

LESLIE FLOYD,

Appellant

v.

PRINCE GEORGE'S
COUNTY BOARD OF
EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 23-05

“CORRECTED” OPINION

INTRODUCTION

The Appellant, a teacher for Prince George’s County Public Schools (“PGCPS”), appeals the decision of the Prince George’s County Board of Education (“local board”) terminating her from her teaching position for willful neglect of duty related to performance of her teaching duties during the 2020-2021 school year.¹

On August 30, 2021, the Chief Executive Officer (“CEO”) for PGCPS recommended that Appellant be terminated on the grounds of misconduct in office and willful neglect of duty. On appeal, the local board assigned the matter to a hearing examiner who conducted a hearing on the termination recommendation. On February 8, 2022, the hearing examiner issued Findings of Fact, Conclusions of Law, and Recommendation finding that there was not sufficient evidence to terminate based on misconduct in office, but that there was sufficient evidence to terminate based on willful neglect of duty only. Given the Appellant’s actions and history of prior discipline, the hearing examiner recommended that the local board uphold the termination. After hearing oral argument from the parties, the local board issued a decision on April 7, 2022, accepting the hearing examiner’s recommendation and terminating the Appellant for willful neglect of duty.

Appellant appealed the termination decision to the State Board. We transferred the case pursuant to COMAR 13A.01.05.07 to the Office of Administrative Hearings (“OAH”) for review by an Administrative Law Judge (“ALJ”). On December 27, 2022, based on a preponderance of the evidence, the ALJ issued a Proposed Decision recommending that the State Board uphold the local board’s decision terminating the Appellant from employment. The ALJ noted that there was conceivably sufficient evidence to also sustain a misconduct charge, but confined the case analysis to willful neglect of duty because that is the charge that was argued by the local board. (Proposed Decision at 13).

¹ The Administrative Law Judge’s proposed decision states that the Appellant began working at PGCPS during the 2018-2019 school year. (Proposed Decision at 5). Appellant disputes this fact. We have confirmed that Appellant’s employment with PGCPS began with the 2019-2020 school year and make that correction to the Findings of Fact.

The Appellant filed exceptions to the ALJ's Proposed Decision, and the local board filed a response to the exceptions.² Oral argument was held before the State Board on February 28, 2023.

FACTUAL BACKGROUND

The factual background in this case, including Appellant's disciplinary history of professional counseling and reprimands, is set forth in the ALJ's Proposed Decision, Findings of Fact, pp. 5-9. The willful termination charge stems from the Appellant's purposeful failure to allow certain students in her 1B English class into the virtual classroom, leaving them in the virtual waiting room while Appellant provided instruction to the students she had admitted and gave assignments to be completed by all students. Appellant further chose to give the students she locked out of the virtual classroom a zero for their failure to complete the work she had assigned during class. The local board found that this conduct, in light of Appellant's prior disciplinary history, demonstrated a continuing pattern of behavior, which ultimately justified her termination.

STANDARD OF REVIEW

Because this appeal involves the termination 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 termination. COMAR 13A.01.05.06F.

The State Board transferred this case to OAH for proposed findings of fact and conclusions of law by an ALJ. 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(b).

LEGAL ANALYSIS

The Appellant has filed 15 exceptions to the ALJ's Proposed Decision. The exceptions can be generally categorized as objections that the ALJ failed to reach proper conclusions from the facts, failed to credit Appellant's version of the facts, or otherwise did not credit evidence presented by Appellant. For example, Appellant maintains that the ALJ did not recognize that Appellant asked the administration to remove her from the 1B honors English class; that she asked for additional support; or that she gave a written apology, among other things.

The ALJ, however, recognized that the Appellant argued a litany of grievances against the school and its administration and listed some of them in her proposed decision. (Proposed Decision at 12). The fact that the ALJ did not specifically mention every one of Appellant's assertions does not mean that she did not consider the entirety of the evidence and arguments submitted by Appellant. When evaluating facts, ALJ's are not required to give equal weight to all of the evidence. *See Karp v. Baltimore City Bd. of Sch. Comm'rs*, MSBE Op. No. 15-39

² Appellant attempted to file multiple additional materials to the State Board outside of the exception briefing process. Counsel for the State Board informed Appellant that these materials would not be considered by the State Board.

