

JOSHUA MUNSEY,

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 25-32

OPINION

INTRODUCTION

The Appellant, who was employed by Montgomery County Public Schools (“MCPS”) as an assistant principal, appeals the June 11, 2024, decision of the Montgomery County Board of Education (“local board”) to terminate him for misconduct in office.

We transferred the case pursuant to COMAR 13A.01.05.07A(1)(b) to the Office of Administrative Hearings (“OAH”) for review by an Administrative Law Judge (“ALJ”). The ALJ conducted a hearing on December 3, 2024. On February 28, 2025, the ALJ issued a Proposed Decision recommending that the State Board affirm the local board’s decision terminating Appellant for misconduct in office.

The Appellant filed exceptions to the ALJ’s Proposed Decision. The State Board heard oral argument on the exceptions on July 29, 2025.

FACTUAL BACKGROUND

The full factual background in this case is contained in the ALJ’s Proposed Decision at pp. 3-6. We summarize some of the essential facts below.

On June 27, 2022, the Appellant and MCPS entered into a last chance agreement (“LCA”) relating to the Appellant’s use of alcohol. (R. 29). The LCA was implemented as a condition of the Appellant’s return to work following the Appellant’s leave after the Appellant engaged in a pattern of erratic behavior demonstrating unsound decision making during his first year as school principal at Wheaton High School (“Wheaton”). The LCA required the Appellant to abstain from consuming alcohol on the job, or off the job in a manner where it is detectable at an illegal level during the hours of work, or in a manner that interferes with Appellant’s ability to perform his duties. (R. 29). In addition, the LCA required the Appellant to participate in the MCPS Employee Assistance Program (“EAP”); complete any treatment program recommended by EAP; sign appropriate medical release authorization to an EAP specialist; and be subject to both random and on demand drug and alcohol testing as required by the Department of Compliance and Investigations (“DCI”). The LCA also required the Appellant to maintain a satisfactory job performance and an acceptable standard of attendance. *Id.*

During the 2022-2023 school year, the Appellant continued to struggle to perform his duties during his second year as principal at Wheaton. The Appellant failed to exercise sound judgment and engaged in a pattern of misconduct in violation of many local board policies as he was found to have:

- Responded inappropriately to concerns involving the school's wrestling coach, including the coach's unauthorized use of school facilities and alleged sexually inappropriate communications with a student;
- Shared confidential personnel information without authorization;
- Received information concerning potential sexual harassment towards students by security staff without reporting it to the appropriate authorities;
- Failed to issue a shelter-in-place order that cost emergency medical personnel time in responding to a medical emergency on campus; and
- Bullied, sexually harassed, and retaliated against subordinates.

(Proposed Decision, pp. 4, 5, 12). Because of these events and others described in the record, the staff at Wheaton took a "no confidence" vote in the Appellant's ability to lead the school and at the end of the school year, a high number of Wheaton faculty and staff members resigned or threatened to resign if the Appellant continued to be employed at the school. In February 2023, approximately 40 Student government leaders also expressed their concerns regarding the Appellant's failure to take student safety seriously. (Proposed Decision, p. 4).

In July 2023, the Appellant was placed on administrative leave. After a *Loudermill* conference on July 18, 2023, MCPS's Chief of District Operations recommended that the Appellant be reprimanded for misconduct. On August 1, 2023, the Appellant received a letter of reprimand, was demoted to assistant principal, and was reassigned to Walter Johnson High School ("Walter Johnson"). (R. 836 – 838).

On August 19, 2023, MCPS instructed the Appellant not to report to Walter Johnson. On August 23, 2023, the Appellant was arrested in Frederick County and charged with driving under the influence of alcohol ("DUI"). (R. 386 – 387). Within days of the DUI incident, staff members and parents at Walter Johnson learned of the Appellant's arrest and expressed concern to school administrators about the Appellant's assignment there. (Proposed Decision, p. 6). On August 30, 2023, the chief of MCPS's Office of Human Resources and Development informed the Appellant that his paid administrative leave would be extended pending the outcome of his DUI charge. (R. 845). The Appellant eventually accepted probation before judgment for the DUI charge. (R. 386 – 387).

On December 7, 2023, the superintendent notified the Appellant that she was considering his termination and a *Loudermill* hearing was held on December 18, 2023. On January 16, 2024, the superintendent recommended Appellant's termination from his assigned position as assistant principal at Walter Johnson due to misconduct in office, pursuant to §6-202 of the Education Article. (R. 851 – 852). The recommendation was based on the totality of Appellant's conduct over the course of the 2021-2022, 2022-2023, and 2023-2024 school years. The Appellant appealed the termination to the local board and on March 8, 21, and 27, 2024, the Appellant participated in a hearing before local board hearing officer who recommended that the Appellant

be terminated for a breach of the LCA and misconduct, and the local board approved this decision on June 12, 2024. (R. 706 – 753).

The Appellant appealed the local board's decision to the State Board on July 9, 2024, and we transferred the matter to OAH for review by an ALJ. On November 8, 2024, the ALJ issued a ruling dismissing the Appellant's claims that his termination violated his right to equal protection under the law; dismissing Appellant's claim of discrimination under the American with Disabilities Act ("ADA"); denying Appellant's motion to expand the record to include any evidence that was not presented at the §6-202 hearing; and denying Appellant's motion to restrict the inclusion of evidence resulting from incidents occurring prior to August 1, 2023. *See* ALJ's Rulings on Montgomery County's Board of Education's Motion to Dismiss, Appellant's Motion to Limit the Scope of the Allegations, and Appellant's Request to Supplement the Evidentiary Record ("ALJ's Rulings"). On February 28, 2025, the ALJ issued a Proposed Decision recommending that the State Board affirm the local board's termination decision. The Appellant filed exceptions to the ALJ's Proposed Decision, and the local board filed a response.

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.01.05.06F(2). The local board has the burden of proof by a preponderance of the evidence. COMAR 13A.01.05.06F(3).

The State Board transferred 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(b).

LEGAL ANALYSIS

The Appellant filed four exceptions to the ALJ's Proposed Decision.

Exception 1 – Violation of the LCA

The Appellant argues that because the ALJ concluded that the Appellant's use of alcohol which resulted in the DUI conviction did not result in a violation of the LCA there can be no termination based on Appellant's DUI conviction because the conviction was related to his alcohol use and it was not specifically addressed in the LCA. The Appellant acknowledges that the purpose of the LCA was to define the Appellant's right to remain employed at MCPS once discharged from in-patient treatment and in the face of his alcoholism but argues that because the LCA contained an integration clause that the LCA was the exclusive means for which the Appellant could be terminated for any issue related to his alcohol use. *See* Exceptions p. 10; *see also Snowden v. Zinke*, 506 F.Supp.3d 18, 31 (D.D.C. 2020) (LCAs are enforceable contracts between an employee facing termination and his employer, wherein the employer agrees to suspend termination proceedings if the employee complies with specific conditions outlined in the agreement). In other words, the Appellant is arguing that the LCA which put in place very

specific restrictions on Appellant's alcohol use and required the Appellant to participate in the EAP and submit to on demand and random drug and alcohol testing for a year as a last attempt to save his job, somehow exempted the Appellant from any disciplinary action for any criminal misconduct related to his alcohol use applicable to all MCPS employees through Maryland statutory law under §6-202 of the Education Article and the regular teacher's contract both of which provide that the local board may terminate any employee for misconduct in office. *See* COMAR 13A.07.02.01.

