLMs. (R. 537).

21. Throughout the school year, each quarter has specific deadlines for student completion, scoring, and the release of QLM and grade results, and for the return of QLM packets to the main office. For the 2016-2017 school year, the quarterly deadlines were: December 14, 2016 for quarter 1; March 15, 2017 for quarter 2; and May 5, 2017 for quarter 3. (R. 538).

22. On December 13, 2016, Dr. Brady sent an email to the [redacted]HS Principal, [redacted], urging him to develop a plan to encourage student participation in QLM opportunities. She indicated that [redacted]HS had received only two QLM submissions from students at that time. (R. 651-652).

23. On April 3, 2017, an email was sent to the "Team" at [redacted]HS, including the Appellant, advising that "In-House" packets were ready for seniors and special education students. The Team was encouraged to issue in-house packets to senior students in general education for each quarter in which they had a grade of below 59% in a core class. (R. 553, 584).

24. On April10, 2017, [redacted]HS Assistant Principal [redacted] sent an email to [redacted]HS teachers encouraging them to participate in an "in-house" safety net program to assist students who were at risk of failing a course needed for graduation. [redacted]HS teachers were encouraged to provide students with additional learning opportunities or to utilize a learning module located in the guidance suite to assist students in achieving passing grades. Teachers were encouraged to assign the packets before spring break and have the work "returned to you in a timeframe for you to grade and possibly change the student's final grade outcome." (R. 653).

25. Another email sent to [redacted]HS school staff on April 10, 2017 acknowledged that the County was no longer offering make-up work opportunities for quarters one and two. It

indicated the In-House packets were only for seniors who had failing grades in quarters one and two. (R. 560).

26. On May 10, 2017, [redacted], a [redacted]HS school counselor, provided [redacted]HS staff with a list of senior students who needed "one last intervention" and encouraged staff to provide last minute assistance if available. (Jt. Ex. 9, R. 997-1000); (R. 392).

27. The [redacted]HS Administration unilaterally instituted an unapproved in-house safety net for seniors and special education students that conflicted with the PGCPS written grade change policies. (R. 547-598).

28. The [redacted]HS Administration, including Resident Principal [redacted], Assistant Principal [redacted], and Regional Instructor Dr. Brady, urged [redacted]HS staff to participate in a "Senior Blitz," at the end of the year. They discussed strategies with the Appellant and the other school counselors, as well as other [redacted]HS staff, to assist senior students who were in jeopardy of not graduating. (R. 239-240). A meeting was held to discuss these strategies prior to spring break in about March 2017. (R. 340-341).

29. The Appellant had knowledge of the Good Faith Effort policy based on discussions with the [redacted]HS administration and Dr. Brady in March 2017. (R. 459-461). She was told that students with at least a 50% quarterly grade might be able to qualify for the QLMs. (R. 344).

30. When the Appellant inquired about students who had less than a 50% score for their quarterly grade, Dr. Brady indicated that she and Mr. [redacted] would talk with the teachers about those students who had less than 50% for their quarterly grades. The Appellant does not know what action the administration took in this regard. Dr. Brady advised staff that students would be eligible to improve their grades with make-up work for all quarters. (R. 345-350, 445-449).

31. The Appellant subsequently made 57 grade changes involving six students in the SchoolMAX system between May 10 and May 24, 2017. (Jt. Ex. 3, R. 676-710); (Jt. Ex. 10, R.

1001); (R. 392-393). None of those students would have graduated without the grade change interventions. (R. 413).

32. Thirty-five of the grade change forms were submitted into evidence at the Local Board hearing conducted before the Hearing Examiner. (Jt. Ex. 3, R. 676-710).

33. All thirty-five of those grade changes were made by the Appellant after the quarterly grade-change deadline set forth in the MPTS Handbook for QLM work. (Jt. Ex. 3, R. 676-710); (R. 538).

34. Twenty-one of the PS-140 Forms signed by the Appellant did not include a teacher's signature. (Jt. Ex. 3, R. 676-710).

35. Seven of the PS-140 Forms signed by the Appellant did not include a principal's signature. (Jt. Ex. 3, R. 676-710). The Appellant made the grade changes in the SchoolMAX system before she obtained a principal's signature and written authorization on those forms. (R. 432, 433).

36. Fifteen of the PS-140 Forms were signed by the Appellant and the grade changes were made on a date before the forms were signed by a principal. (Jt. Ex. 3, R. 676-710).

37. Five of the PS-140 Forms which involved QLM-qualifying courses did not meet the minimum grade requirement of 50% for eligibility for grade recovery under the QLM program. (R. 693-694, 705, 707, 708).

38. Only two of the PS-140 Forms signed by the Appellant expressly stated they were based on the QLM program. Each form involved initial quarter grades below 50% and each showed grade increases of more than ten points. One form involved a grade change for the first quarter from 23 to 70, and the second form involved a grade change for the second quarter from 47 to 65. (Jt. Ex. 3, R. 693-694); (R. 446-454). The Appellant also did not receive any QLM documentation to support the PS-140 forms. (R. 352, 449).

39. Nine of the PS-140 forms signed by the Appellant had no box checked designating a reason for the grade change. (Jt. Ex. 3, R. 676-710). The Appellant did not know the reason for the change on those forms. (R. 373, 375-376).

40. The PGCPS "Good Faith Effort" policy was utilized to assist the 2017 graduating Seniors of DVHS. (R. 344-346, 392-393). The Appellant was told by school administration that the Good Faith Effort policy overrides the Multiple Pathways to Success Policy. (R. 449).