(2015). The ALJ simply did not find that evidence presented by the Appellant to be sufficiently persuasive to excuse the Appellant’s conduct in this case.

Section 6-202(a)(1) of the Education Article provides that the county board may terminate a teacher for willful neglect of duty. We have said that willful neglect of duty occurs when an employee has “willfully failed to discharge duties which are regarded as general teaching responsibilities.” *Johnson v. Prince George’s County Bd. of Educ.*, MSBE Op. No. 16-47 at 6 (2016).

The record supports the ALJ’s conclusion that the Appellant willfully neglected her duties. The evidence in the record is clear that on April 23, 2021, during Appellant’s 1B English class, Appellant knowingly and intentionally left some students in the virtual waiting room during a virtual lesson, gave an assignment that was for all students, and gave a zero to the students who she left in the waiting room. This action was the final straw in an escalating pattern of conduct Appellant displayed towards students and parents, for which she had received prior counseling and disciplinary action. Ms. Pritchett-Sellman, Assistant Principal and Supervisor of the English Department, testified that she communicated with Appellant on an almost daily basis to discuss the Appellant’s negative interactions with students and parents, but Appellant’s behavior continued and intensified. (T. 24-25, 34). As the ALJ concluded, “[u]nder these circumstances and given the Appellant’s status as a chronically disciplined teacher, the Local Board’s decision to terminate was reasonable and appropriate.” (Proposed Decision at 15).

CONCLUSION

We agree with the ALJ’s assessment that the record in this case supports the local board’s termination of the Appellant from her teaching position on the grounds of willful neglect of duty. We, therefore, adopt the ALJ’s Proposed Decision and affirm the local board.

Signatures on File:

Clarence C. Crawford
President

Susan J. Getty
Vice-President

Chuen-Chin Bianca Chang

Charles R. Dashiell, Jr.

Vermelle D. Greene

Jean Halle

Lori Morrow

Warner I. Sumpter

Holly Wilcox

Abstained:
Shawn D. Bartley

Absent:
Gail H. Bates
Joan Mele-McCarthy

February 28, 2023

LESLIE FLOYD,

APPELLANT

v.

BOARD OF EDUCATION

OF PRINCE GEORGE'S COUNTY

*** BEFORE DEBORAH S. RICHARDSON,**

*** ADMINISTRATIVE LAW JUDGE,**

*** MARYLAND OFFICE OF**

*** ADMINISTRATIVE HEARINGS**

*** OAH No.: MSDE-BE-01-22-09265**

* * * * *

PROPOSED DECISION

STATEMENT OF THE CASE

ISSUE

SUMMARY OF THE EVIDENCE

FINDINGS OF FACT

DISCUSSION

CONCLUSION OF LAW

PROPOSED ORDER

STATEMENT OF THE CASE

On August 30, 2021, the Chief Executive Officer for Prince George's County Public Schools (PGCPS), notified Leslie Floyd (Appellant), a classroom teacher for PGCPS, that she was recommending that Appellant's employment with PGCPS be terminated on the grounds of misconduct in office and willful neglect of duty. Md. Code Ann., Educ. § 6-202(a)(1) (2022). The Appellant filed a timely Notice of Appeal and the appeal was assigned to a hearing examiner on September 23, 2021. The hearing examiner held a hearing on December 8, 2021.¹ *Id.* § 6-202(a)(2)-(3). On February 8, 2022, the hearing examiner issued Findings of Fact, Conclusion of Law and Recommendation finding there was not sufficient evidence to terminate based on misconduct in office, but that there was sufficient evidence to terminate based on willful neglect of duty. Given the Appellant's history of prior discipline, the hearing examiner

¹ The hearing examiner first convened a hearing on October 19, 2021. On that day, the Appellant commented that she was not able to recall an answer because she had suffered several concussions. The hearing examiner rescheduled the entire hearing, to begin anew, after she was satisfied the Appellant was able to proceed with her appeal.

recommended that the termination be upheld. On March 28, 2022, the parties held oral argument before the Board of Education of Prince George's County (Local Board). On April 7, 2022, the Local Board ordered that the recommendation of the hearing examiner be accepted, and that the Appellant be terminated as a teacher with PGCPS.