We reject Appellant's argument that the LCA solely defined the relationship of the parties with respect to Appellant's use of alcohol and restricted the local board's statutory and contractual ability to terminate the Appellant for misconduct in office because the misdemeanor conviction related to the Appellant's use of alcohol. The LCA contains no language that states that the Appellant is exempt from the regular rules of conduct applicable to all employees, including MCPS's drug and alcohol policies and its code of conduct. In fact, the express language of the LCA requires the Appellant to maintain satisfactory performance and contains no language modifying the local board's preexisting statutory and contractual right to terminate the Appellant for misconduct.

The Appellant was already contractually obligated to "perform all duties required by the rules and regulations of the [l]ocal [b]oard and the State Board" pursuant to the standard teacher's contract required for all licensed professional employees. *See* COMAR 13A.07.02.01. He also had previously agreed through his standard teacher's contract that he could be terminated for misconduct in office pursuant to the provisions of §6-202 of the Education Article. *Id.* Including these provisions in the LCA would have been superfluous.

Putting aside the question of whether such an agreement would be legal, absent an express statement relieving the Appellant of his already existing contractual obligations to comply with local board policies and be subject to discipline for his criminal misconduct, we do not find that the LCA should be interpreted to restrict the local board from disciplining the Appellant, similar to any other employee, for his DUI conviction under §6-202 of the Education Article. Such a conclusion would be illogical.

We reject this exception.

Exception 2 – Misconduct under Maryland law.

In his second exception, the Appellant challenges the ALJ's finding that he engaged in misconduct absent a breach of the LCA. The Appellant argues that his misdemeanor charge and subsequent acceptance of probation before judgment of driving under the influence of alcohol away from school locations and during non-working hours does not constitute misconduct in office as defined by Maryland law. *See* Exceptions, p. 11 – 13.

As noted by the ALJ, the Appellant was put on notice by local board policies that certain misconduct occurring during off-duty hours regardless of location can be grounds for discipline including termination of employment. MCPS's substance abuse policy warned the Appellant that "any illegal activity relating to alcohol, regardless of location would constitute grounds for disciplinary action, including the possibility of termination" and the policy indicated that "criminal conviction is not necessary for disciplinary action." *See* Proposed Decision, p. 9 - 10. Additionally, the MCPS Employee Code of Conduct requires all employees to maintain the

highest standard of responsible and ethical conduct and obey all applicable laws, policies, and regulations and specifies that “employees should refrain from any action or conduct that ...undermines the employee’s professional integrity; and/or makes them unfit to perform their assigned duties.” *Id.*

In *Resetar v. State Bd. of Educ.*, 284 Md. 537, 560-561 (1979), the Maryland Supreme Court, interpreted the term “misconduct,” as used in the educational arena, as follows:

The word is sufficiently comprehensive to include misfeasance as well as malfeasance, and as applied to professional people it includes unprofessional acts even though such acts are not inherently wrongful.

The Court also noted that the teacher’s conduct must bear on the teacher’s fitness to teach in order to constitute misconduct. *Resetar*, 284 Md. at 561. *See also Kinsey v. Montgomery Cnty. Bd. of Educ.*, 5 Op. MSBE 287, 288 (1989) (To constitute “misconduct in office” a teacher must engage in unprofessional conduct “which bears upon a teacher’s fitness to teach” such that it “undermines his future classroom performance and overall impact on his students.”).

The ALJ determined that the Appellant engaged in misconduct because he concluded that the DUI was a criminal activity and meant that the Appellant “was poised to arrive at Walter Johnson with reputational damage that would hinder him from carrying out his responsibilities to provide educational leadership and build morale for staff,” and because the Appellant’s legal struggles would distract from his responsibility for establishing a climate conducive to learning. Proposed Decision, pp. 8, 11. We agree the conviction impaired Appellant’s ability to perform his duties as assistant principal.

Appellant’s argument that the misconduct must have occurred during working hours and within the scope of his employment to constitute misconduct within the meaning of §6-202 of the Education Article is not supported by our previous decisions. For example, in *Williamson v. Prince George’s Cnty. Bd. of Educ.*, MSBE Op. No. 01-28 (2001), where a teacher lied under oath, the State Board affirmed the ALJ’s conclusion that teachers “are often people whom students emulate. There is always a possibility that the students may learn that his or her teacher has lied under oath [which] certainly, that would impact negatively on a teacher’s fitness to teach.” *Id.*, p. 12. Thus, even though the teacher’s conduct of lying under oath occurred off school grounds, the State Board agreed that the offense rose to the level of misconduct in office because it showed a “disregard of the standards of behavior that the employer had a right to expect.” *Id.*, p. 11.

Additionally, we have held that in some situations involving serious misconduct calling into question the teacher’s good judgment, there is no required showing of impact on the teacher’s fitness to teach. *See Wright v. Board of Ed. of Charles Cnty.*, MSBE Op. No. 13-24, p. 4 (2013) (State Board agreed that even though the teacher’s conduct of engaging in consensual sexual intercourse with a colleague occurred when no students were present and had no bearing on his classroom instruction, it met the definition of misconduct because it demonstrated a breakdown in the teacher’s ability to exercise good judgment and make sound decisions and was evidence the teacher lacked the requisite character and decorum to teach students in a public school setting); *see also Moffitt v. Tunkhannock Area Sch. Dist.*, 192 A.3d 1214 (2018)(affirming termination of school principal on the grounds of immorality because the superintendent believed

the two DUI offenses caused irreparable damage to the principal's reputation and impaired his ability to lead the schools because he could not serve as an effective role model).

As noted by the ALJ, the Appellant's DUI conviction resulting in a violation of local board policies did not occur in a vacuum and was not an isolated incident of misconduct. We agree with the ALJ and find it was appropriate for the local board to consider Appellant's prior misconduct when assessing the adverse impact of any new misconduct that occurred close in time to the Appellant's most recent disciplinary consequence. *See Sullivan v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 14-51 (2014) (prior warnings showed teacher's pattern of failing to modify her behavior). The record shows his inability to satisfy the job requirements of an assistance principal – a position requiring trust, professionalism, proper judgment and good decision-making skills. Following a “no confidence vote” by staff and over 40 student's questioning the Appellant's failure to adequately address their safety concerns, the news of Appellant's arrest spread quickly through both the Wheaton and Walter Johnson communities. MCPS learned of Appellant's arrest as a result of students, staff, and parents reporting concerns about the incident and raising objections to Appellant's assignment at Walter Johnson given his DUI and lack of sound judgment and poor decision-making skills. One staff member at Walter Johnson worked with the Appellant at Wheaton and reported he was very concerned about the Appellant being in a supervisory position. *See R. 553, TR. 237.*

The Appellant was reprimanded on August 1, 2023, for his misconduct for failing to follow established protocols associated with student safety; engaging in sexual harassment by making multiple statements containing sexual innuendos and simulating a sex act with a hand gesture during a staff meeting; bullying and harassing staff by repeatedly contacting them via phone calls, email, and text messages and questioning their loyalty to him; engaging in retaliation against employees after they participated in a DCI investigation; and other misconduct. *See R. 837.* The Appellant's decision to drive while intoxicated within weeks of receiving discipline for the many episodes of serious misconduct supports the conclusion that the DUI further impacted Appellant's already questioned professional integrity and thus interfered with his ability to perform the duties as an assistant principal at Walter Johnson.

