

LINDA HUNT

Appellant

v.

HOWARD COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 12-47

OPINION

INTRODUCTION

Linda Hunt, a school bus driver, appeals the local board's decision affirming her decertification as a bus driver and her removal from the list of approved bus drivers due to unsatisfactory job performance. The local board has submitted a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable, or illegal and that Appellant's termination should be upheld based on her performance deficiencies and refusal to follow its employment requirements. Appellant has submitted an opposition to the local board's motion.

FACTUAL BACKGROUND

Appellant was employed by Scott Whitehead, a local contactor, as a school bus driver for the Howard County Public Schools (HCPS). Prior to being employed by Mr. Whitehead, Appellant was employed by Bowen's Bus Service, Inc. as a bus driver. Appellant's work history includes the following incidents:

On March 23, 2007, David Ramsay, Supervisor of Pupil Transportation, received an e-mail from a teacher at Lime Kiln Elementary School complaining that Appellant told a student to "shut up" and also took a "vote" of students on the bus as to how many teachers had told them to shut up.

On April 12, 2007, Mr. David Bruzga, Administrative Director, received another complaint about Appellant's unprofessional behavior while driving the bus, specifically, the Appellant was playing inappropriate music and talking on the cell phone while driving.

He received a second complaint about Appellant on April 12, 2007, citing three pages of perceived inappropriate behavior. On April 16, 2007, David Drown, then Director of Transportation for the HCPS, counseled and warned the Appellant about her conduct on the job.

On October 11, 2007, Mr. Ramsay received a complaint about a verbal confrontation between Appellant and another school employee. Mr. Ramsay and Appellant discussed the complaint.

On November 5, 2007, Mr. Ramsay received another complaint about Appellant's use of inappropriate language in front of students. On November 12, 2007, a meeting was held with Mr. Ramsay, David Drown, Director of Pupil Transportation, Appellant and Appellant's employer, Scott Whitehead to discuss Appellant's employment problems. During that meeting, Appellant admitted she sometimes used inappropriate language. After the meeting, Appellant was suspended as a school bus driver for a thirty day period. On March 13, 2008, Appellant was reinstated as an approved school bus driver.

On November 23, 2009, Mr. Ramsay received a complaint about Appellant's smoking on the school bus prior to the children riding the bus. The complaint described the odor as "hitting like a wave when the door opens." Mr. Ramsay counseled Appellant about her smoking on the school bus.

On February 16, 2010, Mr. Ramsay received a complaint that Appellant had a verbal altercation at a gas station and used inappropriate language. On February 17, 2010, Appellant met with Mr. Ramsay and Mr. Whitehead. Mr. Ramsay gave Appellant a verbal warning about her actions.

On August 18, 2011, during an in-service training session, Mr. Ramsay commented to Appellant that she could take off her sunglasses since she was inside a building. Appellant responded that she was "hung-over" from the previous evening.

On or about October 24, 2011, Appellant had a conversation with S.M., who is also employed as a bus driver for the HCPS. Appellant asked S.M. about the behavior of one student in particular. Appellant then made several derogatory comments about the student in question. Appellant called the student a "son of a b____, a bastard, retarded" and stated that "I hated him and needed to get him off my bus."¹

S.M. then reported those comments to Kerry McGowan, Principal of Hammond Middle School. Ms. McGowan forwarded the complaint along with the comment that "Linda's comments are outrageous" to Mr. Ramsay. On or about October 28, 2011, Mr. Ramsay held a meeting with the Appellant, Mr. Whitehead and Bryan Johnson, Area Manager, to discuss Appellant's comments.

On November 3, 2011, Mr. Ramsay notified Appellant that she was being decertified as a HCPS bus driver. Mr. Ramsay advised Appellant as follows:

It is my belief that you have been given numerous opportunities
to improve your performance as a school bus driver for our school

¹ Appellant denied making those statements.

system. Despite counseling and progressive discipline, you continue to fail at taking responsibility for your actions, making improvements and grasping the importance of your job.

Appellant then appealed her decertification and removal from the approved bus driver list to the local Superintendent. On January 30, 2012, the Superintendent's designee, Raymond Brown, revised Mr. Ramsay's decision:

I will suspend your approved status as a school bus driver with Howard County Public Schools until February 17, 2012. Beginning February 20, 2011 you will be eligible to be reinstated as a school bus driver with Howard County Public Schools. If you would like your status as a school bus driver reinstated, please meet with Mr. Ramsay on or near February 20, 2012. The routes you will be assigned will be restricted. Mr. Ramsay will provide information regarding assignment when and if you meet with him.

