

BRITTINGHAM
TRANSPORTATION, LLC,

Appellant

v.

SOMERSET COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 25-37

OPINION

INTRODUCTION

Appellant, Brittingham Transportation, LLC, appeals the decision of the Somerset County Board of Education (“local board”) to terminate the bus transportation services contract with Appellant, after this case was remanded for a hearing. The local board responded to the appeal maintaining that its decision is not arbitrary, unreasonable, or illegal. Appellant responded and the local board replied.

FACTUAL BACKGROUND

On May 30, 2024, Somerset County Public Schools (“SCPS”) entered into a written contract with Brittingham Transportation, LLC, a single member limited liability company (“LLC”) with Mr. Troy Brittingham, Sr. as its sole member/owner, for the provision of school bus transportation services.¹ (R. 5-10). The contract for services contains a termination provision in ¶9 that states as follows:

In the sole discretion of the Board, this Agreement may be terminated at any time for cause or budgetary constraints by giving sixty (60) days notice to the Contractor. If such termination is for inadequate performance or breach of the Agreement, the Contractor may be held responsible by the Board for expenses incident to its replacement. If this Agreement is terminated for inadequate performance or breach of the Agreement, the Contractor shall be provided the reason or reasons for terminating this Agreement. In the event the Contractor has more than one contract with the [local board] for school vehicle/water vessel services, a breach by the Contractor of any one contract may be deemed a breach by all contracts. Contractor shall be given an opportunity to be heard by the Board on no less than ten (10) days notice in regard to such termination. Contractor shall be allowed to bring counsel and

¹ There is no evidence in the record to dispute that Mr. Brittingham, Sr. is the sole owner/member of the company.

witnesses if so desired. Further, an appeal of the Board's decision may be made to the State Superintendent of Schools within thirty (30) days from the date of said decision.

Id. at 9.

On November 15, 2024, an incident occurred involving a sixth-grade student while Mr. Brittingham, Sr. was operating the school bus.² According to Michael Bartemy, Director of Transportation, Mr. Brittingham, Sr. stopped his bus approximately ¼ mile from his destination at Crisfield High School, and the bus video footage showed Mr. Brittingham, Sr. verbally and physically assaulting the student.

Prior to the November 15 incident, Mr. Brittingham, Sr. was the subject of two other incidents requiring corrective action resulting from his inability to control his anger. One of those incidents, on October 8, 2021, resulted in a one-week suspension from driving a school bus and required Mr. Brittingham, Sr. to attend classes on stress management and conflict de-escalation. After the October 2021 incident, Mr. Brittingham, Sr. signed a *Constructive Advice Memorandum* dated October 11, 2021, acknowledging the sanctions imposed at that time and that Mr. Brittingham, Sr. “understood and agreed that any such action going forward would result in further action up to recommendation for revocation of [his] contract.”

On November 18, 2024, Mr. Bartemy placed Mr. Brittingham, Sr. on administrative leave from his bus duties due to the November 15 incident.³ By letter dated June 17, 2025, Mr. Bartemy provided written notice to Mr. Brittingham, Sr. that his bus services were being terminated due to the November 15 incident based on the local board's vote on the matter at its December 17, 2024 meeting. He explained that the bus video footage clearly showed the physical and verbal assault of the child and that this was the third transportation-related incident for Mr. Brittingham, Sr.

Mr. Bartemy further stated:

Policy #200-18 Section 4.G states: The contract between the contractor and the Board may be terminated at any time at the sole discretion of the Board with sixty days (60) notice and in accordance with the terms and conditions of the contract. The second paragraph of 9 of your contract states: “In the sole discretion of the Board, this Agreement may be terminated at any time for cause or budgetary constraints by giving sixty days (60) notice to the contractor” ... It further states: “Contractor shall be given an opportunity to be heard by the Board on no less than ten (10) days notice in regard to such termination. Contractor shall be allowed to bring counsel and witnesses if so desired. Further, an appeal of the Board's decision

² In addition to the materials submitted by the parties, we also incorporate the facts from our opinion in *Troy Brittingham v. Somerset Cnty. Bd. of Educ.*, MSBE Op. No. 25-20 (2025).