The record demonstrates that the MCPS administration terminated the Appellant based on his misconduct as the DUI was further evidence of Appellant's inability to exercise sound judgment and satisfactorily perform the job in a manner to properly ensure the safety and welfare of staff and students.

We reject this exception.

Exception 3 – Competent Evidence.

In his third exception, the Appellant argues the ALJ's factual conclusion that the Appellant was unable to effectively perform his duties as assistant principal is unsupported by substantial evidence in record and was arbitrary and capricious. The ALJ concluded that the immediate circulation of the DUI news would “deteriorate the Appellant's ability to promote morale among staff at his new placement” and would have “negatively impacted the Appellant's effectiveness as an assistant principal.” *See Proposed Decision*, pp. 11, 12.

Appellant argues that the ALJ should not have credited any portion of one MCPS witness at the evidentiary hearing, who was principal at Walter Johnson. Appellant claims that concerns

made to the witness by unknown declarants, including and not limited to the PTSA president, had no personal knowledge of the Appellant and were only relaying concerns raised by anonymous individuals on the internet. *See* Exceptions, p.13. He argues that the testimony of one of his witnesses who testified that she was not aware of any media or social media reports about the Appellant's DUI and no community concerns were presented at the *Loudermill* hearing was the more credible and reliable evidence. *See*, Exceptions at 14. However, the record does not support the Appellant's argument.

By email dated January 5, 2024, the Appellant was informed by the *Loudermill* hearing officer:

[T]here were also multiple postings on various social media outlets utilized by MCPS community, through which parents expressed concerns about incidents, and their knowledge of [Appellant's] history with alcohol.

See R. 849. The hearing officer provided the Appellant with some examples of the postings and afforded the Appellant the opportunity to respond to whether the level of concerns expressed by the community impacted his ability to perform his job. *Id.*

In addition, the Appellant's argument ignores the voluminous testimony by multiple MCPS witnesses and his own witnesses during the §6-202 evidentiary hearing about the speed and extent to which the news of Appellant's DUI spread within the MCPS school system and community and the concerns it raised with regard to his ability to serve as a leader at MCPS. The Appellant's supervisor testified that he did not find that the Appellant demonstrated the judgment necessary to make decisions in the best interests of students and that the Appellant's DUI was further evidence of the poor judgment he consistently demonstrated across the 2022-2023 school year. *See* R. 533, 541, TR. 166, 188-189. Furthermore, the §6-202 hearing officer found that the superintendent's witnesses' testimony was more credible in their explanation of the events pertaining to Appellant during his time at Wheaton and during the summer of 2023, as they had a fuller understanding of the factual events in this matter. The hearing officer concluded that the Appellant could not recall facts related to the events germane to this appeal. *See* R. 823.

The ALJ had the ability to make credibility determinations and weigh the evidence and reach conclusions about that evidence. *Brebnor v. Baltimore City Board of School Comm'rs.*, MSBE Op. No. 19-38 (2019). Hearing officers are not required to give equal weight to all of the evidence and their failure to agree with an appellant's view of the evidence does not mean their decisions are arbitrary, unreasonable, or illegal. *See Karp v. Baltimore City Bd. of Sch. Comm'rs.*, MSBE Op. No. 15-39 (2015).

In our view, the record supports the factual findings and the conclusions reached by the ALJ and we reject this exception.

Exception 4 – Equitable Estoppel

In his fourth exception, the Appellant argues that the doctrine of equitable estoppel prevents the local board from imposing discipline for misconduct for which he was already disciplined. This argument is predicated upon the Appellant's assertion that the DUI did not constitute misconduct in office. The Appellant concedes that if there was a finding of

misconduct, the Appellant's previous discipline would be relevant under MCPS's progressive discipline policy. *See* ALJ's Rulings, p. 16.

As discussed previously, we conclude that the evidence supports a finding that Appellant's DUI constituted misconduct in office. Accordingly, it was appropriate for the local board to consider Appellant's prior violations when determining the appropriate sanction for Appellant's misconduct. *See Sullivan v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 14-51 (2014) (prior warnings showed teacher's pattern of failing to modify her behavior); *Gwin v. Baltimore City Bd. of Sch. Comm'rs*, MSBE Op. No. 12-16 (2012) (employer gave teacher chances to figure out how to control his anger, and thus his history of unprofessional conduct supports his termination).

The record before us demonstrates that anything less than termination would be unlikely to deter further misconduct because the Appellant testified that he was unaware of the previous discipline imposed or the DCI's findings that he had engaged in bullying, sexual harassment, and retaliation; and willfully neglected his duties with regard to student safety and building security despite the fact that Appellant received a letter on August 1, 2023 conveying this information. *See* R., 657, TR. 646 – 650, R. 837. It is unlikely, without any accountability, the Appellant would change his pattern of misconduct.

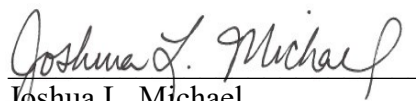
We conclude that termination was the appropriate sanction for the Appellant's long history of misconduct violating numerous local board policies.

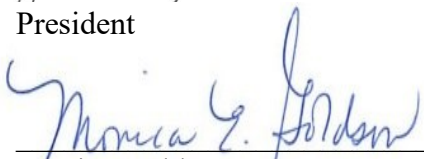
We also reject the Appellant's argument that the MCPS's administration's request to extend the Appellant's leave and delay the Appellant's reporting to Walter Johnson prior to his DUI resulted in a breach of the Appellant's employment contract. There is no evidence in the record before us that this resulted in a breach of his contract.

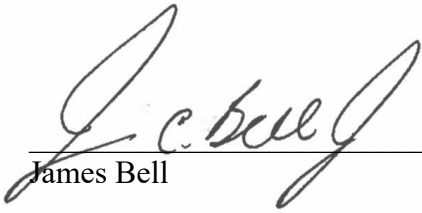
We reject this exception.