The Appellant appealed to the Maryland State Board of Education (MSDE) on April 12, 2022. Md. Code Ann., Educ. § 6-202(a)(4). On April 22, 2022, the MSDE referred the matter to the Office of Administrative Hearings (OAH) for hearing and to issue a proposed decision, containing findings of fact, conclusions of law, and recommendations. Code of Maryland Regulations (COMAR) 13A.01.05.07A(1)(b) & E.

On July 15, 2022, I conducted a pre-hearing conference by video. Darnell Henderson, Esquire, represented the Local Board. The Appellant represented herself. On July 18, 2022, I issued a Pre-Hearing Conference Report and Order.

On September 28, 2022, I conducted a hearing at the OAH in Hunt Valley, Maryland. Mr. Henderson represented the Local Board and the Appellant represented herself.

Procedure in this case is governed by the contested case provisions of the Administrative Procedure Act, the procedural regulations for appeals to the MSDE, and the OAH's Rules of Procedure. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2021); COMAR 13A.01.05; COMAR 28.02.01.

ISSUE

Did the Local Board properly terminate the Appellant for willful neglect of duty?

SUMMARY OF THE EVIDENCE

Exhibits

I admitted the entire Record generated below into evidence, which includes the following²:

- DVD of Oral Argument before the Local Board, March 28, 2022
- Transcript of December 8, 2021 Evidentiary Hearing³
- Exhibits Admitted at December 8, 2021 Evidentiary Hearing including:
 - CEO Ex. 1 - Email from Arika Pritchett-Sellman to the Appellant, February 5, 2021
 - CEO Ex. 2 - Email chain beginning from L.W.⁴ to the Appellant and Ms. Pritchett-Sellman, April 7, 2021
 - CEO Ex. 3 - Package of emails beginning from A.M. to Christine Wenchel, April 23, 2021
 - CEO Ex. 4 - Screenshot from *Loudermill* hearing, undated
 - CEO Ex. 5 - Corrective Action Document, January 14, 2020; Corrective Action Document, January 22, 2020; Corrective Action Document, February 5, 2020; Corrective Action Document, February 13, 2020; Corrective Action Document, April 15, 2020
 - CEO Ex. 6 - Recommendation for Suspension, May 7, 2021
 - CEO Ex. 7 - PGCPs Employee Code of Conduct School Year 2020-2021
 - CEO Ex. 8 - Appellant's Training History, from July 1, 2019 to June 30, 2021

² COMAR 13A.01.05.07B(1) provides: "Except as provided in §B(2) of this regulation, in an appeal of a suspension or dismissal of a certificated employee, the entire record of the proceedings before the local board shall be prepared and transcribed at the expense of the local board and shall be made a part of the record of the proceedings."

³ Mr. Henderson also transmitted to the OAH the transcript from the October 19, 2021 hearing. The hearing officer determined that it was not appropriate to conclude that day of hearing given concerns about the Appellant's health, specifically that she had recently suffered a concussion. Moreover, when the hearing reconvened on December 8, 2021, the hearing officer informed the parties she would not base her decision on any of the testimony or exhibits that had been admitted on October 19, 2021 and that the December 8, 2021 hearing would begin anew. Therefore, I too have not considered the October 19, 2021 transcript.

⁴ I have used the Student's initials to preserve confidentiality.