41. [redacted] (Ms. [redacted]) retired from PGCPS after serving as a school counselor at [redacted]HS from 2007 to 2016. (R. 304).

42. There was an anonymous Hotline Report made on or about July 3, 2017 regarding allegations of grade changes. (Jt. Ex. 9).

43. Dr. Maxwell, PGCPS CEO, subsequently requested that an internal audit be conducted at DVHS regarding grade change issues. (R. 396-397).

44. Kelvin Campbell, an Internal Auditor employed by the PGCPS, was assigned to investigate grade change allegations involving graduating seniors at [redacted]HS. (Jt. Ex. 1, R. 654-672). The internal audit department regularly conducted investigative audits concerning various educational issues. (R. 030-032).

45. The internal audit focused on compliance with the 2016 version of the AP 5121.3 policy and the 2016-2017 MPTS Handbook. (Jt. Ex. 1, R. 657-658). The internal audit focused on thirty randomly selected graduating seniors from [redacted]HS. (R. 036-037, 119-120).

46. Mr. Campbell interviewed the acting [redacted]HS Principal, [redacted]HS guidance counselors [redacted], and [redacted], and the [redacted]HS grade manager [redacted]. (R. 052). He did not interview the Appellant during the investigation because she was not present at the school when he conducted the interviews. (R. 052-053, 397).

47. The internal audit reviewed student files for evidence to support the grade changes. (R. 055-056). Mr. Campbell could not find sufficient evidence supporting the grade changes. (R. 069-072, 076-082).

48. The internal audit found that the student files that were reviewed did not demonstrate compliance with the AP 5121.3 policy and the 2016-2017 MPTS Handbook. (R. 659-670).

49. The internal audit findings were based on three broad categories: (1) simultaneous aggregation of grade changes late in the school year; (2) grade changes not in compliance with the 2016 version of the AP 5121.3; and (3) the use of QLMs were not in compliance with the QLM policy in the MPTS Handbook. (R. 658-660).

50. The internal audit concluded that inappropriate grade changes were made for the Class of 2017 in the two weeks leading up to the [redacted] HS graduation in May 2017; students received diplomas based on inappropriate grade changes; student files did not have supporting grade-change documentation; and PS-140 forms were either not on file or were not properly authorized. (R. 661). The internal audit report was completed on or about August 14, 2017. (R. 105).

51. The PGCPS held a *Loudermill*[1] hearing for the Appellant on August 30, 2017. The Appellant attended along with her union representative; her supervisor, Kathleen Brady, Instructional Director; Internal Auditor Kelvin Campbell; and Wanda Battle, Employee and Labor Relations Advisor. The Appellant was advised of allegations against her regarding improper grade changes for graduating seniors at [redacted] HS and she was afforded an opportunity to respond. (R. 001-004); (Jt. Ex. 5, R. 923).

52. On March 7, 2018, Kevin Maxwell, PGCPS CEO, issued a letter to the Appellant recommending that she be terminated from her position as Professional School Counselor at

[1] This derives from the U.S. Supreme Court decision in *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985) (public employee with property right in continued employment has due process right to pre-termination notice and opportunity to be heard).

[redacted]HS on the basis of misconduct and willful neglect of duty related to improper grade changes due to her failure to adhere to established Administrative Policies and Procedures and established guidelines governing grade changes for students. (R. 001-004); (Jt. Ex. 6, R. 924-926).

53. After an evidentiary hearing, on August 26, 2018, the Local Board Hearing Examiner issued a written decision recommending that the Appellant's termination be overturned and that she receive a reasonable suspension and training regarding grade changing policies and other relevant policies based on willful neglect of duty. (R. 1033-1053).

54. On February 13, 2019, the Chair of the Local Board issued a Final Decision ordering that the Appellant's termination not be accepted and ordering that the Appellant be suspended for thirty days for willful neglect of duty and be paid any back pay that was due and owing. (R. 1159-1174).

DISCUSSION

Legal Authority

Section 6-202 of the Education Article provides that "[o]n the recommendation of the county superintendent, a county board may suspend or dismiss a teacher, principal, supervisor, assistant superintendent, or other professional assistant for . . . misconduct in office . . . or . . . willful neglect of duty." Md. Code Ann., Educ. § 6-202(a)(1) (Supp. 2019).

Section 602(a)(2)-(4) sets forth the procedure for such removal, including notice, opportunity for a hearing before the county board, in person or by counsel, to bring witnesses to the hearing, and the right to appeal the decision of the county board to the State Board. *Id.* § 6-202(a)(2)-(4). The county board may have the proceedings heard first by a hearing examiner. *Id.* § 6-203(a), (b) (2018). Pursuant to COMAR 13A.01.05.03D(1), (2), when a decision is appealed to the State Board, the local board shall transmit the record of the local proceedings with its response to an appeal, including a transcript of the proceedings.

COMAR 13A.01.05.06F sets forth the standard of review in an appeal to the State Board, which applies in this proceeding:

> F. Certificated Employee Suspension or Dismissal pursuant to Education Article, §6-202, Annotated Code of Maryland.
>
> (1) The standard of review for certificated employee suspension and dismissal actions shall be de novo as defined in §F(2) of this regulation.
> (2) The State Board shall exercise its independent judgment on the record before it in determining whether to sustain the suspension or dismissal of a certificated employee.
> (3) The local board has the burden of proof by a preponderance of the evidence.
> (4) The State Board, in its discretion, may modify a penalty.