CONCLUSION

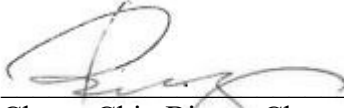
We agree with the ALJ's assessment that the record in this case supports the local board's conclusion that the Appellant engaged in a pattern of misconduct evidencing that he was unable to exercise sound judgment and satisfactorily perform the job in a manner to properly ensure the safety and welfare of staff and students, and we affirm the termination of the Appellant from his position on the grounds of misconduct. We, therefore, adopt the ALJ's Proposed Decision and affirm the local board's decision.


Joshua L. Michael
President


Monica Goldson
Vice-President



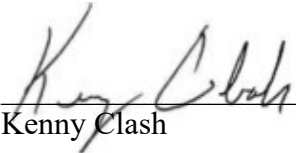
James Bell



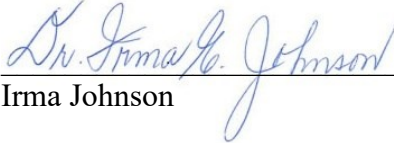
Chuen-Chin Bianca Chang



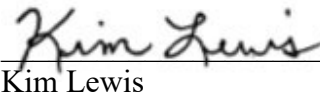
Chet Chesterfield



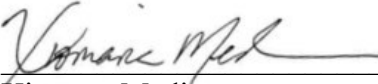
Kenny Clash



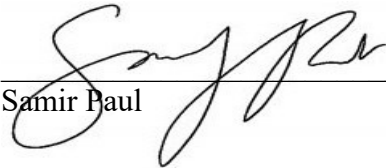
Irma Johnson



Kim Lewis



Xiomara Medina



Samir Paul

Abstained:
Nick Greer

Voted: July 29, 2025

Issued: August 1, 2025

JOSHUA MUNSEY,

APPELLANT

v.

MONTGOMERY COUNTY

BOARD OF EDUCATION

*** BEFORE MICHAEL J. JACKO,**

*** AN ADMINISTRATIVE LAW JUDGE**

*** OF THE MARYLAND OFFICE OF**

*** ADMINISTRATIVE HEARINGS**

*** OAH No. MSDE-BE-01-24-24052**

*** * * * ***

PROPOSED DECISION

STATEMENT OF THE CASE
ISSUES
SUMMARY OF THE EVIDENCE
FINDINGS OF FACT
DISCUSSION
CONCLUSION OF LAW
PROPOSED ORDER

STATEMENT OF THE CASE

On January 16, 2024, the superintendent of the Montgomery County Public Schools (MCPS) recommended that Dr. Joshua Munsey (Appellant) be terminated from his assigned position as an assistant principal at Walter Johnson High School due to his misconduct in office. The Appellant appealed to the Montgomery County Board of Education (Local Board) and, on March 8, 21, and 27, 2024, participated in a hearing conducted before a hearing examiner appointed by the Local Board (6-202 Hearing).¹ On May 21, 2024, hearing examiner Gregory A. Szoka, Esquire (Hearing Examiner) recommended that the Appellant be terminated for misconduct, and the Local Board approved this decision on June 12, 2024. On July 9, 2024, the Appellant appealed the Local Board's decision by filing a request for a contested hearing (Appeal) with the Maryland State Department of Education (State Board).²

¹ Md. Code Ann. Educ. § 6-202 (2022).

² Code of Maryland Regulations (COMAR) 13A.01.05.02

I conducted a remote hearing on December 3, 2024, using the Webex videoconferencing platform.³ Craig Meuser, Esquire, represented the Local Board. Jerry Hyatt, Esquire, represented the Appellant.

Procedure in this case is governed by the contested case provisions of the Administrative Procedure Act, the regulations regarding appeals to the MSDE, and the Rules of Procedure of the OAH.⁴

ISSUES

Did the Appellant commit misconduct by violating the agreement into which he entered with MCPS on June 27, 2022, relating to his use of alcohol?

Did the Appellant commit misconduct by performing actions that made him unfit to serve in his position of assistant principal?

Did the MCPS's decision not to offer the Appellant a new last chance agreement represent a failure to offer a reasonable accommodation under the Americans with Disabilities Act (ADA) that would have allowed the Appellant to carry out the essential functions of his job?

SUMMARY OF THE EVIDENCE

I admitted the entire record generated below into evidence.⁵

A detailed exhibit list is attached as an appendix to this proposed decision. I considered the testimony offered by witnesses at the 6-202 hearing, but I did not hear any additional testimony in the case.

³ On November 8, 2024, I issued a ruling on three prehearing motions. I granted summary decision in favor of the Local Board with respect to the Appellant's claims that his termination violated his right to equal protection under the law and that his termination represented unlawful discrimination under the Americans with Disabilities Act but denied the Local Board's motion for summary decision with respect to the argument that the MCPS failed to offer a reasonable accommodation for his disability. I denied the Appellant's motion in limine to restrict my inquiry to events that took place after August 1, 2023, and I denied the Appellant's motion to expand the record to include any additional evidence not admitted at the 6-202 Hearing.

⁴ Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2021 & Supp. 2024); COMAR 13A.01.05; and COMAR 28.02.01.

⁵ COMAR 13A.01.05.07B(1).

FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

1. At all times relevant to this case, the Appellant was employed as an administrator with MCPS.
2. From 2014–2021, the Appellant was assigned to the John L. Gildner Regional Institute for Children and Adolescents (RICA), first as an assistant principal, then as principal.
3. In 2021, The Appellant was hired to be principal of Wheaton High School (Wheaton).⁶
4. During the 2021–2022 school year, the Appellant was supervised by Director Jennifer Webster, who rated him “effective.”
5. In December 2021, staff found the Appellant asleep on the floor of the bathroom in his office. He reported that he was ill and decided to take a nap.
6. In January 2022, after reports of his erratic behavior, the MCPS requested the Appellant to submit to an independent medical examination.
7. From January to March 2022, the Appellant was on leave – first personal leave, then administrative leave.
8. On June 23, 2022, the Appellant consumed alcohol at a conference hosted by the Montgomery County Association of Administrators and Principals. The next day, when there were no students in the building, the Appellant reported for work hungover. His supervisor required him to submit to an alcohol test and he was placed on administrative leave for one day.
9. On June 27, 2022, the Appellant and the MCPS entered into an agreement relating to his use of alcohol (Last Chance Agreement or LCA).

⁶ The Principal of Wheaton also serves as principal of Thomas Edison High School for Technology, a technical school located on the same campus.

10. In June and July of 2022, the Appellant completed a twenty-eight-day course of inpatient addiction treatment.

11. During the 2022–2023 school year, the Appellant was supervised by Associate Superintendent Dr. Peter Moran.

12. On February 9, 2023, while a student was experiencing a medical crisis at the school, the Appellant declined to initiate a shelter-in-place order that delayed emergency personnel’s efforts to get the student to the hospital.

13. In February 2023, Dr. Moran issued the Appellant a letter of reprimand for his mishandling of issues relating to the Wheaton wrestling coach, including inadequate responses to the coach’s unauthorized use of school facilities and to allegations of the coach’s inappropriate behavior toward a student. The Appellant also shared confidential personnel information regarding that coach.