- CEO Ex. 9 - Recommendation for Termination, August 30, 2021
- CEO Ex. 10A - Administrative Procedure 4219, Inappropriate Interactions Among Students and Employees, Independent Contractors, and Volunteers, August 27, 2018
- CEO Ex. 10B - Board of Education Policy 4400, July 19, 2016
- CEO Ex. 10C - Administrative Procedure 5125, Individual Student School-Based Records, November 23, 2020
- CEO Ex. 10D - Administrative Procedure 3050, Confidential Data and Personally Identifiable Information, December 13, 2019
- App. Ex. 1 - Email from the Appellant to Ms. Pritchett-Sellman, February 9, 2021
- App. Ex. 2 - Email chain beginning from Michael Dinkins to the Appellant, April 29, 2021
- Transmittal from MSDE to OAH including:
 - Transmittal letter, April 20, 2022
 - Memorandum from Assistant Attorney General Jackie LaFiandra to Dr. Monica Goldson and Tammy Turner, Esq., April 20, 2022
 - Email chain beginning from MSDE to Michelle Phillips, Ms. LaFiandra, and Hannah Woods, April 14, 2022
 - Letter from Andrew Nussbaum, Esq. to the Appellant, April 8, 2022
 - Order of the Board of Education of Prince George's County, April 7, 2022
 - Email chain beginning from MSDE to Ms. LaFiandra, Ms. Phillips and Ms. Woods, April 14, 2022
 - Letter from the Appellant to the Local Board, March 28, 2022
 - Letter from Jeffrey Carpenter, Director Employee and Labor Relations, to the Appellant, Personnel Decision – Investigative Findings, February 8, 2021
 - Findings of Fact, Conclusions of Law and Recommendation of Hearing Officer, February 8, 2022
 - Letter from the Appellant To Whom It May Concern, undated

At the hearing, the Appellant also submitted Appellant's Exhibits 1-5, which I did not admit into evidence, but I have retained for the record.

Testimony

The parties did not present testimony at the hearing before me. Instead, they relied on the record and presented oral argument.

FINDINGS OF FACT

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

1. The Appellant began working at PGCPs at Laurel High School during the 2018-2019 school year.
2. On November 18, 2019, and November 20, 2019 the Appellant received verbal counselings for inappropriate interactions with parents.
3. On November 21, 2019, the Appellant received a professional counseling after she made an inappropriate comment to a student about his absent father and refused to speak to the student's mother because she only wanted to speak to the father.
4. The Appellant was employed as an English Classroom Teacher at Laurel High School during the 2020-2021 school year.
5. At all times relevant to this matter, the Appellant's supervisor was Assistant Principal Arika Pritchett-Sellman.
6. During the 2020-2021 school year, Ms. Pritchett-Sellman met with the Appellant daily by phone and on Zoom to discuss the Appellant's behavioral issues. The Appellant's behavioral issues did not improve, and in fact escalated.
7. On February 5, 2021, the Appellant introduced herself to her students after having returned from leave. The Appellant told the students she would rather not deal with their mothers

or any female guardians, explaining that she preferred to speak with men because she does not get along with women.

8. On February 5, 2021, Ms. Pritchett-Sellman gave the Appellant a verbal and email counseling reminding the Appellant when interacting with students not to show bias toward any race, religion, political belief or gender; reiterating that building positive relationships with students and parents is a priority; and informing the Appellant she may not tell students she is not willing to work with their female guardians.

9. The Appellant has received these prior disciplines:

- a. Professional Counseling, January 14, 2020 for misconduct on January 6, 2020 for removing a parent's ability to log into Google Classroom after having a verbal altercation with the parent;
- b. Professional Counseling, January 22, 2020 for misconduct on January 22, 2020 for informing her class that she is a highly certified teacher and that with her certification, she should not have to teach students with IEPs (Individualized Education Program for special education);
- c. Professional Counseling, February 5, 2020 for misconduct on January 31, 2020 when she hung up the phone on a parent after an inappropriate conversation with the parent;
- d. Reprimand, February 13, 2020 for insubordination on January 14, 2020 for sending an inappropriate email to a parent after being directed not to send emails to parents without prior review by her superior and to copy her supervisor on all parent emails;
- e. Reprimand, April 15, 2020 for insubordination on April 15, 2020 for blocking a student from Google Classroom after having been told by her superior to allow

him access and sending emails stating she was removing herself from the class and not providing instruction or uploading documents to the class that this student was enrolled in; and

- f. Recommendation for Five-Day Suspension, May 7, 2021 for misconduct in office and willful neglect of duty on February 8, 2021 for making an inappropriate post on Facebook including photos and names of her students.