Accordingly, on behalf of the State Board and on the record before me, I shall exercise my independent judgment to determine whether the Local Board established by a preponderance of the evidence that the Appellant engaged in willful neglect of duty or misconduct, and should be subject to discipline.

The regulations governing the hearing procedures provide, in pertinent part, as follows:

> C. Additional Testimony or Documentary Evidence.
>
> (1) Additional testimony or documentary evidence may be introduced by either party if the administrative law judge finds that the evidence is relevant and material and there were good reasons for the failure to offer the evidence in the proceedings before the local board, but evidence that is unduly repetitious of that already contained in the record may be excluded by an administrative law judge.
> (2) Notwithstanding § C(1) of this regulation, the administrative law judge may permit repetitious testimony if credibility is an issue.
> ...
> E. The administrative law judge shall submit in writing to the State Board a proposed decision containing findings of fact, conclusions of law, and recommendations, and distribute a copy of the proposed decision to the parties.

COMAR 13A.01.05.07C, E.

At the Telephone Prehearing Conference in this matter conducted on April 16, 2019, I determined that the additional anticipated testimony the Appellant sought to present in this

matter was not relevant to my determination and/or the Appellant did not present good reasons for the failure to offer the requested testimony in the proceedings before the Local Board. COMAR 13A.01.05.07C(1). Neither party sought to present additional documentary evidence before the OAH and the parties relied on the evidentiary record developed during the proceedings before the Local Board. I issued a Prehearing Conference Report and Order on April 19, 2019, addressing these evidentiary issues.

Misconduct in Office

The termination letter issued by Dr. Maxwell on March 7, 2018, recommended the Appellant's termination based on misconduct and willful neglect of duty. (Jt. Ex. 6). The Hearing Examiner concluded that a preponderance of the evidence did not support termination but did require that a reasonable suspension be imposed on the Appellant with training regarding relevant policies. The Hearing Examiner also concluded that the evidence did not support misconduct in office because the Appellant maintained her professional composure and her actions did not bear on her fitness to perform the job. He did find that the Appellant's actions constituted willful neglect of duty as they involved an intentional failure to perform an act or function that the Appellant knew was part of her job. The Chair of the Local Board issued a Final Decision on February 13, 2019, upholding the recommendation of the Hearing Examiner that the Appellant did not commit misconduct in office, but that she was responsible for willful neglect of duty. He did not accept the CEO's recommendation that the Appellant be terminated from her position with the PGCPS and instead ordered that the Appellant be suspended for a period of thirty days and receive any back pay that was owed. (R. 1159-1176). The Local Board contends that the Appellant is responsible for willful neglect of duty, but does not seek a finding in this matter that the Appellant is responsible for misconduct in office.

I agree with the determination of the Hearing Examiner and the Local Board Chair that the Appellant's actions do not constitute misconduct in office because she maintained her professional composure, was not responsible for committing unprofessional acts, and her actions did not demonstrate that she is unfit to perform the duties of a professional school counselor in the PGCPS. *Resetar v. State Bd. of Educ.*, 284 Md. 537, 560-561 (1979); *Brown v. Baltimore City Bd. of Sch. Comm'rs*, MSBE Op. 09-31 (2009); *Kinsey v. Montgomery Cty. Bd. of Educ.*, 5 Op. MSBE 287, 288 (1989). For the reasons addressed below, however, I find that the Appellant's actions do constitute willful neglect of duty.

Burden of Proof

The regulations provide that in the suspension or dismissal of a certificated employee, the Local Board has the burden of proof. COMAR 13A.01.05.06F(3). To prove something by a preponderance of the evidence means that "something is more likely so than not so," when all the evidence is considered. *Coleman v. Anne Arundel Cty. Police Dep't*, 369 Md. 108, 125 n.16 (2002); see also *Mathis v. Hargrove*, 166 Md. App. 286, 310 n.5 (2005).

Willful Neglect of Duty

Willful neglect of duty in regard to the Education Article has been defined by the State Board as "an intentional failure to perform some act or function that the person knows is part of his or her job." *Johnson v. Prince George's Cty. Bd. of Educ.*, MSBE Op. No. 16-47, 6 (2016). The State Board has also recognized that willful neglect of duty occurs "when the employee has willfully failed to discharge duties which are regarded as general teaching responsibilities." *Baylor v. Baltimore City Bd. of Sch. Comm'rs*, MSBE Op. No. 13-11 (2013). In the *Johnson* case, the State Board applied the principles that are applicable to teachers to uphold the termination of a school guidance counselor for willful neglect of duty.

The Appellant relies on non-binding arbitration law cases to support her position that the Appellant did not knowingly violate County policies and that no discipline is warranted here. This case was not conducted as an arbitration and therefore the arbitration decisions and arbitration law referenced by the Appellant are not controlling in this matter. This case is instead governed by decisions of the Maryland State Board of Education that apply to certificated employees.

