

LYNDON WATKINS

Appellant

v.

MONTGOMERY COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 12-51

OPINION

INTRODUCTION

Lyndon Watkins appeals his termination as the Head Coach of the Springbrook High School Boys Varsity Baseball team. The Montgomery County Board of Education (“local board”) has filed a Motion to Dismiss maintaining that Appellant has failed to exhaust his administrative remedies. Appellant has filed a Memorandum in Opposition to the local board’s request for dismissal and the local board filed a Reply.

FACTUAL BACKGROUND

Appellant was hired as an emergency coach for the Springbrook High School Boys Varsity Baseball team in July 2010. Appellant is an at-will employee, he has no employment contract and there was no evidence in the record to show that he is a certificated teacher or a Credentialed Coach. Appellant was not a County employee,¹ he was an employee of the local school board, which is a separate, independently created government entity. *See* Md. Code Ann., Educ. Art. §3-104. On March 7, 2012 Appellant was dismissed from his position by the school’s Athletic Director, Mr. Ronald Lane (“AD”). On March 9, 2012, Appellant wrote a two-page single-spaced letter to Dr. William Beattie, Director of Systemwide Athletics. (See letter attached to appeal). In that letter, Appellant recited the reasons he was given for his termination and then gave his rebuttal or explanation regarding each reason.

On that same day, in a separate letter to the school principal, Appellant contended that his dismissal is invalid because: (1) the AD did not provide him with written notice of his termination, and (2) that his coaching contract was automatically renewed for the school year for which he was terminated because the AD terminated him after his anniversary date, contrary to the termination provisions of a Credentialed Coach’s contract.

¹ Appellant cited “the Disciplinary Procedures endorsed by the Montgomery County Personnel Office” (Opposition at 2) and he attached these provisions to the Opposition at Exhibit C. His argument regarding written notice requirements and the citation are irrelevant because Appellant is not a County employee

Sometime between March 9, 2012 and March 12, 2012, Appellant agreed to meet with Samuel Rivera, the Principal and Maychel Harris, the Assistant Principal of Springbrook High School to discuss Appellant's termination. No meeting took place, however, because Appellant's attorney, H. Vincent McKnight, Jr., advised the principal in a letter dated March 12, 2012 that Appellant would not meet with them unless he was given written notice of his discharge and the reasons for his dismissal. On March 13, 2012, Appellant submitted an appeal to the State Board.

LEGAL ANALYSIS

The local board has moved to dismiss this appeal because Appellant did not use the local appeal process. Appellant did not seek or obtain a decision from the local superintendent or the local board prior to filing his appeal before the State Board.

The procedures of the State Board require that a matter must first be decided by the local superintendent and the local board of education before it is submitted to the State Board on appeal. *See* Md. Code Ann., Educ. Art. § 4-205(c). Accordingly, the State Board has consistently held that an appellant must pursue and exhaust statutorily prescribed administrative remedies in the appropriate manner. *See Linda Kemp v. Montgomery County Bd. of Educ.*, MSBE Op. No. 01-14 (2001); *Stewart v. Bd. of Educ. of Prince George's County*, 7 Op. MSBE 1358 (1998); *Jackson-Nesmith v. Bd. of Educ. of Charles County*, 7 Op. MSBE 1320 (1998); *Peacock v. Baltimore County Bd. of Educ.*, 7 Op. MSBE 1287 (1998); *Hopkins v. Bd. of Educ. of Montgomery County*, 4 Op. MSBE 370 (1986).

Appellant contends, in his Opposition to the local board's request for dismissal, that he "has attempted to engage Respondent in the administrative process, but Respondent has failed to respond to any of [his] reasonable inquiries into the situation." *See* Opposition, p.5. Appellant also argues that he "sent inquiries to every party along the county chain of command, and none of these parties has responded with a written record of any kind." *Id.* The "pattern of inadequacy has effectively eliminated [Appellant's] ability to exhaust his administrative remedies in the first place" because, he alleges, Respondent is unwilling to participate in the administrative process. *Id.* Despite these claims to the contrary, we believe that the local school system was willing to participate, and tried to provide Appellant the opportunity to address his concerns.

Appellant is an at-will employee, he has no employment contract and there is no evidence in the record to show that he is a certificated teacher or a Credentialed Coach. Therefore, the administrative complaint process applicable to his position is found in the Montgomery County Public Schools' regulation GKA-RA. (Motion, Ex. B) According to the regulation, the process begins with the principal. Appellant wrote to the principal on March 9, 2012 and asked to be reinstated. He also asked for a response from the principal by the close of business on March 14, 2012. (Opposition to Motion, Ex. F). In accordance with the regulations, the principal had ten (10) work days to respond, and, if no response was received within that time period, the employee could then appeal to the principal's supervisor. Assuming the March 9, 2012 letter

was received by the principal on the same day it was sent, the principal had until at least March 23 to reply to the complaint. Between March 9th and 12th, the parties agreed to meet to discuss Appellant's termination. However no meeting took place.

In a March 12, 2012 letter from Appellant's attorney to the principal, the attorney stated, "it is inappropriate for you to schedule an informal meeting with [Appellant] *after* his discharge to discuss his discharge when you still have not provided him with any written notice of his discharge and/or the reasons for his dismissal." (See March 12, 2012 Letter attached to appeal). However, regulation GKA-RA calls for just that, an *Informal Process*. Section IV. B. of the regulation states that an employee with a complaint will discuss it with the principal, or immediate supervisor, to seek an informal resolution and that the employee may be represented or accompanied by any individual of his/her choice. If the employee's complaint is not then resolved, there are three more levels that the employee must exercise and exhaust to resolve his/her complaint before appealing to the local superintendent and then to the local board.

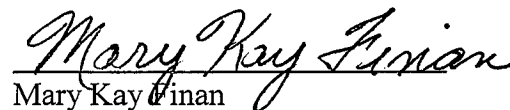
Appellant did not pursue any of these avenues. He cancelled the informal meeting with the principal. Then, before the expiration of the time for the principal's reply to his March 9, 2012 complaint, which under the regulations was March 23, 2012, and even before the expiration of the time set by Appellant for the principal's response (March 14, 2012), Appellant filed an appeal with the State Board. Thus, we agree with the local board that the Appellant did not exhaust his administrative remedies. Appellant must first avail himself of the opportunity to resolve his complaint at the local level, through the principal, the local superintendent, and then the local board prior to appealing the matter to the State Board. Because Appellant bypassed all those stages, there is no local board decision for the State Board to review.

CONCLUSION

Accordingly, we dismiss the appeal because there is no local board decision for the State Board to review. See COMAR 13A.01.05.03(C)(1)(a).



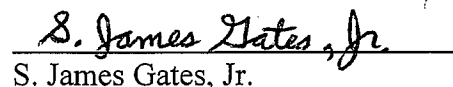
Charlene M. Dukes
President



Mary Kay Finan
Vice President



James H. DeGraffenreidt, Jr.



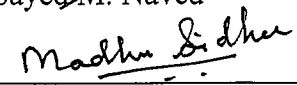
S. James Gates, Jr.

Absent

Luisa Montero-Diaz




Sayed M. Naved



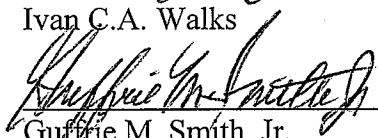
Madhu Sidhu



Donna Hill Staton



Ivan C.A. Walks



Guffie M. Smith, Jr.

Absent

Kate Walsh

October 31, 2012