10. In February 2021, the Appellant was teaching her 1B class remotely and the parents of two students interrupted the class.

11. One of the parents who interrupted the Appellant's class was C.N., who was the mother of L.W., one of the Appellant's students. C.N. stated "If you want respect, you have to give respect." Another parent came into the online classroom and made some negative comments to the Appellant about respect and how she should respect the students.

12. The Appellant was very upset with the parents and wanted an apology.

13. Ms. Pritchett-Sellman spoke to the students and the parents, letting them know that was inappropriate and the parents were not allowed to go into a teacher's Zoom session and speak to them during class and that if a parent had concerns with what was going on in a class, they should contact administration. Ms. Pritchett-Sellman told the Appellant that the issue had been dealt with and she needed to let it go. Ms. Pritchett-Sellman informed the Appellant she could not force a parent to apologize to a teacher. The Appellant continued to speak about it on almost a daily basis in her classroom, mentioning the parents and students by name.

14. The Appellant researched C.N.'s Maryland court file and posted in the Google Classroom the amount of C.N.'s child support payment. She made comments about not needing to wait for American Airlines to pick up C.N. to get to America and made comments to L.W. that if the Appellant were not black, then maybe C.N., who is Latino, would never have said anything

to her. The Appellant refused to answer L.W.'s emails and questions about classwork. She created assignments in the classroom while L.W. was there, and then reassigned them when she was gone from class and gave her zeros on the new assignments.

15. On April 7, 2021, L.W. submitted an assignment to the Appellant by email. The Appellant responded by stating she did not understand the nature of the email, that she did not need the student's respect, and requested L.W.'s mother provide her with an apology.

16. That same day, Ms. Pritchett-Sellman emailed the Appellant, telling her that with or without an apology from the student's mother, she needed to interact with her students in a positive and supportive manner. She also reminded the Appellant that the incident with the parents had been handled, as they had discussed on multiple occasions.

17. On April 23, 2021, during the Appellant's 1B class, the Appellant was teaching in the Laurel High School Building and some of the students in her class were participating remotely, the format in place because of the COVID-19 pandemic.

18. During the Appellant's 1B class, there was a fire drill in the school building. The Appellant informed the students she would be leaving the building for the fire drill and instructed the students to return to the virtual classroom at 8:45 a.m.

19. When the Appellant returned to teaching after the fire drill, some students were in the online classroom and others were in the online waiting room, having logged off and then logged back in.

20. Students either in the physical classroom or who had been admitted to the online classroom informed the Appellant that there were students in the online waiting room. The Appellant did not let those students into the online class.

21. L.W. was one of the students in the online waiting room who the Appellant did not admit to the class. The Appellant spoke with students who were let back into the online

classroom about L.W., how her mother never apologized to her, and how stressed she was about the situation. She also told the class it was L.W.'s mother who complained to the school about her gospel music and how she cannot listen to it anymore.

22. While keeping some students in the waiting room, the Appellant created an assignment which required the students to log in after the fire drill. All of the students who were in the online classroom received full points for the assignment and all of the students in the waiting room who were not allowed into the classroom received zeros.

23. When Ms. Pritchett-Sellman learned the Appellant had not let some of the students into the online classroom after the fire drill and had created a participation assignment and given students in the waiting room a zero, she had the Appellant alter the assignment so the students who were not allowed in could participate. The Appellant changed the assignment to have the students email her their favorite chapter from the book they were reading.

24. L.W. emailed the Appellant to turn in the favorite chapter assignment, and to complain that she would not allow her back in the class and gave her a zero on the participation assignment that she was not allowed to complete.

25. The Appellant responded to L.W.'s email "Ma'am I am not sure if you have a reading deficiency, but I assure you and your classmates can attest to the fact they did not give me a response to their favorite chapter after the fire drill."