Positions of the Parties

The Local Board contends that the imposition of a thirty day suspension was warranted based on the Appellant's knowing violation of the PGCPS grade change policies. The Local Board contends that the Appellant changed fifty-seven grades for six senior students shortly before graduation ceremonies to help them graduate. The Local Board further contends that as an experienced school guidance counselor and Department Chair she was required to carry out her duties in compliance with County policies and procedures. The Local Board also contends that the Appellant was disciplined appropriately after the County conducted a thorough investigation with an internal audit of the grade changing practices at [redacted]HS. The Local Board argues that the external audit conducted by the State regarding grade change practices throughout the County does not alter the evidence of the Appellant's individual noncompliance with grade changing policies. It further contends that the Appellant was disciplined based on findings of the internal audit, the internal audit was completed before the external audit was conducted, the Local Board did not rely on the external audit in disciplining the Appellant, and the external audit was conducted independently and was irrelevant to the Appellant's individual violations of the grade changing policy. Furthermore, the Local Board contends that other [redacted]HS employees were also disciplined for violating County grade changing policies. The Local Board argues further that the Appellant has not identified any other similarly situated employees at [redacted]HS or elsewhere in the County who were treated differently than the Appellant.

The Appellant contends she was only a data entry person in changing grades of [redacted]HS students and that she complied with the grade changing policies of which she had knowledge. She also argues that she followed the policies and directives of the [redacted]HS administration and that if the [redacted]HS administration chose to unilaterally modify parts of the County grade changing policies, her discipline for following their instructions is unwarranted. She also contends that noncompliance with grade changing policies was a County-wide problem. She alleges that the State's external audit demonstrates that grade change errors occurred at high schools throughout the County and her discipline demonstrates that she was singled out and treated unfairly. For all these reasons, she contends that her suspension should be overturned.

Analysis

The Appellant contends that she acted merely as a data entry person in making grade changes for [redacted]HS students and that the grade changes were initiated by [redacted]HS teachers and the principal. However, the evidence establishes that the Appellant has been a professional guidance counselor in PGCPS for approximately twenty-one years. She has a bachelor's degree in psychology, and master's degrees in psychological services, school counseling, and forensic psychology. She also has a doctorate in organizational leadership. At [redacted]HS, she was appointed to be chair of the Guidance Department by the principal.

It is not disputed that the Appellant's role in the grade change process included her actions in entering grade changes into the [redacted]HS SchoolMAX system. However, based on her notable educational achievements and her extensive educational work experience, it is unrealistic and inaccurate to consider the Appellant as merely a data entry person in this matter. She was selected by the principal to serve as department chair of the Guidance Department at [redacted]HS based on her many years of experience as a guidance counselor in the PGCPS. She was authorized to enter grade changes into the SchoolMAX system based on her role as Guidance

Department chair. Moreover, she was admittedly trained in grade changing policies and enjoyed hands on experience when she served as master scheduler and grade manager at Tall Oaks High School where she worked for approximately six years. Considering the Appellant as merely a data entry person who was following the orders of her superiors when entering grade changes in the SchoolMAX system, ignores the responsibilities of an experienced school professional in the PGCPS. The Appellant was expected to carry out her duties and responsibilities by strictly adhering to all grade change policies and procedures. If the [redacted]HS principal had considered the Appellant to be merely a data entry person in the process of making grade changes for [redacted]HS students, then the principal would have simply designated a clerical employee for this task, rather than selecting the chair of the Guidance Department.

The State Board has recognized that it is reasonable to discipline a supervisor or higher level professional in a manner different from his or her subordinates. *Curtis v. Prince George's Cty. Bd. of Educ.*, MSBE Op. 17-23, 4 (2017) (terminated building supervisor properly disciplined more severely than subordinates); *Homesley v. Bd. of Educ. for Prince George's Cty.*, MSBE Op. No. 14-56 (2014) (terminated acting director of transportation properly disciplined more severely than rank-and-file employee who committed less egregious misconduct); *see also Lightner v. City of Wilmington*, 545 F.3d 260, 265 (4th Cir. 2008) (acting division commander with responsibility for ethics rules properly disciplined more harshly than subordinate). The Appellant's extensive educational experience and position as Guidance Department chair played a critical role in the discipline that was ultimately imposed on the Appellant.

An experienced auditor employed by the Local Board conducted an internal audit of the grade changing practices at [redacted]HS after a complaint was filed. The internal audit uncovered numerous violations of the grade change policies by [redacted]HS employees, including the Appellant. The Local Board relied on the results of the internal audit in deciding to discipline the Appellant

and other [redacted]HS employees for their role in failing to comply with the County grade changing policies. The Appellant's contention that the internal audit was flawed and that the subject matter of this audit was outside the audit department's area of expertise was not supported by the evidence in the record. The audit department regularly conducted investigative audits that were precipitated by a complaint. (R. 030-032).

Grade Change Policies

The parties stipulated that the controlling version of the AP 5121.3 policy, which covered grading and reporting for high schools in the PGCPS, was the 2014 version. This was apparently based on the evidence that [redacted]HS staff were not trained on the 2016 version of the AP 5121.3 policy until the fall of 2017. Page 10 of the 2014 version of the AP 5121.3 policy addressed the rules and procedures for authorizing grade changes. (App. Ex. 2, R. 612). Those rules provide that the principal is responsible for following the standard procedure for authorizing and recording all grade changes. This does not mean that the Appellant and other persons who participate in the grade change process are not also required to comply with all aspects of the policy. The policy requires that a Grade Change Authorization Form (PS-140) will be used to authorize and record the specific reasons for requesting a grade change. The policy requires that the form be signed by the teacher of the course for which the grade change is requested *and* by the school principal. Upon effecting the grade change, the authorized data entry person must sign the PS-140 form. The PS-140 form must also be filed in the student's cumulative record folder. (App. Ex. 2, R. 612).