14. In February 2023, more than forty student leaders at Wheaton met with Dr. Moran concerning student safety, which they believed the Appellant was not taking seriously. The students repeated accounts that they relayed to the Appellant without a response, including:

- Staff who had allegedly demonstrated a pattern of sexually inappropriate comments to students,
- Staff who had allegedly made religiously discriminatory statements to students, and
- Security personnel allowing non-students on campus.

15. In March 2023, administrative staff at Wheaton filed complaints with MCPS alleging that the Appellant had committed various acts of sexual harassment and retaliation against his subordinates.

16. In April 2023, staff at Wheaton took a “no confidence” vote in the Appellant’s ability to lead the school and sent a corresponding letter to MCPS administration.

17. At the end of the 2022–2023 school year, a high number of Wheaton faculty and staff members resigned while others were publicly contemplating their resignation should the Appellant continue to be employed at the school.

18. For the 2022–2023 school year, Dr. Moran rated the Appellant ineffective on two out of ten performance criteria.

19. In July 2023, the Appellant was placed on administrative leave.

20. After a *Loudermill* Conference⁷ on July 18, 2023, the MCPS’s Chief of District Operations recommended that the Appellant be reprimanded for misconduct.

21. On August 1, 2023, the Appellant received a letter of reprimand, was demoted to Assistant Principal, and was reassigned to Walter Johnson High School (Walter Johnson).

22. On August 19, 2023, the MCPS instructed the Appellant that he was not to report as scheduled on August 21, 2023, for his first day of work at Walter Johnson.

23. On August 23, 2023, the Appellant was arrested in Frederick County and charged with driving under the influence of alcohol and related citations.

24. The Appellant eventually accepted probation before judgement for the charge of driving under the influence of alcohol (DUI) *per se*.⁸ A verdict of *nolle prosequi*⁹ was entered for his other citations.

⁷ A *Loudermill* hearing refers to *Cleveland Board of Education v. James Loudermill, et al.*, a case in which the Supreme Court held that due process requires a hearing prior to the discharge of an employee who has a constitutionally protected property interest in their employment. 470 U.S. 532 (1985).

⁸ Driving under the influence *per se* refers to a violation of Transportation Article section 21-902(a)(1)(i), requiring a finding that one was driving or attempting to drive a motor vehicle while having an alcohol concentration of .08 (grams of alcohol per 210 liters of breath or per 100 milliliters of blood) or greater at the time of testing. Md. Code Ann., Trans. § 11-174.1. (2018).

⁹ “*Nolle Prosequi*” indicates that the State declined to pursue a charge against a defendant.

25. Within days of the incident, staff members and parents at Walter Johnson learned of the Appellant's arrest and expressed concern to school administrators about the Appellant's assignment there.

26. On August 30, 2023, the chief of the MCPS's Office of Human Resources and Development informed the Appellant that his leave would be extended pending the outcome of his traffic case.

27. On December 7, 2023, the Superintendent of the MCPS notified the Appellant that he would be recommending the termination of his employment.

DISCUSSION

Legal Standard

Section 6-202(a) of the Education Article provides, in part:

(a)(1) On the recommendation of the county superintendent, a county board may suspend or dismiss a teacher, principal, supervisor, assistant superintendent, or other professional assistant for:

· · ·
(ii) Misconduct in office.¹⁰

The statute does not provide a definition of “misconduct,” which Black’s Law Dictionary defines as “a dereliction of duty; unlawful, dishonest, or improper behavior, esp. by someone in a position of authority or trust.”¹¹ In defining the term, the Supreme Court of Maryland has stated,

The word is sufficiently comprehensive to include misfeasance as well as malfeasance, and as applied to professional people it includes unprofessional acts even though such acts are not inherently wrongful. Whether a particular course of conduct will be regarded as misconduct is to be determined from the nature of the conduct and not from its consequences.¹²

In an appeal to the State Board of the Local Board’s decision to dismiss an employee, the “State Board shall exercise its independent judgment on the record before it in determining

¹⁰ Md. Code Ann., Educ. § 6-202(a)(1)(ii) (2022).

¹¹ Misconduct, Black's Law Dictionary (12th ed. 2024).

¹² *Resetar v. State Bd. of Ed.*, 284 Md. 537, 560 (1979).

whether to sustain the suspension or dismissal of a certificated employee.”¹³ Under the applicable MSDE procedural regulation, the Local Board has the burden of proof by a preponderance of the evidence,¹⁴ and must therefore show that the charges are more likely true than untrue when all the evidence is considered.¹⁵ For the reasons elaborated below, while I do not find that the Appellant violated the LCA, I nonetheless conclude that he committed misconduct warranting termination, and I do not find that there was an available accommodation the Local Board could have provided that would have allowed the Appellant to fulfill the essential functions of his job.

Alleged Violation of the Last Chance Agreement

After several incidents relating to the Appellant’s drinking, including one in which he appeared at work hungover, MCPS entered into a Last Chance Agreement with the Appellant on June 27, 2022. In the first numbered paragraph of the LCA, the Appellant agreed to:

Abstain from using illicit drugs or consuming alcohol on the job, or off the job in a manner where it is detectable at an illegal level in my body during the hours of my employment, or in a manner that interferes with my ability to perform the duties of my position with MCPS.¹⁶

Paragraph five of the LCA also indicates that the presence of any level of drugs and/or alcohol in the Appellant’s system while on duty would violate the agreement.¹⁷ The Local Board alleged first that by being charged with an alcohol-related driving offence and by ultimately accepting a probation before judgment for DUI *per se*, the Appellant violated the terms of the LCA and therefore committed misconduct. The Appellant pointed out that he received his citation for DUI in a different county from his workplace while he was on leave from his employment. As such, he argued that his alcohol consumption could not interfere with his ability to perform the duties of his position with MCPS.

¹³ COMAR 13A.01.05.06F(2).

¹⁴ COMAR 13A.01.05.06F(3)

¹⁵ See *Coleman v. Anne Arundel Cnty. Police Dep’t*, 369 Md. 108, 125 n.16 (2002).

¹⁶ Jt. Ex. 2.

¹⁷ *Id.*

The Appellant was arrested, charged, and ultimately found by a court to have driven under the influence of alcohol with a concentration greater than .08.¹⁸ The incident occurred after the Appellant consumed alcohol during a round of golf in Carroll County, Maryland, and then attempted to drive himself home.¹⁹ At the time, the Appellant was assigned to become an assistant principal at Walter Johnson, but MCPS delayed his starting date for the new position.²⁰ The golf outing was not connected to any MCPS event, and he was not scheduled to work; he therefore did not consume alcohol on the job. Also, the Appellant was not scheduled to report to work at any time when the alcohol he consumed on August 23, 2023, might have remained in his system. Similarly, because he was not scheduled to report for work, I do not find that the Appellant's consumption of alcohol itself interfered with his ability to perform his duties as an assistant principal.