26. The Appellant forwarded the email to a school administrator, with a copy to the student, asking the administrator to forward her the form for IEP services.

27. The Appellant took medical leave for the majority of the end of the 2020-2021 school year.

DISCUSSION

Burden of Proof and Legal Framework

Section 6-202 of the Education Article of the Maryland Code 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)(ii) and (v) (2022). 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. Educ. § 6-202(a)(2)-(4). The county board may have the proceedings heard first by a hearing examiner. Educ. § 6-203(a), (b). 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.

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

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.

COMAR 13A.01.05.07C. The Appellant offered Appellant’s exhibits 1 through 5 at the hearing before me. Some of the exhibits submitted by the Appellant were irrelevant in that they referenced matters after the Appellant’s termination. Others related to events resulting in prior discipline against the Appellant that were not appealed, and the Appellant failed to show good

reasons for the failure to offer the evidence at the local board hearing. Therefore, I did not admit any additional documentary evidence at the hearing before me.

COMAR sets forth the standard of review in an appeal to the State Board, which applies in this proceeding:

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.

COMAR 13A.01.05.06F. “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.01.05.06E. 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. 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 Cnty. Police Dep’t*, 369 Md. 108, 125 n.16 (2002); *see also Mathis v. Hargrove*, 166 Md. App. 286, 310 n.5 (2005).

The Parties’ Positions

Before the hearing examiner, the Local Board relied on paragraphs (a)(1)(ii), misconduct, and (v), willful neglect of duty, of section 6-202 of the Education Article as the basis for its decision to terminate the Appellant. The hearing examiner found that the nature of the

Appellant's conduct rose to the level of malfeasance, as there are policies and administrative procedures that instruct the Appellant to be professional in her interactions with students and she was not. However, the hearing examiner did not find that conduct bore on the Appellant's fitness to teach, and thus did not find that the Local Board had met its burden regarding misconduct in office. However, the hearing examiner did find that the Appellant's actions in requesting students return to the virtual classroom after the fire drill, not letting them in after being told they were in the waiting room, and giving a participation assignment to students in the classroom and zeros to students in the waiting room, was a willful neglect of duty. Based on the Appellant's history of progressive discipline, the hearing examiner recommended the decision to terminate the Appellant be upheld. After hearing oral argument from the parties, the Local Board ordered that the hearing examiner's recommendation be accepted and adopted.

Accordingly, the Local Board has only argued before me that the Appellant willfully neglected her duty. Moreover, the Local Board has argued that the Appellant's history of prior disciplines makes termination appropriate in this case.

The Appellant argued a litany of grievances against Laurel High School and its administration. She argued that she was never provided with a teacher mentor as she requested. She also argued that she experienced consistent problems with this 1B English class and repeatedly asked to be removed from the class. The Appellant argued that a February 8, 2021 letter to her from the Director of Employee and Labor Relations Office (ELRO) for PGCPs, which can be found in the Record, indicated that the prior discipline that had been imposed against her was being revoked and her record wiped clean. The Appellant argued she had not been given a fair hearing because the hearing examiner laughed at her. She took great issue with someone at Laurel High School calling her the "top peacock."

Analysis

I am at a loss to understand why the hearing examiner found in this case that the Appellant's conduct did not rise to misconduct. Since I am charged to exercise my independent judgment on behalf of the State Board to determine whether the Local Board established by a preponderance of the evidence that the termination should be sustained, COMAR 13A.01.05.06F, I could conceivably sustain the misconduct charge. However, the Local Board relied on the hearing examiner's recommendation finding only willful neglect of duty, and the Local Board only argued before me that the Appellant willfully neglected her duties. Therefore, I will confine my analysis to whether the Appellant willfully neglected her duties.

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 Cnty. 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). It is a fundamental, basic function of a teacher to teach classes. To carry out this duty, a teacher must allow students into his or her classroom. The Appellant admitted to Ms. Pritchett-Sellman, the hearing examiner, and to me, that she left students in the virtual waiting room after being informed by the students in her class that those students were waiting, and that she gave a participation grade to the students admitted into the online class and gave zeros to the students not admitted. The Appellant's action in not allowing students into an online classroom is akin to locking the door of a physical classroom while students knock on the door demanding to be let in. Locking the students out of her classroom was very simply a neglect of duty.

