

HOWARD/CARROLL OFFICIALS  
ASSOCIATION

Appellant

v.

CARROLL COUNTY BOARD  
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 13-61

### OPINION

#### INTRODUCTION

The Howard/Carroll Officials Association (HCOA) appeals the award by the Carroll County Board of Education (local board) of a contract for officiating girl's lacrosse for the 2012-2013 school year. The local board filed a Motion for Summary Affirmance. HCOA responded to that Motion. The local board replied.

#### FACTUAL BACKGROUND

HCOA provided officiating services at Carroll County Public Schools (CCPS) and the Howard County Public School System (HCPSS) for girl's lacrosse and field hockey games for many years under contracts that were not competitively bid. In the recent past, CCPS and HCPSS experienced some problems with HCOA billing irregularities that required the expenditure of time and effort of the staffs of both school systems to resolve. At one point, HCOA retained an independent auditor to review its billing discrepancies. (J.O'Neal Letter, 12/20/12).

As a result of concern with the level of accountancy provided by HCOA, on May 24, 2012, the Supervisors of Athletics for both school systems issued a joint letter in which they sought bids for officiating services for field hockey and girls' lacrosse games during the 2012-2013 school year. (J.O'Neal Letter, 12/20/12).

On May 6, 2012, Ms. Click, HCOA's President, resigned and informed the HCOA Executive Board that she was forming a new officials' organization - - the Central Maryland Officials Association (CMOA). Thereafter, CMOA and HCOA competed for the award of a contract for officiating services. The local superintendent awarded the field hockey contract to CMOA, but delayed a decision on the lacrosse contract.

On November 2, 2012, Raymond J. Nowicki, Chief Purchasing Manager, advised the Appellant that the Superintendent awarded the 2012-13 contract for lacrosse officiating services to the CMOA. (Nowicki Letter to O'Neill, 11/2/12).

Appellant appealed to the local board. On December 20, 2012, Jonathon D. O'Neal, filed a memorandum on behalf of the Superintendent recommending that the decision denying the award be upheld.

By order dated January 23, 2013, the local board affirmed the Superintendent's decision to award the 2012-13 girls' lacrosse officiating contract to the Central Maryland Officials Association. In a subsequent written decision, issued February 27, 2013, the local board explained that the decision was within the sound discretion of the Superintendent.

This appeal was filed on March 27, 2013.

On April 23, 2013, this Board issued an opinion in a companion case filed earlier - - *Howard/Carroll Officials Association v. Howard County Board of Education*, MSBOE Op. No.13-23(attached) upholding the Howard County Board of Education's decision to award HCOA the 2012-13 contract for lacrosse and field hockey officiating services. That opinion addressed and decided two of the three issues presented in this appeal.

### STANDARD OF REVIEW

Because this appeal involves a decision of the local board involving a local policy, the local board's decision is considered *prima facie* correct, and the State Board may not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable or illegal. COMAR 13A.01.05.05A.

### ANALYSIS

#### *Preliminary Matters*

- Mootness

The local board has filed a Motion to Dismiss the appeal maintaining that it is moot. It is well established that a question is moot when "there is no longer an existing controversy between the parties, so that there is no longer any effective remedy which the courts [or agency] can provide." *In Re Michael B.*, 345 Md. 232, 234 (1997); *see also J.H. v. Baltimore County Bd. of Educ.*, MSBE Order No. OR07-03 (2007). Here, the local board argues that the appeal is moot because the appeal concerns the Superintendent's November 2, 2012 decision to award the 2013 girls' lacrosse officiating contract to the Central Maryland Officials Association (CMOA), and the 2013 lacrosse season has ended and the contract fully performed. That contract, however, was a one year contract with the option to renew for up to four years. Thus, the contract award can potentially effect lacrosse officiating decisions in 2014, 2015 and 2016. Thus, the appeal is not moot because there is still an existing controversy between the parties and an effective remedy is available.

- Issues Decided Previously: Collateral Estoppel

Invoking the principles of collateral estoppel, we dismiss those parts of the HCOA's appeal that present issues we have already decided. The doctrine of collateral estoppel applies when:

- (1) The identical issue was decided in a prior action.
- (2) There was a final decision on the merits of the case.
- (3) The party against whom collateral estoppel is asserted was a party to the prior appeal.
- (4) The party had a fair opportunity to be heard on the issue.

*Department of Human Resources v. Johnette Cosby*, 200 Md. App. 54, 69 (2011).

All four of those requirements are satisfied here. The following issues are thus dismissed: (1) The local board's decision was "contrary to sound educational policy [because] it accepted the award of a contract to a lesser qualified vendor with less experience than the only other vendor...." (2) That reliance on "unsupportable, inaccurate information" was an abuse of discretion leading to an arbitrary decision. *See Howard/Carroll Officials Association v. Howard County Board of Education*, MSBOE Op. No. 13-23 at 2-3.

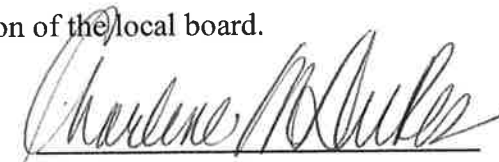
#### *Merits*


The third issue presented here is that the local board's decision was arbitrary and unreasonable because HCOA was not informed that the 2013 girl's lacrosse contract would be awarded through an informal non-competitive process. Maryland law does not require a competitive bid process for the selection of athletic officials. *See Md. Code Ann. Educ. §5-112*. (competitive bid process applies only to purchase of buildings, improvements, supplies or equipment over \$25,000).

Thus, there is no legal basis to support the HCOA's assertion.

#### CONCLUSION

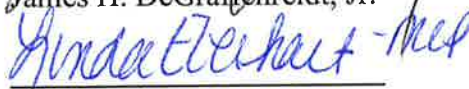
For all these reasons, we affirm the decision of the local board.

  
Charlene M. Dukes  
President

  
Mary Kay Finan  
Vice President



James H. DeGraffenreid, Jr.

-MCP

Linda Eberhart

-MCP

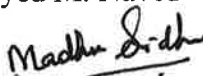
S. James Gates, Jr.

-MCP

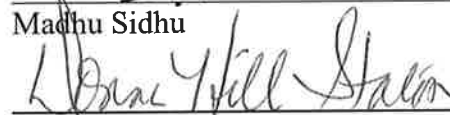
Luisa Montero-Diaz



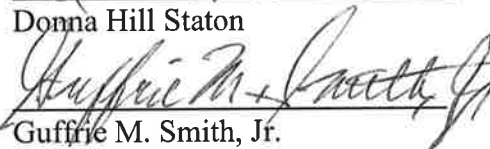
Sayed M. Naved



Madhu Sidhu



Donna Hill Staton



Guffie M. Smith, Jr.

December 16, 2013