The only way the Appellant's behavior on August 23, 2023, might arguably constitute a violation of the LCA is if I consider his prosecution for DUI and the impact that his pending charges had on his ability to effectively perform the duties of his position with MCPS. However, such an inquiry would focus not so much on the manner in which the Appellant consumed alcohol (which is the subject of the LCA), but rather on his subsequent decision to operate a motor vehicle and the effect his prosecution had on his reputation and credibility. While I find the Appellant's legal situation sufficient to constitute misconduct (see below), I do not find it amounts to a violation of the LCA.

The Appellant's Fitness to Serve as an Assistant Principal

The Local Board alleged that the Appellant's DUI constitutes misconduct, particularly when viewed in the context of other behaviors demonstrated throughout the 2022 – 2023 school year for which the Appellant had already been disciplined. The Appellant disagreed, arguing

¹⁸ LB. Ex. 32.

¹⁹ Transcript of 6-202 Hearing (Tr.) 703 – 705.

²⁰ Tr. 626 – 629.

that the DUI did not occur on MCPS grounds during the hours of his employment and that the offense was not of the same level of seriousness as those for which the MCPS employee handbook contemplates termination as a sanction.

At the time of the investigation that ultimately led to his termination, the Appellant was assigned to become an Assistant Principal at Walter Johnson. MCPS's published description for a high school assistant principal indicates that one in that role is to assist the principal with

administering and supervising the total school program and providing educational leadership for students and staff members consistent with the educational goals of the community. Functions include establishing a climate conducive to learning, planning, and coordinating programs, affecting change, and decision making.²¹

Minimum job qualifications include, among other things, the "ability to motivate, encourage, and work with staff to ensure outstanding performance as well as good morale."²² In addition to the specific job description for assistant principal, MCPS publishes an Employee Code of Conduct that is further instructive as to the sorts of behaviors that might be considered improper for staff.

That document specifies that "employees should refrain from any action or conduct that. . .

undermines the employee's professional integrity; and/or makes them unfit to perform their assigned duties."²³ It also expresses an expectation that employees "comply with laws and

MCPS rules outside of work where failure to do so affects their fitness to perform their job."²⁴

The MCPS has also published a specific policy on the prevention of alcohol, tobacco, and other drug abuse (substance abuse policy), one goal of which is to help students avoid involvement with alcohol, tobacco, and other drugs.²⁵ The substance abuse policy cautions that "any illegal activity relating to or involving alcohol or other drugs by an MCPS employee, regardless of

²¹ Jt. Ex. 6.

²² *Id.*

²³ LB Ex. 36-11.

²⁴ LB Ex. 36-12.

²⁵ LB Ex. 34-2.

location, constitutes grounds for disciplinary action, up to and including immediate dismissal,” and the policy indicates that “criminal conviction is not necessary for disciplinary action.”²⁶

Misconduct includes unlawful, dishonest, or improper behavior, particularly when performed by someone in a position of authority or trust.²⁷ I conclude that the Appellant occupied a position of authority or trust and that his DUI constituted conduct that was improper as well as unlawful.

The Appellant’s position as a prospective assistant principal at Walter Johnson was one of authority. MCPS requires its assistant principals to provide leadership to both students and faculty, it vests them with decision-making authority, and it entrusts them with promoting the performance and morale of staff. Viewed in light of the expectations for MCPS employees generally, I find that driving under the influence of alcohol, even away from school locations and in non-working hours, can be improper behavior for an assistant principal to the extent that it undermines the individual’s integrity and renders them unfit to perform their duties.

It cannot be disputed that the Appellant’s DUI constituted unlawful behavior, a conclusion that was reached by the Circuit Court for Frederick County and conceded to by the Appellant through his acceptance of a probation before judgment for his actions.²⁸ I find that the DUI simultaneously amounted to improper conduct for someone in the Appellant’s position at MCPS. In the days that followed the Appellant’s DUI arrest on August 23, 2023, word of the incident and the Appellant’s charges began to spread among staff and parents at Walter Johnson, where it had already been announced that he was to take up his new assignment.²⁹ Even though this incident took place outside of work hours and in a neighboring county, I find the evidence

²⁶ LB Ex. 34-4.

²⁷ Misconduct, Black's Law Dictionary (12th ed. 2024).

²⁸ LB. Ex. 32 (showing the entry of a probation before judgment for a violation of Transportation Article § 21-902(a)(1)(i)). A probation before judgment is a disposition available in criminal and traffic matters where, after a defendant has been found guilty, the court stays the guilty finding. Md. Code Ann., Crim. Proc. § 6-220(b) (2017 & Supp. 2024). The entry of a probation before judgment requires the defendant’s consent. *Id.*

²⁹ Tr. 235 – 237, 246 – 250.

sufficient to conclude that it would have negatively impacted the Appellant's effectiveness as an assistant principal. Within days of his arrest, staff at Walter Johnson had heard of the Appellant's charges.³⁰ This news arrived among staff at Walter Johnson, adding further fuel to concerns passed on from MCPS colleagues at Wheaton, who expressed the struggles they had experienced under the Appellant's tenure there, including from one Walter Johnson faculty member who had previously worked under the Appellant.³¹ In sum, I find that MCPS was reasonable to conclude that the Appellant was poised to arrive at Walter Johnson with reputational damage that would hinder him from carrying out his responsibilities to provide educational leadership and build morale for staff. I also find it reasonable to conclude that the Appellant's legal struggles would distract from his responsibility for establishing a climate conducive to learning.

I previously denied the Appellant's motion to limit my consideration of his alleged misconduct to events that took place after he accepted a reprimand, demotion, and transfer based on his conduct while serving as principal of Wheaton.³² To be clear, even if I had granted the Appellant's motion and ignored evidence of his actions prior to August 1, 2023, I would still find that the Appellant's DUI incident constituted misconduct. However, I denied that motion precisely because the facts surrounding the Appellant's DUI on August 23, 2023, did not occur in a vacuum, and I find that consideration of his previous misconduct reinforces my determination with respect to his DUI.³³

³⁰ Tr. 249 – 250.

³¹ Tr. 237.

³² Rulings on the Local Board's Motion to Dismiss, the Appellant's Motion to Limit the Scope of the Allegations, and the Appellant's Request to Supplement the Evidentiary Record, November 8, 2024.

³³ The Appellant also argued that the doctrine of equitable estoppel should prevent MCPS from terminating his employment based in part on conduct for which he previously accepted discipline. In this case, for estoppel to apply, the Appellant would have to show that when MCPS elected not to terminate him for his conduct in the 2022–2023 school year, opting instead to demote and reassign him, he accepted the discipline to his own detriment in the good faith reliance that he would not later be subject to termination for the same conduct. *See Anne Arundel Cnty. v. Muir*, 149 Md. App. 617, 635 (2003). However, the Appellant failed to show why it was reasonable for him to believe that his conduct during the 2022–2023 school year could not be a factor in a subsequent decision by MCPS to terminate him for any additional misconduct that might occur later.