The Appellant's argument that the hearing examiner laughed at her, implying she did not receive a fair hearing, is belied by the record. The hearing examiner detailed in her Findings of Fact, Conclusions of Law and Recommendation that while there was a moment during the October 19, 2021 hearing (which was discontinued and restarted on a later date due to the Appellant's health) when she laughed, at no time did she laugh at the Appellant. Moreover, the Appellant's lengthy and detailed argument to me about being called the "top peacock" is not relevant to this case and in no way contradicts the finding that the Appellant willfully neglected her duties.

The Appellant's remaining actions make clear her neglect was willful, i.e. intentional or deliberate. While the Appellant refused to let several students into her classroom from the online waiting room, she spoke about L.W. and her mother to the students in the classroom, complained about not being allowed to play her gospel music, and gave a participation assignment for which the students in the class passed and the students kept out of class received zeros. The Appellant before the April 23, 2021 incident repeatedly retaliated against L.W. for the actions of her mother several months before, after having been specifically advised by Ms. Pritchett-Sellman to drop the issue. The Appellant after the April 23, 2021 incident communicated rudely with L.W. indicating an animus towards her consistent with the April 23, 2021 incident. 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 willfully neglected her duties.

As to the decision to terminate, the Local Board, and I, are provided with a history of discipline that sets the backdrop for this incident. It simply cannot be viewed in a vacuum. The Appellant argued that the February 8, 2021 letter to her from the Director of ELRO for PGCPs wiped her record clean of prior disciplines. That simply is not what that letter says. Several allegations of misconduct came to the attention of ELRO. After investigating the matter, the

ELRO determined that the allegations of misconduct had been previously addressed and the Appellant was previously disciplined at a school level, specifically with the reprimands and letters of counseling detailed in the Findings of Fact above. The ELRO informed the Appellant it could not re-issue corrective actions for those same allegations and that the letter from the ELRO was non-disciplinary in nature and would not be placed in her official personnel file. Nowhere does the ELRO suggest it was wiping the Appellant's disciplinary record clean, nor does it suggest it would have the authority to do so.

The Appellant comes before me as a teacher who during her very short tenure has been verbally counseled, professionally counseled, and reprimanded, and had a suspension recommended against her. The purpose of progressive discipline is to allow an employee, in this case a teacher, to learn from his or her mistakes and do better going forward. This has simply not worked with the Appellant. She did not learn from her mistakes. She continued to make gross errors in judgment, alienated parents, retaliated against students, and acted unprofessionally. The actual incident of neglect of duty was flagrant – locking students out of an online classroom, exacerbated by giving the students in the classroom an assignment while giving students locked out of the classroom a zero. Under these circumstances and given the Appellant's status as a chronically disciplined teacher, the Local Board's decision to terminate was reasonable and appropriate. Therefore, I conclude that the decision of the Local Board to terminate the Appellant should be sustained.

CONCLUSION OF LAW

Based on the foregoing Findings of Fact and Discussion, I conclude, as a matter of law, that the Board of Education of Prince George's County properly terminated the Appellant's employment as a teacher for willful neglect of duty. Md. Code Ann., Educ. § 6-202(a)(1)(v) (2022).

PROPOSED ORDER

I **PROPOSE** that the decision of the Board of Education of Prince George's County to terminate the Appellant for willful neglect of duty be **AFFIRMED**.