You will serve a one year probationary period ending February 18, 2013. During this one year probationary period your performance will be monitored. Any documented performance concerns or incidents that merit disciplinary action will result in the immediate termination of your approved status as a school bus driver for the Howard County Public School System.

On February 7, 2012, Appellant appealed Mr. Brown's decision to the local board. Mr. Brown sent a letter to Appellant advising her she was required to schedule an appointment with Mr. Ramsay in order to be reinstated. Appellant failed to schedule the appointment. (Superintendent's Ex. 4A). Mr. Brown sent Appellant a letter advising her that since she did not schedule an appointment with Mr. Ramsay she would not be eligible to be reinstated as an approved bus driver. (Superintendent's Ex. 4B).

In a letter to the local board, Appellant explained the events that led to her decertification by the local board. (Appeal - Appellant's Documents). She denied making the derogatory statements about the student attributed to her during the October 2011 incident. Appellant also described the reasons she felt she was a good employee. Appellant stated she filed her appeal because she felt Mr. Ramsay was going to "retaliate" against her. Appellant also explained why she did not meet with Mr. Ramsay as required.

In a unanimous decision, the local board upheld the Superintendent's decision to decertify and remove Appellant from the approved bus driver list.² The local board found that the Appellant failed to meet her burden that the decision of the designee was arbitrary, capricious or illegal.

² Two members of the local board were absent.

STANDARD OF REVIEW

This case concerns a local board decision involving a dispute regarding the rules and regulations of the local board. The decision is considered *prima facie* correct unless the Appellant shows that it is arbitrary, unreasonable or illegal. COMAR 13A.01.05.05(A).

ANALYSIS

The Appellant challenges the decision of the local board on multiple grounds.

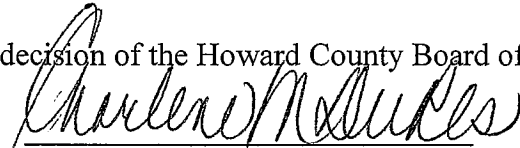
Appellant claims in her appeal to the State Board that she was not required to attend a meeting with Mr. Ramsay because she had appealed the decision of the Superintendent's designee. Appellant cites no authority for that proposition.

Appellant also claims that her decertification was retaliation by Mr. Ramsay because he did not like her. Appellant produced no evidence that Mr. Ramsay was "retaliating" against her. Mere allegations cannot sustain a retaliation action.

Appellant claims that her decertification was improper and disputes the findings of the local board. Specifically, Appellant denies she made derogatory comments about a student. The local board determined not only that Appellant made inappropriate comments about a middle school student with disabilities but also that she had a history of problematic behavior. (Local Bd. Decision, p.4). The record supports that the Appellant's conduct was not appropriate. (Superintendent's Documents, Ex. 5(18)(19). Appellant's disagreement with the local board's findings does not make them arbitrary, unreasonable or illegal.

CONCLUSION

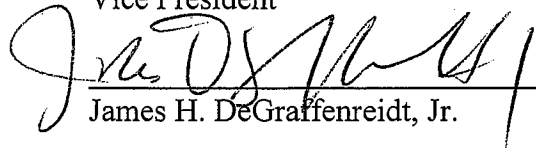
For all of the above reasons, we affirm the decision of the Howard County Board of Education.



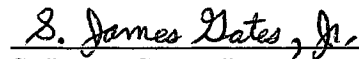
Charlene M. Dukes
President



Mary Kay Finan
Vice President




James H. DeGraffenreidt, Jr.



S. James Gates, Jr.

Absent

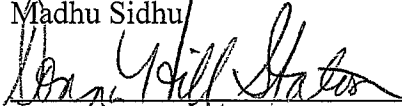
Luisa Montero-Diaz



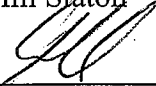
Sayed M. Naved

Madhu Sidhu

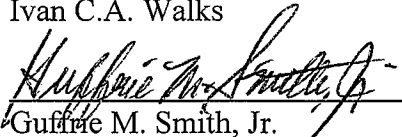
Madhu Sidhu



Donna Hill Staton



Ivan C.A. Walks



Guffie M. Smith, Jr.

absent

Kate Walsh

October 31, 2012