The Appellant's tenure as principal of Wheaton was characterized by a series of poorly made decisions. He was found to have:

- Responded inappropriately to concerns involving the school's wrestling coach, including the coach's authorized use of school facilities and alleged sexually inappropriate communications with a student;
- Shared confidential personnel information without authorization;
- Received information concerning potential sexual harassment toward students by security staff without reporting it to the appropriate authorities;
- Failed to initiate a shelter-in-place order that cost emergency medical personnel time in responding to a medical emergency on campus; and
- Bullied, sexually harassed, and retaliated against subordinates.

As a result of these events, the staff and student government leaders at Wheaton separately reached out to MCPS administrators to express their concern for the school's leadership. On August 1, 2023, the Appellant accepted discipline for his actions.³⁴

Just three weeks after he was demoted and reprimanded, the Appellant was arrested for DUI and tested to have an alcohol concentration greater than .08. In this context, I find that his DUI became yet another example of poor decision making by the Appellant. Furthermore, I note that at Wheaton, staff took a vote of no confidence in the Appellant,³⁵ and his performance was sufficiently problematic that a number of staff resigned or contemplated doing so due to his leadership.³⁶ Because there was already evidence of Wheaton staff sharing their negative experiences with their counterparts at Walter Johnson,³⁷ I find it reasonable to infer that the DUI would only further deteriorate the Appellant's ability to promote morale among staff at his new placement. For all these reasons, I find that the Appellant's DUI incident demonstrated behavior that was both illegal and improper given his position, and I therefore conclude that it constituted misconduct in office.

³⁴ LB Ex. 25.

³⁵ Tr. 225 – 278.

³⁶ Tr. 220 – 222, 324 – 330.

³⁷ Tr. 236 – 237.

The MCPS substance abuse policy warned the Appellant that any illegal activity relating to alcohol, regardless of location, would constitute grounds for disciplinary action, including the possibility of termination.³⁸ In its Employee Code of Conduct, MCPS indicated that it is not obliged to impose any specific level of discipline for a given infraction, but that it would take into account the particular circumstances, including mitigating and aggravating factors with respect to each case.³⁹ Even as the Appellant argued that evidence of his prior misconduct should not be considered when deciding whether or not his DUI also constituted misconduct, he agreed that if a finding of misconduct was made, his prior history would then be relevant to the determination of an appropriate sanction. Given that history as outlined above, highlighting the Appellant's repeated failures to exercise sound judgment, I find that the Local Board's decision to terminate his employment was reasonable. Just as its decision to remove the Appellant from his position at Wheaton on August 1, 2023, was prompted by a concern for the students, faculty, and staff at that school,⁴⁰ the Local Board's subsequent decision to terminate the Appellant's employment altogether was justified by its concern for the students, faculty, and staff at Walter Johnson, and at MCPS more broadly. Given the Appellant's DUI came just a few weeks after he accepted his previous discipline for repeated instances of poor judgment, I find that the Local Board's decision to terminate the Appellant was reasonable.

A New Last Chance Agreement as a Potential Accommodation Under the ADA

To state a claim for a failure to accommodate under the ADA, the Appellant must allege that he has a disability; that MCPS had notice of his disability; that with a reasonable accommodation, he could perform the essential functions of his position; and that MCPS failed

³⁸ LB Ex. 34-4.

³⁹ LB Ex. 36-16. The Appellant argued that the code of conduct prescribes termination infractions such as his. His logic is mistaken. As an example, the document indicates that there are statutory prohibitions barring MCPS from retaining employees found guilty of certain criminal offenses including sexual offenses or crimes of violence, but nowhere does the code of conduct indicate that termination is only appropriate for the listed criminal offenses.

⁴⁰ See ruling on the Appellant's motion in limine to limit the scope of the proceedings, November 8, 2024.

to make a reasonable accommodation.⁴¹ Federal courts have found that last chance agreements can function as reasonable accommodations for employees who have substance abuse disorders.⁴² Specifically, an employer may offer a last chance agreement as an alternative to termination for an employee whose prior behavior has been a manifestation of their addiction, with the agreement providing clear expectations as to what behaviors in the future will be considered misconduct and grounds for termination.⁴³

The Appellant argued that he is an alcoholic, that MCPS knew of his alcoholism, that a revised LCA would have allowed him to fulfill the functions of his role as assistant principal, and that after initially offering him such a revised LCA, the MCPS later retracted that offer. The Local Board denied as a matter of fact that it offered him a revised LCA, and at any rate, it disputed that any such offer would properly be recognized as an accommodation under the ADA.

While I find that the Appellant satisfies the first two elements necessary to made out a claim for a failure to accommodate under the ADA, I am not persuaded that a revised LCA would have been a reasonable accommodation that would have allowed the Appellant to fulfill the essential functions of his role. The Local Board does not deny that the Appellant has had a problematic relationship with alcohol, satisfying the first element of a failure to accommodate claim, but it disputes that MCPS knew the Appellant was an alcoholic. Given the context of the case at hand, I am not persuaded that knowledge of a formal diagnosis is relevant. At least as early as January 2022, MCPS was aware that the Appellant had taken leave to attend substance abuse rehabilitation, and, on June 27, 2022, MCPS provided the Appellant with the LCA out of concern that his drinking could continue to affect his work performance. Accordingly, I find

⁴¹ *Adkins v. Peninsula Reg'l Health Ctr.*, 224 Md. App. 115, 139 (2015).

⁴² See, e.g., *Hixon v. Tenn. Valley Auth. Bd. of Dirs.*, 504 F. Supp. 3d 851, 869 (E.D. Tenn. 2020) (“Last chance agreements can serve as a reasonable and beneficial accommodation for a disabled employee.”).

⁴³ See, e.g., *Golson-El v. Runyon*, 812 F. Supp. 558, 561 (E.D. Pa. 1993) (characterizing a last chance agreement as a reasonable accommodation for a letter carrier whose alcoholism had caused her to miss work on numerous occasions).

MCPS knew of the Appellant's disability and that the Appellant thus met the second element of a failure to accommodate claim.

Transitioning to the Appellant's proposed accommodation of a revised LCA, I first note that, as discussed above, the LCA of June 27, 2022, did not clearly prohibit the Appellant's specific conduct of August 23, 2023. The Appellant declined to define what terms a revised LCA would include and how it would allow him to perform the essential functions of his job. Arguably, such an agreement might have been more explicit about MCPS's expectations concerning alcohol-related driving outside the hours and locations of the Appellant's employment. However, I do not find that such a revised agreement would restore the Appellant's reputation, which, as also discussed above, had been tarnished to the point that it interfered with his ability to be an effective assistant principal. Furthermore, I note that the Appellant testified that he remained sober throughout the 2022–2023 school year and denied that his consumption of alcohol played a role in any of the misconduct in which he was involved and for which he was disciplined on August 1, 2023.⁴⁴ Taking him at his word, I find that the Appellant demonstrated that even with the LCA that had been in place, he still struggled to manifest the sound judgment and ability to foster morale that were essential functions for his position at Wheaton. The Appellant has not offered convincing evidence or argument that a revised LCA would allow him to perform any better in his new role at Walter Johnson, given that the same qualities would still be a vital aspect of the job.