Based on the results of the internal audit, the Appellant made 57 grade changes involving six students during the period of May 10, 2017 through May 24, 2017, which was the two week period immediately preceding the [redacted]HS graduation. (Jt. Ex. 10, R. 1001); (Jt. Ex. 1, R. 658); (Jt. Ex. 2, R. 673-675). The parties submitted into evidence thirty-five Grade Change

Authorization forms (PS-140s) signed by the Appellant during the period from May 12 through May 22, 2017. (Jt. Ex. 3, R. 676-710).

Of those PS-140 forms included in the record, seven of them did not include a principal's authorizing signature. Twenty-one of the PS-140 forms included in the record did not include a teacher's signature. Fifteen of the PS-140 forms included in the record were signed and dated by the Appellant indicating that the grade changes were made in the computer before the forms were signed and approved by the principal. The AP 5121.3 policy clearly required that all PS-140 forms be signed by the teacher for the course at issue *and* by the principal. (R. 612). Although other school staff participate in the process, the principal is ultimately responsible for approving a grade change. Therefore, it is critical that a principal's signature appear on the form before the grade change is carried out. The Appellant testified regarding some of these discrepancies during the Local Board hearing conducted before the Hearing Examiner and offered various explanations for some of the violations. She noted that a principal was interrupted by a radio call, she forgot to follow through in obtaining a principal's signature, it was late in the day on a Friday afternoon, she obtained verbal authorizations from a principal, a teacher was on leave, a teacher refused to sign, and other similar excuses.

The Appellant's various explanations do not excuse the clear violation of several critical provisions of the AP 5121.3 policy regarding the proper authorization of grade changes. Without the signatures of the teacher and principal appearing directly on the form, it cannot be verified that the grade changes were valid, authorized by the teacher and principal, and in compliance with County policy. With her years of educational experience, her prior experience as a grade manager, and in her role as Guidance Department Chair at [redacted]HS, the Appellant had actual knowledge of the grade change policy and she knew that when she entered grade changes in the computer system without complying with all aspects of the policy that she was violating certain

important provisions of the grade change authorization policy. The Appellant was far more than a data entry person. She was the last line of defense to ensure that grade changes were implemented in a fair and equitable manner and in accordance with the strict rules for implementing grade changes in the County.

Although the Appellant claimed there were various explanations for the discrepancies noted on the PS-140 forms, the purpose of the meticulous grade change authorization rules was to ensure that the school maintained a proper paper trail to establish that the sensitive task of changing students' grades were implemented in accordance with County policies. The absence of teacher signatures, the absence of principal signatures, the inclusion of principal signatures after the grade changes were already implemented, all call into question the validity of the grade changes the Appellant executed. The PS-140 forms with missing signatures and irregular dates demonstrate on their face that those grade changes did not comply with County policy and call into question the validity of those grade changes.

Furthermore, a review of the PS-140 forms in evidence demonstrate that nine of the forms had no box checked designating the reason for the change. On a tenth form, the "other" box was checked, but the reason was not specified, as the form required. The AP 5121.3 policy clearly requires that each form "record the specific reasons for requesting each grade change." (R. 612). The Appellant acknowledged that she did not know the reason for the changes on the incomplete forms. Even if the Appellant were able to recall a reason in an isolated instance, the failure to clearly identify the reason directly on the form undermines the purpose of the PS-140 Grade Change Authorization form, which is to maintain proper documentation "to authorize and record the specific reasons for requesting each grade change." (R. 612).

Much time and attention was spent in the proceedings below regarding the policy of allowing students to perform make up work in accordance with the QLM policy, which provided

students with the opportunity "to recover a failing grade within a respective grading period." (R. 535-538). The QLM policy was included in the MPTS Handbook for 2016-2017. (CEO Ex. 1, R. 505-546). The Appellant acknowledged that she received a copy of the MPTS Handbook by email. (R. 398). The QLM policy stated that it was only available for students who earned a 50-59% as their quarter grade. It was also designated for use in only certain academic courses, which were the following: Algebra 1, Algebra 2, Biology, Chemistry, English 9-12, Geometry, LSN Government, US History, and World History. Students could only receive an additional ten points after successfully completing QLM work, and could not receive more than 65% for their final quarter grade after completing QLM work. Schools were required to keep for one year a copy and the scanned results from the QLMs. Moreover, the policy included specific deadlines for each quarter for a student's use of the QLM work to increase their quarterly grades. The final deadlines for each quarter as stated in the QLM policy were as follows:

Quarter 1:	December 14, 2016
Quarter 2:	March 15, 2017
Quarter 3:	May 5, 2017.

(CEO Ex. 1, R. 535-538).

The PS-140 forms in the record included only two forms that expressly identified the completion of QLM work as the basis for the grade change. They both involved the same student, who performed QLM work to increase her grades in English 12 for the first and second quarters. (R. 693-694). The PS-140 forms reflect that the student's first quarter grade was increased from 23 to 70, and her second quarter grade was increased from 47 to 65. (R. 693-694).

