

HOWARD/CARROLL OFFICIALS
ASSOCIATION,
Appellant

v.

HOWARD COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION

Opinion No. 13-23

OPINION

INTRODUCTION

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

FACTUAL BACKGROUND

HCOA provided officiating services at the Howard County Public School System (HCPSS) for girl's lacrosse games since 1988 and for field hockey games since 1978. In the recent past, the school system experienced some problems with HCOA billings. In 2011-2012, HCOA conducted an internal audit which revealed issues concerning "the distribution of some internal HCOA funds." (Appeal at 3).

At the time of the audit, the President of HCOA was Lisa Click. In April, 2012, she met independently with HCPSS staff to tell them about the internal audit and an upcoming State Police investigation of HCOA. Apparently, the HCOA Executive Board did not want to disclose those issues to HCPSS.¹ (HCOA Response, Ex. D).

On May 6, 2012, Ms. Click 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. On July 12, 2012, after a fast-track procurement process, the local board awarded the contract to CMOA based on the scores each received during the evaluation process. CMOA received 90 points; HCOA received 89 points.

HOCA, for various reasons, missed the time period for filing a bid protest. This appeal ensued.

¹ The State Police investigation was closed with no criminal findings.

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

This case contains competing affidavits, mutual finger-pointing and assertions of inaccurate statements from both parties. At its heart, however, is the assertion that the local board's decision was arbitrary or unreasonable for two main reasons.

First, HCOA asserts that 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" (HCOA Response at 2). It is, of course, true that CMOA has less experience than HCOA, but that does not necessarily lead to the conclusion that CMOA was less qualified. Past issues with HCOA billing problems cast enough of a shadow on the HCOA qualifications to allow CMOA to out-score HCOA by one point in the evaluation.

Second, HCOA asserts that the information about billing problems was inaccurate. (Response at 3). HCOA claims that reliance on "unsupportable, inaccurate information" was an abuse of discretion leading to an arbitrary decision. There is no dispute, however, that there were billing problems. HCOA itself admits that, but it lays the sole blame for those billing problems on its former President, Lisa Click - - now President of CMOA. Yet, as the local board points out, the Executive Board overseeing an organization has the ultimate responsibility for action taken in the organization's name. (Reply at 2). And, as the appeal sets forth, the Executive Board did not find Ms. Click responsible for the billing problems at the time they occurred. The appeal states:

From 2002 until 2012, the President of HCOA was Ms. Click. The Treasurer/Assigner was Oralee Smith. Concerns regarding billing issues had been addressed by HCPSS and CCPSS to Ms. Click and Ms. Smith. The rest of the HCOA Executive Board was not made aware of these concerns until 2010, at which time the following initiatives were undertaken starting in school year 2010/2011:

- During the school year 2010/2011, all invoices were to go to the President (Lisa Click) to be checked over prior to them being submitted to the counties. At the end of the school year, Lisa reported that the counties still had problems with errors on invoices.
- In May 2011, the position of Assigner/Treasurer was divided into two separate positions.

- Linda Hodiak was elected Treasurer. (In the 2011/2012 school year HCOA did not have any complaints from either HCPSS or CCPSS regarding billing from HCOA.)
- In January 2012, the former Assigner was suspended from her Assigner position and is no longer a member of the HCOA. The Assigner position was temporarily filled by two co-Assigners for the 2012 lacrosse season.

(Appeal at 4).

It is the Appellant's burden to show that the local board's decision is arbitrary, unreasonable, or illegal. After considering all the arguments HCOA raises, we conclude that it did not meet that burden.

CONCLUSION

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

Absent

Charlene M. Dukes
President

Mary Kay Finan

Mary Kay Finan
Vice President

James H. DeGraffenreidt, Jr.

James H. DeGraffenreidt, Jr.

S. James Gates, Jr.

S. James Gates, Jr.

Luisa Montero-Diaz

Luisa Montero-Diaz

Sayed M. Naved

Sayed M. Naved

Madhu Sidhu

Madhu Sidhu

Donna Hill Staton

Donna Hill Staton

Guffie M. Smith, Jr.

Guffie M. Smith, Jr.

Linda Eberhart

Linda Eberhart

April 23, 2013