For the reasons stated above, I find by a preponderance of evidence that no proposed reasonable accommodation was available that would allow the Appellant to carry out the essential functions of his new position of assistant principal, and therefore, I conclude that MCPS did not fail to make a reasonable accommodation for his alcoholism under the ADA.

⁴⁴ Tr. 736–40.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact and Discussion, I conclude, as a matter of law, that the Appellant did not violate the last chance agreement of June 27, 2022.⁴⁵

I further conclude, as a matter of law, that the Appellant committed misconduct by performing actions that made him unfit to serve in his position of assistant principal.⁴⁶

I further conclude, as a matter of law, that the MCPS's decision not to offer the Appellant a new last chance agreement did not represent a failure to offer a reasonable accommodation for the Appellant's alcoholism.⁴⁷

PROPOSED ORDER

I **PROPOSE** that the decision of the Board of Education of Montgomery County to terminate the Appellant for misconduct in office be **AFFIRMED**.

February 28, 2025
Date Ruling Mailed



Michael J. Jacko,
Administrative Law Judge

MJJ/kh
#216682

NOTICE OF RIGHT TO FILE EXCEPTIONS

A party adversely affected by this Proposed Decision has the right to file written exceptions within fifteen (15) days of the Proposed Decision; written responses to the exceptions may be filed within fifteen (15) days of the filing of exceptions.⁴⁸ Exceptions and responses shall be filed with the Maryland State Department of Education, Maryland State Board of Education, 200 West Baltimore Street, Baltimore, Maryland 21201-2595, with a copy to the other party or parties. The Office of Administrative Hearings is not a party to any review process.

⁴⁵ Educ. § 6-202(a)(1)(ii).

⁴⁶ *Id.*

⁴⁷ State Gov't § 20-606(a)(4) (Supp. 2024).

⁴⁸ COMAR 13A.01.05.07F.

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JOSHUA MUNSEY,	*	BEFORE MICHAEL J. JACKO,
APPELLANT	*	AN ADMINISTRATIVE LAW JUDGE
v.	*	OF THE MARYLAND OFFICE OF
MONTGOMERY COUNTY	*	ADMINISTRATIVE HEARINGS
BOARD OF EDUCATION	*	
	*	OAH No. MSDE-BE-01-24-24052

* * * * *

APPENDIX: FILE EXHIBIT LIST

The record includes the transcript of the 6-202 Hearing.

The record includes the following joint exhibits:

- Jt. Ex. 1: Final evaluation report by Dr. Webster, June 17, 2022
- Jt. Ex. 2: Last Chance Agreement, June 27, 2022
- Jt. Ex. 3: Final evaluation report by Dr. Moran, May 1, 2023
- Jt. Ex. 4: Department of Compliance and Investigations (DCI) notice re: admin leave with pay, August 3, 2023
- Jt. Ex. 5: Dismissal letter from superintendent, January 16, 2024
- Jt. Ex. 6: Assistant principal job description – high school, undated

The record includes the following exhibits offered by the Local Board:

- LB Ex. 1: Placement on admin leave with pay, February 7, 2022
- LB Ex. 2: Independent medical examination letter, February 7, 2022
- LB Ex. 3: Professional evaluation reports by Dr. Webster, October 2021 through March 2022
- LB Ex. 4: Conference summaries by Dr. Webster and Appellant, February 2022 through May 2022
- LB Ex. 5: A&S professional growth plan and progress report, June 13, 2022
- LB Ex. 6: Letter re: admin leave with pay, June 24, 2022
- LB Ex. 7: Medical leave of absence documents, June 28 through August 1, 2022

- LB Ex. 8: Notice to community re: interim principal, July 11, 2022
- LB Ex. 9: Observation report for Appellant by Dr. Moran, October 25, 2022
- LB Ex. 10: Dr. Moran email re: ethical and professional concerns, February 6, 2023
- LB Ex. 11: Dr. Moran summary re: wrestling program investigation, February 2, 2023
- LB Ex. 12: Student Government Association (SGA) summary of student concerns re: Appellant, February 14, 2023
- LB Ex. 13: Dr. Moran's response to DCI re: neglect of duties, February 25, 2023
- LB Ex. 14: Letter of reprimand and response, February 27, 2023
- LB Ex. 15: DCI report – neglect of duties, February 27, 2023
- LB Ex. 16: Staff member bullying, sexual harassment and retaliation complaints (5), March through April 2023
- LB Ex. 17: Professional growth plan for Appellant by Dr. Moran, March 6, 2023
- LB Ex. 18: Peer Assistance and Review Presentation for Appellant by Dr. Moran, May 8, 2023
- LB Ex. 19: DCI report re: sexual harassment, May 22, 2023
- LB Ex. 20: DCI report re: retaliation, May 22, 2023
- LB Ex. 21: DCI report re: workplace bullying, May 25, 2023
- LB Ex. 22: School medical officer notice re: cannabis legalization, July 1, 2023
- LB Ex. 23: DCI memo – placement on administrative leave with pay, July 7, 2023
- LB Ex. 24: *Loudermill* notice, July 7, 2023
- LB Ex. 25: Letter of reprimand with exhibits, August 1, 2023
- LB Ex. 26: Sheriff charging documents – DUI, August 23, 2023
- LB Ex. 27: Letter placing the Appellant on administrative leave, August 30, 2023
- LB Ex. 28: Dr. Moran's timeline of performance and conduct issues, September 22, 2023
- LB Ex. 29: Dr. Moran's notes re: retaliation PTSA, September 22, 2023
- LB Ex. 30: *Loudermill* report by Mr. Thomas
- LB Ex. 31: DCI memo – placement on administrative leave without pay, January 16, 2024

- LB Ex. 32: Maryland Case Search for C-10-CR-23-001104, undated
- LB Ex. 33: MCPS regulation COF-RA: alcohol, tobacco, and other drugs on MCPS property, undated
- LB Ex. 34: MCPS policy IGN: preventing alcohol, tobacco, and other drug abuse, undated
- LB Ex. 35: Professional growth handbook, undated
- LB Ex. 36: MCPS Code of Conduct, 2022 – 2023

The record includes the following exhibits offered by the Appellant:

- App. Ex. 1: Final evaluation report by Dr. Schultze, April 2, 2015
- App. Ex. 2: Final evaluation report by Dr. Schultze, May 6, 2016
- App. Ex. 3: Email from Mr. Thomas, January 5, 2024
- App. Ex. 4: Email from Mr. Thomas and sample media, January 5, 2024
- App. Ex. 5: Letter of reprimand and assignment, August 1, 2023
- App. Ex. 6: Last chance procedure, undated
- App. Ex. 7: Appellant's response to Dr. Webster, including email from parent, February 2, 2022
- App. Ex. 8: Character letter from Dr. Schultze, November 4, 2023
- App. Ex. 9: Character letter from Ms. Khanjani, October 11, 2023
- App. Ex. 10: Circuit Court for Frederick County – court order, January 22, 2024