

ASHLEY J [REDACTED]

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR21-07

ORDER

On April 14, 2021, the Appellant, an elementary school special education teacher, appealed the decision of the Montgomery County Board of Education (“local board”) denying her request for telework in lieu of in-person teaching as an accommodation under the Americans with Disabilities Act (“ADA”).

At the beginning of the 2020-2021 school year, Appellant worked remotely due to the extended school closures related to the COVID-19 pandemic. There came a time when Montgomery County Public Schools began to transition back to in-person instruction, and school employees were expected to come back into buildings. Eligible employees seeking reasonable accommodations due to a disability could make a request under the ADA to the Office of Employee Engagement and Labor Relations (“OEELR”). Appellant requested telework as an accommodation due to her personal medical status and the need to provide in-home care for her child who could not attend school due to his own medical needs.

Appellant’s principal initially informed her that she could telework two days each week, but the Appellant shared she would not be returning in person and appealed the decision. The OEELR attempted to engage in an interactive process with Appellant, but ultimately determined that the essential functions of the Appellant’s job must be performed in-person and denied the request.¹ The local board upheld the denial and this appeal followed.

This Board has routinely declined to extend jurisdiction to appeals involving claims under federal law, such as FERPA, COPPA, and IDEA, where a separate forum exists to address grievances. *See Ellen Z. and Assya P. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 20-19 (2020); *Richard C. v. Anne Arundel County Bd. of Educ.*, MSBE Op. No. 19-27 (2019); *Phil N. v. Anne Arundel County Bd. of Educ.*, MSBE Op. No. 18-42 (2018). Local government employees may file complaints of disability-based discrimination with the U.S. Equal Employment Opportunity Commission (“EEOC”). *See* 42 U.S.C. § 12117. Given there is a separate forum under the EEOC with enforcement authority over ADA claims, we decline to

¹ The parties disagree over whether the interactive accommodations process under the ADA was properly followed. It is not necessary for us to address this issue given our position on the jurisdiction of the Board to hear ADA accommodations appeals.

extend jurisdiction over appeals that solely involve disputes involving reasonable accommodation requests under the ADA.²

Accordingly, it is this 27th day of July, 2021 by the Maryland State Board of Education, ORDERED, that the appeal referenced above is hereby dismissed for lack of jurisdiction.

MARYLAND STATE BOARD OF EDUCATION

Signature on file.

Clarence C. Crawford
President

² This appeal is distinguishable from prior State Board opinions that reviewed ADA claims in the context of an employee termination case alleging disability-based discrimination. *See Long v. Calvert Count Bd. of Educ.*, MSBE Op. No. 18-20 (2018); *Herrera v. Baltimore City Bd. of Sch. Comm'rs*, MSBE Op. 16-10 (2016).