On their face, the PS-140 forms which identified the basis for the grade changes as completion of QLM work violated several provisions of the QLM policy. The QLM policy was not to be used for grade changes in prior quarters after the stated deadlines. The two QLM-based grade increases were undertaken on May 17, 2017 for the first and second quarters. (R. 693-

694). As noted above, the first quarter deadline for the use of completed QLM work was December 14, 2016, and the second quarter deadline for the use of completed QLM work was March 15, 2017. Each of these QLM-based grade changes violated the deadline for the use of QLM work to support grade increases. (R. 538). Furthermore, the student's initial first quarter grade of 23, and her initial second quarter grade of 47, violated the QLM rule that limited the use of the QLM process for grade changes only when the student's initial quarter grade was at least 50%. (R. 535). In addition, the student's first quarter grade was increased by 47 points, and her second quarter grade was increased by 18 points. (R. 693-694). This violated the rule that limited all QLM-based grade increases to a maximum of ten points. In addition, the student's first quarter grade increase up to 70% violated the rule that completion of QLM work could not increase a quarter grade to more than 65%. In fact, the QLM rule was emphatic in this regard when it stated that "[u]nder no circumstances will a student receive more than 65% for quarter grade for completing a QLM." (R. 536-537).

Although the Appellant claims she was only a data entry person, she was responsible as a well-educated and experienced school professional and department chair to ensure that all grade changes were carried out in accordance with County policies. Allowing these grade changes to be undertaken, despite their clear violation of the grade change policies set forth in the MPTS Handbook, demonstrate a knowing and willful neglect of her duties as a professional school counselor and Department Chair.

The Appellant contends that mitigating circumstances concerning the QLM-based grade changes she completed justify her actions because she claims she was told by school administrators that grade changes could be made for all quarters and that grade changes could be made for students whose initial quarter grades were below 50%.

The Appellant relies on the Good Faith Effort policy (GF policy) that was instituted by the PGCPS during the 2016-2017 school year to claim that her QLM-based grade changes were appropriate. The GF policy was instituted and reduced to writing for the first time when it was included in the 2016 version of the AP 5121.3 high school grading policy. As noted above, that policy stated:

> Teachers shall assign a minimum grade of 50% to assignments or assessments for which the student made a good faith effort, as defined by completing at least 50% of the assignment, to meet the basic requirements. If a student does not work on an assignment or assessment, the teacher shall assign a grade of zero.

(Jt. Ex. 7, R 930).

The parties agreed in their stipulation that, for purposes of this case, the controlling version of the AP 5121.3 policy was the 2014 version of that policy. (App. Ex. 2). Based on the plain language of the parties' stipulation, the GF policy should not be applicable at all to this case because it was first introduced in the 2016 version of the AP 5121.3 policy, which the parties agreed was not controlling in this case. Therefore, if the GF policy is not considered, then both of the QLM-based grade changes the Appellant executed were undertaken in direct violation of the rules for the use of QLM work to support grade changes. That is because, as discussed above, the QLM-based grade changes were instituted for a student whose initial quarter grades were 23 for the first quarter and 47 for the second quarter. As both of these initial quarter grades fell below 50%, then the student would have been ineligible to use QLM work to improve her grades.

However, the Appellant seeks to employ an exception to the parties' stipulation as it relates to consideration of the GF policy. The Appellant contends that because Dr. Brady and [redacted]HS staff discussed the use of the GF policy for grade changes in a meeting in March 2017, she should be permitted to use the GF policy as a defense to her implementing the two QLM-based grade changes, even though the student's initial quarter grades were below 50%. The

Appellant's testimony regarding the use of the GF policy does not support her position. She stated that Dr. Brady indicated that she and Mr. [redacted] would talk with the teachers about those students who had less than 50% for their quarterly grades. The Appellant testified that she did not know what action the administration took regarding the grades that were under 50%, and she did not know whether they followed through on their plan to speak with the teachers. (R. 346-348). The Appellant also testified that the teacher brought her the QLM-based PS-140 forms. However, the Appellant did not testify that she discussed the impact of the GF policy with the teacher or whether the student was eligible for a grade change under the existing grade change policy. (R. 351-353).

The plain language of the GF policy does not automatically qualify a student to receive a minimum quarterly grade of 50%. It provides that teachers shall assign a minimum quarterly grade of 50% to assignments or assessments for which the student has made *a good faith effort*. It goes on to define a good faith effort as completion of at least 50% of the assignment to meet the basic requirements. The policy also provides that if a student does no work on the assignment or assessment, the teacher is required to assign a grade of zero. (R. 930). Careful review of the GF policy clearly demonstrates that it does not contemplate that students will automatically receive a minimum quarterly grade of 50%. They must also demonstrate that they have made a good faith effort. Therefore, when Dr. Brady told the Appellant and other [redacted]HS staff that she and Mr. [redacted] would speak with the teachers, there was no guarantee that the each of the at-risk students would receive a quarterly grade of 50%. Moreover, the Appellant acknowledged that she did not know the outcome of those purported discussions with teachers, and did not know whether the discussions occurred at all.

The Appellant seeks an exception to the parties' stipulation, so that the GF policy can be considered and so that all quarterly grades below 50% can automatically be raised to 50%.

However, this is inconsistent with the plain language of the GF policy. (R. 930). Therefore, while the Appellant seeks to use the GF policy to justify her QLM-based grade changes for the student whose quarterly grades were below 50%, she also seeks to ignore the actual language of the GF policy because it limits the ability to increase a failing grade to 50% to only those students who actually make *a good faith effort* on assignments and assessments. I do not find that the Appellant's GF policy defense supports her position because the language of the policy is more complex than the Appellant acknowledges.

