

THOMAS DEVELIN,

Appellant

v.

CARROLL COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 26-09

OPINION

INTRODUCTION

The Appellant, who was employed by Carroll County Public Schools (“CCPS”) as a certificated physical education teacher, appeals the October 10, 2024, decision of the Carroll County Board of Education (“local board”) terminating the Appellant for engaging in misconduct by corporal punishment of a fifth-grade student.

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 May 12, 13, and 22, 2025. On September 29, 2025, the ALJ issued a Proposed Decision recommending that the State Board reverse the local board’s decision terminating the Appellant for misconduct in office for corporal punishment.¹

The local board filed exceptions to the ALJ’s proposed decision, and the Appellant responded. The State Board heard oral argument on the exceptions on February 24, 2026.

FACTUAL BACKGROUND

The full factual background in this case is contained in the ALJ’s Proposed Decision, Stipulated Facts and Findings of Fact, pp. 7-19 and sets forth the relevant facts on the merits of this case which we adopt in full and will not repeat here.

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

¹ The Appellant filed two appeals to OAH – one regarding his termination and one regarding the revocation of his Maryland Educator’s Certificate. The ALJ consolidated the cases and issued one proposed decision addressing both actions. As the certificate revocation is a matter for the State Superintendent, this opinion is limited to the appeal of Appellant’s termination.

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

Based on the preponderance of the evidence and the credibility of the Appellant's testimony, the ALJ found that Appellant's use of physical restraint did not constitute corporal punishment or misconduct in office. The ALJ further found that as Appellant did not commit misconduct and no discipline was warranted. The ALJ recommended the State Board overturn the local board's decision.

The local board filed nine exceptions to the ALJ's proposed decisions, which generally address the findings and conclusions regarding the credibility of the witnesses and witness statements, the use of corporal punishment, and the authorized use of physical restraint. We concur that the ALJ committed errors of law. For the following reasons, we reject the ALJ's Discussion, in part, and Conclusion of Law.

Credibility of the Witnesses and Incident of March 1, 2024

The ALJ begins the analysis with the incident of March 1, 2024. As the ALJ notes, there are two characterizations of Appellant's actions on that day. Mr. William Stoner, Appellant's colleague who was present in the class when the Appellant placed hands on the Subject Student, testified on behalf of the local board. The ALJ did not find Mr. Stoner's testimony credible as to the Appellant. Specifically, she found that Mr. Stoner "had a motive to exaggerate the Appellants (sic) actions" and pointed to Mr. Stoner's testimony that he "cannot work with [the Appellant]" and has "never viewed the Appellant as a nice person." (Proposed Decision, pp. 26-27).

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). We find that the ALJ adequately addressed her reasoning for finding Mr. Stoner's testimony to be less credible.

Additionally, the local board introduced evidence of three student statements regarding the March 1, 2024 incident, who were interviewed by Human Resources Supervisor Kimberly Mahle. The ALJ determined that the manner in which the students were selected, interviewed, and the environment in which the interviews took place created the likelihood that their statements were unreliable or influenced by external factors rather than independent recollection. The local board argues there is no evidence that the students' accounts were unreliable. While there is not explicit evidence about the veracity of the students' accounts, the ALJ details the reasons she did not give as much weight to these statements. (Proposed Decision, pp. 28-29).

Ultimately, we do not find the weight given to these statements to rise to an error of a matter of fact.

Even accepting the Appellant's account as true, as did the ALJ, it is undisputed that the Appellant placed the student in a hold; used a loud voice when speaking to the student; analogized the student's behavior to Appellant going into the student's home and breaking his toys; and told Mr. Stoner he could be fired for his behavior and that he acted in the interest of the students' safety. (Proposed Decision, pp. 25-26). Therefore, we find the facts are sufficient to determine whether Appellant engaged in corporal punishment.

Corporal Punishment and Restraint

The local board also takes issue with the ALJ's determination that the Appellant did not engage in corporal punishment. Pursuant to local board policy JGA.III.B, "Corporal punishment means physical punishment used by a person of authority to correct student misbehavior. Approved behavioral interventions, such as defending oneself from an attack, approved methods of physical restraint, or intervening in student fight or physical struggle are not considered corporal punishment." (Ex. 10). Appellant testified that he utilized physical restraint, specifically a "Barbie Hold," to protect the other students' safety. (Proposed Decision, p. 25). The ALJ found the Appellant's testimony credible and determined that the use of physical restraint was exempted from the definition of corporal punishment.

However, we find the ALJ erred in making this decision. Specifically, the ALJ failed to appropriately credit the testimony of the local board's witnesses that Appellant was not certified to conduct a physical restraint and that physical restraint is to be used in limited circumstances. Board Member Dr. Patricia Dorsey testified on behalf of the local board. Dr. Dorsey has served seven years as a board member and was a teacher, vice-principal, and principal in CCPS for 39 years. Dr. Dorsey testified as to the appropriate use of restraint and use of Crisis Prevention Institute ("CPI") techniques. (T. 171-177). Principal Martin Tierney, with 44 years of experience in CCPS, testified that the use of physical restraint requires a certified school team and should not be used unilaterally. Mr. Tierney also testified that CCPS transitioned from CPI to Safety Cares as its behavioral intervention program during school year 2023-2024. (T. 22, 334-337).

