

MARLEAR POWELL,

Appellant

v.

BALTIMORE CITY BOARD  
OF SCHOOL COMMISSIONERS,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 13-55

## OPINION

### INTRODUCTION

Marlear Powell appeals the decision of the Baltimore City Board of School Commissioners (local board) terminating her from her paraprofessional position. The local board filed a Response to the appeal. Ms. Powell thereafter filed a response to which the local board filed a Reply.

### FACTUAL BACKGROUND

In school year 2011-2012, Ms. Powell was absent 17 days and late 45 days. After receiving verbal counseling on five occasions and written warnings and letters of caution on four occasions that her absences were far in excess of the absences considered acceptable under the Attendance Reliability Program, (Local Board's Reply to Appellant's Response, Ex. C), the principal recommended that she be terminated. The local board conducted an evidentiary hearing. The Hearing Officer recommended that Ms. Powell be terminated. The local board accepted that recommendation. This appeal ensued.

### STANDARD OF REVIEW

Because this appeal involves a decision of a local board concerning 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

Ms. Powell does not dispute that she was absent 17 days and late 45 days. In her appeal, she contends that she should not have been terminated but rather given a hierarchy of consequences including referral to the Employee Assistance Program (EAP). She explained that her absences were related to depression.

The facts show that Ms. Powell was given a hierarchy of consequences, including numerous verbal and written warnings, but she was not referred to the EAP. As the local board points out, however, there was no testimony at the hearing that Ms. Powell informed the school that her absences were caused by depression or other personal problems at home. We have

reviewed the EAP website for Baltimore City Public Schools. No referral from school personnel is necessary. An employee can call the EAP for help at any time. Ms. Powell apparently did not do so.

Although the record reflects that Ms. Powell was a good employee when she was in the classroom, it is our view that her attendance in school year 2011-2012 provided a sufficient reason to terminate her. Absent proof that the local board's decision was arbitrary or unreasonable, we will not substitute our judgment for that of the local board.

CONCLUSION

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

*Charlene M. Dukes - MRP*

Charlene M. Dukes  
President

*Mary Kay Finan*

Mary Kay Finan  
Vice President

*James H. DeGraffenreidt, Jr.*

James H. DeGraffenreidt, Jr.

*Linda Eberhart*

Linda Eberhart

*absent*

S. James Gates, Jr.

*Luisa Montero Diaz*

Luisa Montero Diaz

*Sayed M. Naved - MRP*

Sayed M. Naved

*Madhu Sidhu*

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*Donna Hill Staton*

Donna Hill Staton

*Guffrie M. Smith, Jr. - MRP*

Guffrie M. Smith, Jr.

October 30, 2013