

GLEND A VANN,

Appellant

v.

BALTIMORE CITY BOARD  
OF SCHOOL COMMISSIONERS,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 10-10

### OPINION

#### INTRODUCTION

In this case, the Appellant challenges the non-renewal of her contract with the Baltimore City Public School System and claims that the Baltimore City Board of School Commissioners (local board) violated her due process rights by failing to consider her appeal. The local board has filed a Motion to Dismiss maintaining that there is no decision of the local board to review. Appellant has filed an opposition to the Motion and the local board has filed a surreply.

#### FACTUAL BACKGROUND

Appellant was a middle school mathematics teacher employed by the local board under a Provisional Contract pursuant to COMAR 13A.07.02.01C. She began her employment at the start of the 1998-1999 school year. (Motion, Exh. 1).<sup>1</sup> By its terms, the Provisional Contract is a one year contract that expires on June 30<sup>th</sup> at the end of each school year. BCPSS renewed the Appellant's contract each year through the 2007-2008 school year. (Motion, Exh. 3).

The school system did not renew Appellant's contract for the 2008-2009 school year because the Appellant's Provisional Certification had expired. Prior to the expiration of Appellant's contract, by letter dated January 17, 2008, JoAnne Koehler, Chief Human Resources Officer for BCPSS, notified the Appellant that her teaching certificate had expired and that she needed to provide evidence of certification for her contract to be renewed at the end of the 2007-2008 school year. (Motion, Exh. 2.). Appellant did not provide evidence of a valid teaching certificate prior to June 30, 2008. (*Id.*).

According to MSDE's records, the Appellant held two Provisional Certificates with certification in mathematics. The first provisional Certificate expired June 30, 1999. The second

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<sup>1</sup>Appellant was formerly known as Glenda Porcher. Many of the exhibits pertaining to her employment reference this name rather than her current name, Glenda Vann. (Motion, Exh. 4).

Provisional Certificate expired June 30, 2003. (Grasmick Letter to Vann, 9/23/09).

Appellant wrote to Ms. Koehler, Dr. Andres A. Alonso, Chief Executive Officer, and Brian Morris, former local board Chair, on May 13, 2008, requesting assistance with retaining her teaching position with BCPSS in light of the non-renewal notice. (Attachment to 7/25/09 Letter of Appeal and 8/15/09 Letter to State Board).

Ms. Koehler and Dr. Alonso responded to the Appellant's letters on June 6 and June 17, 2008, respectively. They both explained that the school system could not renew her contract because her Provisional Certificate had expired. They recommended that she pursue her efforts to obtain State certification. (App's. 9/9/09 Reply to Motion, Exhs. G & H).

On June 21, 2008 Appellant again wrote to Brian Morris acknowledging that her teaching certificate had expired and stating her belief that the decision not to continue her employment was unfair. (Attachment to Appeal). She received no response.

On June 27, 2008, the Appellant again wrote to Dr. Alonso, asking that he clarify her employment status in light of the fact that she had accepted a math teacher position at the Maryland Academy of Technology & Health Sciences (MATHS), a BCPSS charter school, on May 19, 2008 and address the Maryland HOUSSE evaluation to obtain "highly qualified" status. (App's. 9/9/09 Reply to Motion, Ex. I). She also e-mailed Dr. Alonso and Ms, Koehler about the Maryland HOUSSE evaluation on July 4, 2009. (Attachment to 8/15/09 Letter to State Board).

On July 27, 2008, Dr. Alonso advised the Appellant that she was not being offered a teaching position because she did not possess the necessary teaching certification. He stated as follows:

A review of your records has concluded that although you were issued a provisional teaching certificate, you did not have the Standard Teaching Certificate or the Advanced Professional Certificate issued by MSDE, which is a basic requirement for achieving the status of "highly qualified." The Maryland HOUSSE is a mechanism by which already professionally certified teachers reach the status of "highly qualified." City Schools has also learned that you currently do not hold a Standard Teaching Certificate or Advanced Professional Certificate. If you know this information to be inaccurate, I encourage you to communicate with MSDE to correct its records.

(App's. 9/9/09 Reply to Motion, Ex. N).