While the ALJ notes that these witnesses were not qualified to testify as experts, we do not find the ALJ provided adequate reasoning to discount the witnesses' testimony regarding local policy. Unfortunately, it does not appear that the parties noted that the State Board maintains regulations governing the legal use of physical restraint. We, however, cannot ignore our own regulations, which clearly state that personnel must "receive training in current professionally accepted practices and standards regarding... [r]estraint and alternatives to restraint." COMAR 13A.08.04.06C(3)(e). "Physical restraint shall only be implemented and monitored by school personnel who are trained in the appropriate use of physical restraint[.]" COMAR 13A.08.04.05A(1)(b). Furthermore, the use of physical restraint is prohibited unless:

- (i) Physical restraint is necessary to protect the student or another individual from imminent, serious physical harm; and
- (ii) Other less intrusive, nonphysical interventions have failed or been demonstrated to be inappropriate for the student.

COMAR 13A.08.04.05A(1)(a).

“Serious physical harm” means bodily injury which involves--

- (A) a substantial risk of death;
- (B) extreme physical pain;
- (C) protracted and obvious disfigurement; or
- (D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty[.]

COMAR 13A.08.04.02B(22); 18 U.S.C. § 1365(h)(3).

As we review the Appellant’s testimony, we note that he acknowledged that he is not currently certified by CCPS to perform restraint. (T. 233-234). Also, in Appellant’s recounting of the March 1st incident, Appellant testified that the Subject Student initially “spiked” one of the short rubber cones in frustration. Shortly thereafter, he kicked a cone, which came close to hitting another student sitting on the floor. Appellant testified that the Subject Student was not responding to verbal re-direction, so Appellant positioned himself between the Subject Student and the cones before placing him in a Barbie Hold. (T. 251-259). Based on Appellant’s own description of events, we are not convinced that the Subject Student’s actions constituted a threat of imminent, serious physical harm, such that a physical restraint was warranted.

Viewing all the testimony and the law in its totality, we do not find that Appellant engaged in a legal use of physical restraint. As such, we find that Appellant’s actions do not fall within the physical restraint exception to corporal punishment under the Policy JGA. We reject the ALJ’s determination that the Appellant did not engage in corporal punishment and misconduct in office.

Discipline

After finding Appellant engaged in misconduct, we must now turn our attention to the appropriate disciplinary consequences for his actions. Originally, the local Superintendent recommended a three-day, unpaid suspension. The hearing examiner recommended to the local board that Appellant should instead be terminated from his position. While the local board agreed that Appellant engaged in misconduct, it was split on the appropriate disciplinary measure. The majority – three members – voted to terminate Appellant, and two members voted for an extended suspension with completion of an anger management course. (Ex. 18).

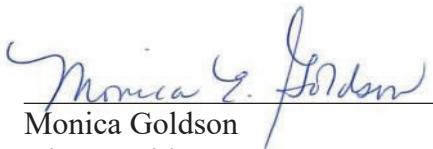
Although the ALJ found that discipline was not warranted as she did not find Appellant engaged in misconduct, she also addressed her concerns with the local board’s reasoning for terminating Appellant from his position. The ALJ found that the board’s approach to discipline lacked nuance and simply assigned the same discipline – termination – as other corporal punishment cases. The ALJ considered Appellant’s 14-year history as a teacher in CCPS without any other disciplinary events, his continued education (including his willingness to be certified in CPI), his volunteerism in the community, and his coaching role in a local football program. The ALJ also noted that Appellant immediately apologized to the class for his actions, but he strongly felt he was acting for the safety of his class. (Proposed Decision, pp. 32-33). As we previously discussed, we give deference to the ALJ’s demeanor-based credibility determinations, and it is

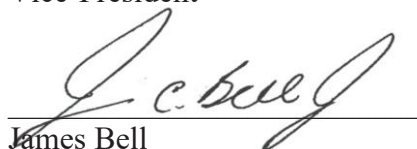
clear that the ALJ found Appellant to be passionate about his teaching. She also noted that Board Member Stephen Whistler, who testified on behalf of Appellant, could not justify the leap in discipline from the local Superintendent's three-day, unpaid suspension to termination. (Proposed Decision, p. 33).