Even if I were to conclude that the GF policy could be used to raise students' minimum quarterly grades to 50% for QLM-based grade changes based on the Appellant's understanding of the representations made by Dr. Brady, the evidence still demonstrates that the Appellant violated the County's grade change policies. The PS-140 forms that the Appellant received for the two QLM-based grade changes that she executed, still included the initial quarterly grades of 23% and 47%, respectively. The Appellant did not explain why she executed grade changes based on those PS-140 forms, even though the quarterly grades listed on those forms were still below 50%. If the GF policy was to be used, then the teacher should have changed the forms to reflect an initial quarterly grade of 50% on each form. The Appellant testified that the teacher brought the PS-140 forms to her, but she had no evidence that the teacher intended to change the student's quarterly scores to 50% because the forms she received still listed the student's quarterly grades at below 50% (23% and 47%, respectively). (R. 693-694). Moreover, there was no evidence that she inquired of the teacher to clarify this discrepancy on the forms. Therefore, when the Appellant executed the two QLM-based grade changes using PS-140 forms that still listed the initial grades at below 50%, she knowingly acted in violation of the QLM policy and in violation of PGCPS grade change policies. (CEO Ex. 1, R. 535-538); (App. Ex. 2, R. 601-650).

Furthermore, even if the initial grades on both forms had been changed to 50%, the Appellant still violated the QLM policy when she executed the grade changes of more than ten points. (CEO Ex. 1, R. 535-537). The first quarter form was raised to 70% and the second quarter form was raised to 65%, both reflecting an increase of more than ten points above 50%. (R. 693-694). The spreadsheet of the Appellant's grade changes in Joint Exhibit 2 indicates that there were up to four additional PS-140 forms that involved QLM-based grade changes. (R. 675). However, the reason for the grade change was not specified on any of those four PS-140 forms, all four forms showed grade increases well in excess of ten points, and three of the four forms did not include the teacher's signature. (R. 705-708). Despite these discrepancies on the forms, the Appellant still executed these grade changes in violation of the grade change policies.

The Appellant contends that the DVHS staff also told her that the grade changes could be implemented for all quarters. The implementation of QLM-based grade changes in May 2017 for the first and second quarters of the 2016-2017 school year also violated the QLM quarterly deadlines for instituting grade changes. Therefore, when the Appellant executed these grade changes, she knew she was also acting in direct violation of the County's QLM policy. (CEO Ex. 1, R. 538). At the least, the Appellant should have made further inquiry to determine whether these grade changes were proper because the forms indicated they were in direct conflict with the known QLM deadline policy.

The Local Board also contends that the Appellant violated the grade change policy because she failed to ensure that supporting documentation was attached to the PS-140 grade change authorization forms. The 2016 version of the grade change policy at AP 5121.3 included the requirement that all PS-140 forms include "evidence and rationale for changing the grade." (Jt. Ex. 7, R. 939). It is reasonable to conclude that this language required that supporting documentation be attached to all PS-140 grade change authorization forms. As a result of the

parties' stipulation, the 2016 version of the grade change policy is not controlling in this case. Therefore, the parties have stipulated that this provision that requires supporting documentation to be attached to all PS-140 forms does not apply to this case. However, the testimony of grade manager [redacted] and former professional school counselor [redacted] indicates that the regular practice at [redacted]HS was for supporting documentation to be attached to the PS-140 forms demonstrating the basis for the grade change. (R. 188-191, 305, 311-312). Ms. [redacted] also testified that the school counselor would make sure that the QLM packet was actually completed. (R. 307). Reviewing some type of supporting documentation is the only logical and practical way that an employee executing grade changes in the SchoolMAX system would know whether the grade change was valid and consistent with County grade change policy.

The Appellant's own testimony highlights the problems that arise when there is no supporting documentation attached to the PS-140 forms. The Appellant acknowledged that she did not have any QLM documentation to support the QLM-based grade changes she executed. (R. 352, 449). She thought there might have been more QLM-based grade changes in addition to the two that were identified on the PS-140 forms, but she could not recall whether other grade changes she implemented from the PS-140 forms involved the completion of QLM work. (R. 368).[2] In the absence of some supporting documentation, the Appellant could not ensure that the grade changes she executed were valid and in compliance with County grade change policy. She never requested supporting documentation and did not ask the teacher involved in the two QLM-based grade changes whether there was proper documentation to support those grade changes. This demonstrates further evidence that the Appellant failed to exercise proper judgment to

[2] As noted above, Joint Exhibit 2 indicated that up to four additional PS-140 forms involved QLM-based grade changes. (R. 675). However, as discussed above, all four of the PS-140 forms involved in these additional QLM-based grade changes included discrepancies and failed to comply with the QLM and AP 5121.3 grade change policies. (CEO Ex. 1, R. 535-538); (App. Ex. 2, R. 612).

ensure that she carried out her professional responsibilities to confirm that the grade changes she implemented were valid and consistent with County policy.

For the foregoing reasons, I conclude that the Local Board has established that the Appellant knowingly failed to comply with the PGCPS grade change policies when she executed numerous grade changes based on PS-140 grade change authorization forms that lacked proper signatures, failed to specify the reason for the change, did not have initial quarter grades of at least 50%, and raised grades more than 10 points. The Appellant also failed to verify that grade changes were valid through supporting documentation or through appropriate inquiries with teachers. The Appellant had a duty to correctly implement school policies and she failed to do so. The Appellant's actions and omissions constitute willful neglect of duty.