Deborah S. Richardson

December 27, 2022
Date Decision Mailed

Deborah S. Richardson
Administrative Law Judge

DSR/at
202355

NOTICE OF RIGHT TO FILE EXCEPTIONS

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

Copies Mailed To:

Leslie Floyd


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LESLIE FLOYD, * **BEFORE DEBORAH S. RICHARDSON,**
APPELLANT * **ADMINISTRATIVE LAW JUDGE,**
v. * **MARYLAND OFFICE OF**
BOARD OF EDUCATION * **ADMINISTRATIVE HEARINGS**
OF PRINCE GEORGE'S COUNTY * **OAH No.: MSDE-BE-01-22-09265**

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FILE EXHIBIT LIST

I admitted the entire Record generated below into evidence, which includes the following:

- DVD of Oral Argument before the Local Board, March 28, 2022
- Transcript of December 8, 2021 Evidentiary Hearing⁵
- Exhibits Admitted at December 8, 2021 Evidentiary Hearing including:
 - CEO Ex. 1 - Email from Arika Pritchett-Sellman to the Appellant, February 5, 2021
 - CEO Ex. 2 - Email chain beginning from L.W.⁶ to the Appellant and Ms. Pritchett-Sellman, April 7, 2021
 - CEO Ex. 3 - Package of emails beginning from A.M. to Christine Wenchel, April 23, 2021
 - CEO Ex. 4 - Screenshot from *Loudermill* hearing, undated
 - CEO Ex. 5 - Corrective Action Document, January 14, 2020; Corrective Action Document, January 22, 2020; Corrective Action Document, February 5, 2020; Corrective Action Document, February 13, 2020; Corrective Action Document, April 15, 2020

⁵ Mr. Henderson also transmitted to the OAH the transcript from the October 19, 2021 hearing. The hearing officer determined that it was not appropriate to conclude that day of hearing given concerns about the Appellant's health, specifically that she had recently suffered a concussion. Moreover, when the hearing reconvened on December 8, 2021, the hearing officer informed the parties she would not base her decision on any of the testimony or exhibits that had been admitted on October 19, 2021 and that the December 8, 2021 hearing would begin anew. Therefore, I too have not considered the October 19, 2021 transcript.

⁶ The Student's initials are used to preserve confidentiality.

- CEO Ex. 6 - Recommendation for Suspension, May 7, 2021
- CEO Ex. 7 - Prince George's County Public Schools Employee Code of Conduct School Year 2020-2021
- CEO Ex. 8 - Appellant's Training History, From July 1, 2019 to June 30, 2021
- CEO Ex. 9 - Recommendation for Termination, August 30, 2021
- CEO Ex. 10A - Administrative Procedure 4219, Inappropriate Interactions Among Students and Employees, Independent Contractors, and Volunteers, August 27, 2018
- CEO Ex. 10B - Board of Education Policy 4400, July 19, 2016
- CEO Ex. 10C - Administrative Procedure 5125, Individual Student School-Based Records, November 23, 2020
- CEO Ex. 10D - Administrative Procedure 3050, Confidential Data and Personally Identifiable Information, December 13, 2019
- App. Ex. 1 - Email from the Appellant to Ms. Pritchett-Sellman, February 9, 2021
- App. Ex. 2 - Email chain beginning from Michael Dinkins to the Appellant, April 29, 2021
- Transmittal from MSDE to OAH including:
 - Transmittal letter, April 20, 2022
 - Memorandum from Assistant Attorney General Jackie LaFiandra to Dr. Monica Goldson and Tammy Turner, Esq., April 20, 2022
 - Email chain beginning from MSDE to Michelle Phillips, Ms. LaFiandra, and Hannah Woods, April 14, 2022
 - Letter from Andrew Nussbaum, Esq. to the Appellant, April 8, 2022
 - Order of the Board of Education of Prince George's County, April 7, 2022
 - Email chain beginning from MSDE to Ms. LaFiandra, Ms. Phillips and Ms. Woods, April 14, 2022
 - Letter from the Appellant to the Local Board, March 28, 2022

- Letter from Jeffrey Carpenter, Director Employee and Labor Relations, to the Appellant, Personnel Decision – Investigative Findings, February 8, 2021
- Findings of Fact, Conclusions of Law and Recommendation of Hearing Officer, February 8, 2022
- Letter from the Appellant To Whom It May Concern, undated

At the hearing, the Appellant also submitted Appellant's Exhibits 1-5, which I did not admit into evidence but I have retained for the record.