³ Appellant was also employed by SCPS as a custodian and was subject to termination proceedings. That matter is not the subject of this appeal.

may be made to the State Superintendent of Schools within thirty (30) days from the date of said decision.”

For the reasons discussed above, effective March 19th, 2025, your contract for Route 003 will no longer be valid. You have 30 days to file an appeal of the Board's decision with the State Superintendent of Schools....

On March 7, 2025, Mr. Brittingham, Sr. submitted an appeal to the State Board. On May 29, 2025, we remanded the case to the local board for a hearing in accordance with the contract.

The local board held a hearing on June 12, 2025. (R. 1-4). At this hearing, Appellant’s attorney proposed that the parties sign an addendum to the original contract to the effect that Troy Brittingham, Sr. would promise not to drive the bus route, and Appellant would instead hire an employee to satisfy the contract. (R. 1-2). Appellant’s attorney also proffered that the local superintendent had told her attorney, who in turn told the Appellant’s attorney that the local superintendent would not be opposed to such an addendum.⁴ (Appeal at 1-2). The local board declined this proposal. On June 16, 2025, the local board issued a decision to terminate the contract with Appellant. (R. 1-4).

This appeal followed.

STANDARD OF REVIEW

In appeals arising under Md. Code Ann., Educ. § 4-205, the local board’s decision shall be 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. *See* COMAR 13A.01.05.06A; *see also Fields v. Baltimore Cnty. Bd. of Educ.*, MSBE Op. No. 16-05 at 4 (2016).

LEGAL ANALYSIS

New Evidence

Appellant submitted new evidence in this appeal that was not submitted in the appeal to the local board. The State Board may admit additional evidence when the evidence is material and there were good reasons for the failure of Appellant to offer the evidence in the proceedings before the local board. COMAR 13A.01.05.04(C); *see Robin H. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 16-44 (2016).

Appellant submitted new evidence in Exhibit E – a letter from counsel for the local superintendent, dated one day after the local board’s hearing, confirming that the local superintendent did not object to Appellant continuing as a contractor as long as drivers other than

⁴ The record indicates that neither the local superintendent nor her attorney was present. The local board had discretion in determining the weight to give to this statement.

Mr. Brittingham, Sr. were provided. (Exhibit E). This evidence has limited materiality, given that it is the local board, and not the local superintendent, who determines whether to renew or terminate the contract. In any event, there is no good reason this evidence was not offered in the proceedings before the local board. Appellant had more than sufficient opportunity to gather and submit supporting evidence prior to conclusion of the local board proceedings. Thus, we decline to consider the new evidence as a part of this appeal.

Case Merits

Appellant does not dispute that the November 15 incident would be sufficient cause for termination of the contract, that is, if Mr. Brittingham, Sr. was a party to it. The parties only disagree as to the identity of “Contractor.” Appellant argues that “Contractor” refers to the limited liability company, Brittingham Transportation, LLC, and not the individual Mr. Brittingham, Sr. Under Appellant’s interpretation, the LLC could continue performing under the contract by substituting another driver. In other words, there was no breach by the Contractor.

The initial step to contract interpretation is to determine whether the contract’s meaning is plain and unambiguous. *Impac Mortgage Holdings, Inc. v. Timm*, 474 Md. 495, 507 (2021). Ambiguity arises when a term of a contract, as viewed in the context of the entire contract and from the perspective of a reasonable person in the position of the parties, is susceptible of more than one meaning. *Id.* Ordinarily, when a contract is found to be ambiguous, “the meaning of the contract is a question to be determined by the trier of fact.” *Knight v. Manufacturers & Traders Trust, Co.*, 84 F. Supp. 3d 436, 444 (D. Md. 2015) (quoting *Yacoubou v. Wells Fargo Bank, N.A.*, 901 F. Supp. 2d 623, 635 (D. Md. 2012)). At that stage, the fact finder may consider extrinsic evidence to determine the meaning of the contract. *Timm*, 474 Md. at 507.

