

GENEVA FERGUSON,

Appellant

v.

BALTIMORE CITY BOARD OF
SCHOOL COMMISSIONERS,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 13-26

OPINION

INTRODUCTION

The Appellant, a special education teacher, challenges the decision of the Baltimore City Board of School Commissioners (local board) terminating her for willful neglect of duty and misconduct in office. The termination related to the Appellant's alleged failure to provide special education services to a student as required in the student's individualized education plan (IEP) and Appellant's submission of a fraudulent document regarding special education services she allegedly provided.

We referred this case to the Office of Administrative Hearings (OAH) as required by COMAR 13A.01.05.07A(2). On March 5, 2012, the Administrative Law Judge (ALJ) issued a proposed decision concluding that the Appellant willfully neglected her duties and committed misconduct in office, and recommending that the State Board uphold the local board's termination decision.

The Appellant did not file any exceptions to the ALJ's proposed decision.

FACTUAL BACKGROUND

The factual background in this case is set forth in the ALJ's proposed decision, Findings of Fact, pp. 4 — 7.

STANDARD OF REVIEW

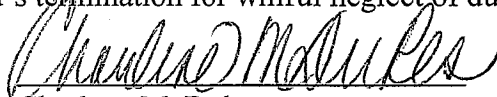
Because this appeal involves the termination of a certificated employee pursuant to §6-202 of the Education Article, the State Board exercises its independent judgment on the record before it in determining whether to sustain the termination. COMAR 13A.01.05.05F(1) and F(3).

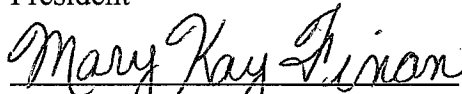
The State Board referred this case to OAH for proposed findings of fact and conclusions of law by an ALJ. In such cases, the State Board may affirm, reverse, modify or remand the ALJ's proposed decision. The State Board's final decision, however, must identify and state

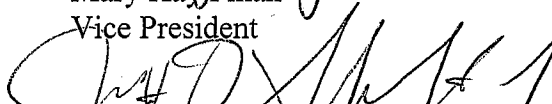
reasons for any changes, modifications or amendments to the proposed decision. See Md. Code Ann., State Gov't §10-216. In reviewing the ALJ's proposed decision, the State Board must give deference to the ALJ's demeanor based credibility findings unless there are strong reasons present that support rejecting such assessments. See *Dept. of Health & Mental Hygiene v. Anderson*, 100 Md. App. 283, 302-303 (1994).

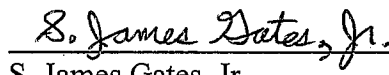
CONCLUSION

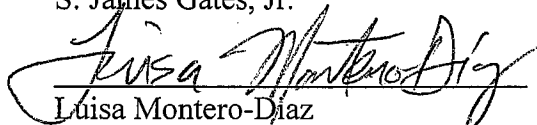
The Appellant offers no exceptions to the ALJ's decision. We concur with the ALJ that the local board's decision to terminate the Appellant should be upheld. We, therefore, adopt the ALJ's proposed decision and affirm the local board's termination for willful neglect of duty and misconduct in office.

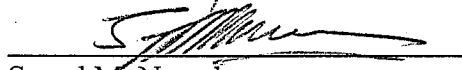

Charlene M. Dukes
President



Mary Kay Finan
Vice President

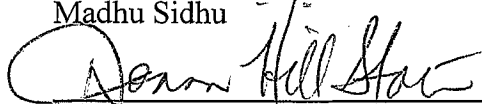

James H. DeGraffenreidt, Jr.

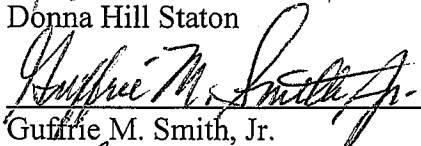

S. James Gates, Jr.

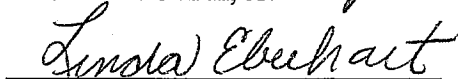

Luisa Montero-Diaz


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May 21, 2013