On August 2, 2009, the Appellant wrote to the local board expressing her "hurt, anger, and frustration" regarding her "termination." She maintained that she was denied due process based on her belief that she was a tenured teacher with BCPSS. She also requested reinstatement with the

school system. (App's. 9/9/09 Reply to Motion, Ex. M). The Appellant did not receive a response to her letter. She also wrote another letter to Dr. Alonso in response to his July 27 correspondence challenging his assessment of her qualifications and requesting reinstatement. (Attachment to 8/15/09 Letter to LaFiandra).

### STANDARD OF REVIEW

COMAR 13A.07.02.01C sets forth the terms of the Provisional Contract and provides in pertinent part:

The term of this contract shall extend from the date of its signing until the thirtieth day of June next succeeding said date of signing, and this contract shall automatically terminate and expire on the thirtieth day of June next succeeding the date of its signing.

Because this contract exists for only one year, the only basis for reversal of the local board's decision not to enter into a new contract is if the decision were made for illegal or constitutionally discriminatory reasons. *See Bd. of Regents v. Roth*, 408 U.S. 564, 578-79 (1972)(finding absent a constitutional violation, there is no other process due a non-tenured teacher).

### ANALYSIS

The local board has filed a Motion to Dismiss maintaining that there can be no appeal to the State Board because there is no decision of the superintendent or the local board to review regarding the non-renewal of the Appellant's Provisional Contract.

While there is no local board decision to review, we believe that there was a decision of the superintendent that was appealable to the local board. Appellant's May 13, 2008 letter to Dr. Alonso requested that he assist Appellant with retaining her teaching position in response to the non-renewal notice she received from Human Resources. In that letter, Appellant maintained that the non-renewal decision was unfair. Dr. Alonso responded on June 17 stating that BCPSS could no longer continue to employ Appellant due to the fact that her certification had expired. In essence, he upheld the decision not to renew her contract.


We believe that the Appellant attempted to appeal this decision several days later when she wrote to Brian Morris, the then Chair of the Baltimore City Board of School Commissioners. In that letter she maintained that the non-renewal decision was unfair. The gist of the letter was that she disagreed with the non-renewal and wanted something done about the decision. Based on our review, we believe that this letter noted a timely appeal to the local board. Appellant, however, received no response from the local board.

While we would normally remand a case such as this to the local board for a decision, to do so here would belabor the inevitable. Appellant had a Provisional Contract with BCPSS that was


a one year contract expiring on June 30 by its own terms. In addition, by its own terms, the contract expired if the employee ceased to hold a teacher's a Provisional Certificate. COMAR 13A.07.02.01C. Such was the case here as the Appellant's Provisional Certificate had already expired. Thus, the Appellant could have no continued expectation of continued employment beyond the contract term. Although the Appellant accepted a position as a math teacher at a charter school, Appellant did so knowing that the school system had already notified her that she no longer held a valid Provisional Certificate and that her contract was set to expire on June 30 and would not be renewed.

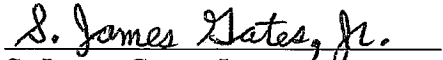
CONCLUSION

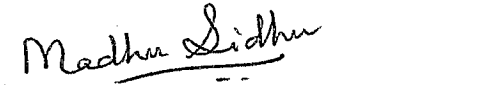
Accordingly, we affirm the superintendent's decision upholding the non-renewal of the Appellant's Provisional Contract.

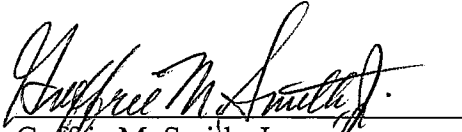
  
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President


  
Charlene M. Dukes  
Vice President

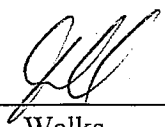
  
Mary Kay Finan

  
S. James Gates, Jr.

  
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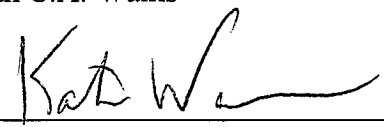
  
Guffie M. Smith, Jr.

  
Donna Hill Staton



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Ivan C.A. Walks



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Kate Walsh

February 23, 2010