The identity of the “Contractor,” viewed in the context of the entire contract, is susceptible of more than one meaning. It could refer to the LLC, as Appellant contends, because the LLC is defined as “Contractor” in the first sentence of the contract. It could also refer to Mr. Brittingham, Sr., whose signature appears as the Contractor’s and without any reference to the LLC. In addition, the terms of the contract suggest that the Contractor is a person capable of personally performing the contract: “Contractor will personally provide transportation,” and “[i]f Contractor has multiple contractors, said Contractor will drive one route and hire a driver for any additional routes awarded.”⁵ LLCs are distinct from its individual members, and LLCs cannot “personally” provide services. Consequently, the contract is ambiguous, and the fact finder may consider extrinsic evidence in determining the meaning of “Contractor.”

The local board found that “Contractor” refers to Mr. Brittingham, Sr. (Local board decision at 2-3). In addition to the language in the contract, the local board also based its decision on extrinsic evidence. The local board relied on statements by Mr. Bartemy that school personnel had interviewed Mr. Brittingham, Sr. in his personal capacity and that bus driver candidates are always interviewed individually before being hired and forming an LLC. Because

⁵ Appellant asserts that “Nothing in the contract provides that Mr. Brittingham ‘personally is required to drive[] [the contracted] route.’” (Appeal at 2). Paragraph 3(g) provides that “Contractor will personally provide transportation as per this contract unless Contractor has multiple contracts. If Contractor has multiple contracts, said Contractor will drive one route and hire a driver for any additional routes awarded.”

we generally do not disturb findings of fact on appeal, we find that the “Contractor” is Mr. Brittingham, Sr.

After providing Appellant with a hearing, the local board terminated the contract because the “Contractor and [vehicle] drivers shall take every precaution to insure the safety of passengers,” and a violation “by a Contractor shall be cause for summary termination of this Agreement.” (Local board decision at 3). The local board, after considering the evidence, found that the Contractor breached the duty to provide safe transportation.

Appellant’s burden on appeal is to show by a preponderance of the evidence that the local board’s decision was arbitrary, unreasonable, or illegal. Appellant has not met that burden here.

Addendum

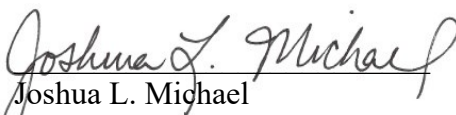
The parties also debate the possibility of creating an addendum, which would modify the contract to allow Appellant to continue providing bus transportation services with a different driver. (Appeal at 1-2, Local Board Response at 3-4).

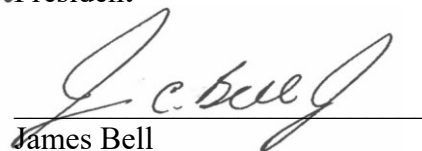
A modification creates a new contract. *Dept. of Pub. Safety & Corr. Servs. v. ARA Health Servs., Inc.*, 107 Md. App. 445, 458 (1995). It is “an abandonment of the original contract and a creation of a new contract.” *Id.* (quoting *Linz v. Schuck*, 106 Md. 220, 234 (1907)).

Our resolution of this appeal is limited to the question of whether the local board erred in terminating the bus transportation services contract. It is within the local board’s discretion whether to create a new contract with Appellant.

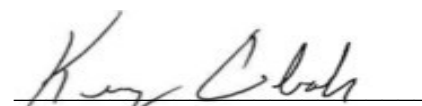
CONCLUSION

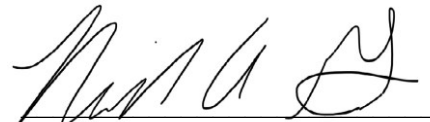
For the reasons stated above, we find that the local board’s decision is not arbitrary, unreasonable, or illegal. Accordingly, we affirm the decision to terminate Appellant’s contract.


Joshua L. Michael
President


James Bell


Chuen-Chin Bianca Chang

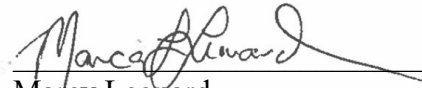

Kenny Clash



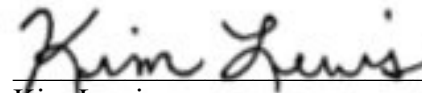
Nick Greer



Irma Johnson



Marcy Leonard



Kim Lewis

Recused:
Chet Chesterfield

Dissent:
Monica Goldson

Absent:
Xiomara Medina
Samir Paul

September 30, 2025