Disparate or Unequal Treatment

The Appellant contends that she was treated more harshly than other DVHS employees and other PGCPS employees. In order to establish that she was a victim of disparate or unequal treatment, the Appellant must demonstrate that she was treated differently than similarly situated employees. *Curtis v. Prince George's Cty. Bd. of Educ.*, MSBE Op. No. 17-23 at 4; *Homesley v. Bd. of Educ. for Prince George's Cty.*, MSBE Op. No. 14-56 at 9. The evidence in this record establishes that other DVHS employees who were involved in the violation of grade changing policies were also disciplined. The record is vague with regard to the number of other DVHS employees who were disciplined, the precise discipline that was imposed, and the specific violations that were attributed to other [redacted]HS employees.[3] Wanda Battle, Employee and Labor Relations Advisor, testified that other *Loudermill* hearings were conducted regarding other

[3] I have not relied on any new information presented during the oral argument conducted before the Local Board in this matter on or about January 14, 2019. (R. 1074-1140). The oral argument was not an evidentiary hearing and the individuals speaking, including the Appellant, did not testify under oath.

[redacted]HS employees. (R. 265-266). The Appellant acknowledged in her brief that other [redacted]HS employees participated in *Loudermill* hearings and that other [redacted]HS employees were disciplined.

The Appellant has failed to present sufficient evidence to establish that similarly-situated [redacted]HS employees were treated in a more lenient manner than the discipline imposed on the Appellant. While the Appellant acknowledged that other [redacted]HS employees were disciplined, the Appellant did not identify any other [redacted]HS employees who were responsible for committing similar violations of the County grade changing policies, but received lesser discipline or no discipline. In fact, other than acknowledging that other [redacted]HS employees were disciplined, the Appellant presented no evidence to establish that similarly-situated employees were treated differently.

The Appellant also argues that she was unfairly disciplined because the State's external audit demonstrates that violation of the grade changing policies was a County-wide problem and that she was singled out for discipline in response to findings of the State audit. This argument was based on pure speculation and is not supported by the facts.[4] The evidence establishes that the Appellant was disciplined as a result of the internal audit conducted at [redacted]HS, which was undertaken after a complaint was filed, and which ultimately showed that the Appellant knowingly violated various provisions of the 2014 version of the AP 5121.3 grade changing policy and the MPTS Handbook. The Appellant was not interviewed during the internal audit because she was not present at the school when the investigation was conducted. The County did not consider the State audit in its decision to discipline the Appellant and other [redacted]HS employees who failed to comply with the County's grade changing policies. The external audit was conducted independently and well after the internal audit was completed, it was a County-

[4] As noted above, I have not relied on information presented at the oral argument conducted before the Local Board in this matter because it was not an evidentiary hearing and there was no testimony taken under oath.

wide in scope, and was irrelevant to the Appellant's individual violations of the grade changing policy.

Furthermore, the Appellant did not demonstrate on this record that similarly-situated County employees were treated differently than the Appellant. The Appellant identified no other County employees who were guidance counselors and department chairs, who had similar grade changing duties and responsibilities, and who committed similar violations of the County's grade changing policies, but were not disciplined. *Curtis v. Prince George's Cty. Bd. of Educ.*, MSBE Op. No. 17-23 at 4; *Homesley v. Bd. of Educ. for Prince George's Cty.*, MSBE Op. No. 14-56 at 9.

Summary

Based upon my *de novo* review of the record in this matter, I conclude that a preponderance of the evidence in this record supports a finding that the Appellant knowingly failed to comply with numerous provisions of the 2014 AP 5121.3 grade changing policy and the MPTS Handbook consistent with the discussion set forth above. This occurred when the Appellant executed 57 grade changes during the period between May 10 and May 24, 2017, just prior to graduation at [redacted]HS. I conclude that the record establishes that the Appellant is responsible for willful neglect of duty because she failed to perform certain acts and functions that she knew were part of her job responsibilities as chair of the Guidance Department. *Johnson v. Prince George's Cty. Bd. of Educ.*, MSBE Op. No. 16-47, 6 (2016); *Baylor v. Baltimore City Bd. of Sch. Comm'rs*, MSBE Op. No. 13-11 (2013). A suspension rather than a termination is appropriate because there is no evidence that she was previously disciplined, she worked for the County for twenty-one years, and she was, in part, acting on instructions from superiors. Therefore, I conclude that the decision of the Local Board to suspend the Appellant for thirty days and to award her any back pay that is owed is reasonable and appropriate and should be sustained.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact and Discussion, I conclude, as a matter of law, that the Appellant, a professional school counselor and department chair employed by the Board of Education for Prince George's County, is responsible for willful neglect of duty and is subject to a thirty-day suspension. Md. Code Ann., Educ. § 6-202(a)(1)(v) (Supp. 2019).

PROPOSED ORDER

I **PROPOSE** that the decision of the Board of Education of Prince George's County suspending the Appellant for thirty days on the basis of willful neglect of duty, and awarding her any back pay that is owed, be **SUSTAINED**.

October 16, 2019
Date Decision Mailed

Douglas E. Koteen
Administrative Law Judge

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182508

NOTICE OF RIGHT TO FILE EXCEPTIONS

Any party adversely affected by this Proposed Decision has the right to file written exceptions within 15 days of receipt of the decision; parties may file written responses to the exceptions within 15 days of receipt of the exceptions. Both the exceptions and the responses shall be filed with the Maryland State Department of Education, c/o Sheila Cox, Maryland State Board of Education, 200 West Baltimore Street, Baltimore, Maryland 21201-2595, with a copy to the other party or parties. COMAR 13A.01.05.07F. The Office of Administrative Hearings is not a party to any review process.

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