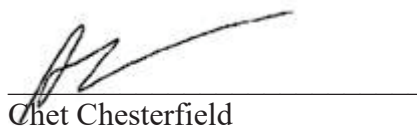
The State Board's broad powers include modification of a penalty imposed on school system personnel by a local board. *See Board of Educ. of Howard Cnty. v. McCrumb*, 52 Md. App. 507, 514 (1982). We are persuaded by the ALJ's findings that the discipline failed to take all of the factors into account, including Appellant's history and his sincerely held belief that he was acting in interest of his class's safety. While we find his illegal use of physical restraint to be a serious breach of his professional responsibilities, we do not find that termination is an appropriate disciplinary consequence. Therefore, we reject the ALJ's finding that Appellant should not receive any discipline, or in the alternative should only receive a written reprimand. We also overturn the local board's termination of Appellant. Instead, we find the local Superintendent's initial three-day, unpaid suspension to be an appropriate disciplinary response to Appellant's misconduct.

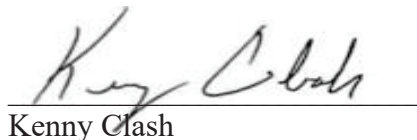
CONCLUSION

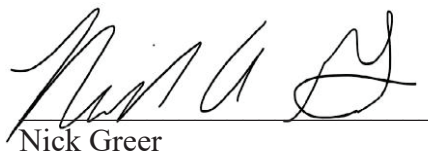
As explained above, we accept, in part, and reject, in part, the ALJ's proposed decision. We concur with the local board that Appellant's actions constituted corporal punishment and misconduct. However, we are overturning the local board's termination, and we are reinstating the local Superintendent's initial three-day, unpaid suspension.

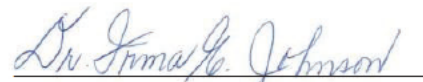

Monica Goldson
Vice-President

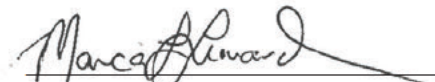

James Bell


Chet Chesterfield


Kenny Glash

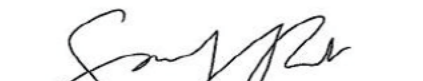

Nick Greer


Irma Johnson


Marcy Leonard


Kim Lewis


Xiomara Medina


Samir Paul

Absent:

Joshua Michael, President

Chuen-Chin Bianca Chang

February 24, 2026

*Board member Nicole Murray-Lewis did not participate in this appeal.

THOMAS DEVELIN,	*	BEFORE ALECIA FRISBY TROUT,
APPELLANT	*	AN ADMINISTRATIVE LAW JUDGE
v.	*	OF THE MARYLAND OFFICE OF
MARYLAND STATE DEPARTMENT	*	ADMINISTRATIVE HEARINGS
OF EDUCATION	*	
AND	*	
CARROLL COUNTY BOARD OF	*	OAH Nos: MSDE-BE-01-24-35524 and
EDUCATION	*	MSDE-SU-10-24-33376

* * * * *

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 or about October 10, 2024, the Carroll County Board of Education (CCBE), dismissed Thomas Develin (Appellant), from his employment as a teacher on the grounds of misconduct in office. Md. Code Ann., Educ § 602(a)(1) (2022). The CCBE Superintendent Dr. Cynthia McCabe also made a mandatory notification to the State Superintendent that the Appellant was dismissed after an allegation of misconduct involving a student and recommended that the State Superintendent revoke the Appellant's teacher's license. Code of Maryland Regulations (COMAR) 13A.12.06.02C(5).

The Appellant appealed both the dismissal decision and the license revocation, and the Maryland State Board of Education (MSDE) transmitted each appeal separately to the Office of Administrative Hearings (OAH). COMAR 13A.12.06.04A; COMAR 13A.01.05.07A(1)(b).

On December 30, 2024, the CCBE filed a Motion to Consolidate the two cases and on January 10, 2025 I granted the Motion.¹

Prehearing Conference, March 17, 2025

On March 17, 2025, I conducted a remote prehearing conference via the Webex videoconferencing platform (Webex). The Appellant was present, with counsel, Aron Zavaro, Esquire. Edmund O'Meally, Esquire and Alexandria Hodge, Esquire, represented the CCBE.

On March 19, 2025, I issued a Prehearing Conference Report and Order. The Order scheduled the case for an in-person hearing on May 12, 13 and 22, 2025 at the CCBE office at 125 North Court Street, Westminster, Maryland.

Hearing, May 12, 13 and 22, 2025

I conducted an in-person hearing on May 12 and 13, 2025. Mr. Zavaro, represented the Appellant, who was also present. Mr. O'Meally and Ms. Hodge represented the CCBE.

Following the second day of hearing, the CCBE requested to conduct the third day remotely to accommodate a witness who was undergoing medical treatment. The Appellant did not object, and I granted the request. I held the third day of hearing remotely via Webex on May 22, 2025.

Motion to Re-Open Record, May 22, 2025

At 2:34 p.m. on May 22, 2025, after the hearing concluded, the Appellant filed a Motion to Re-Open Record for the Limited Purposes of Admitting Newly Discovered Documentary Evidence (Motion).

¹ The cases still maintain their separate case numbers, but were heard together during the same hearing.

Specifically, the Appellant requested to admit one additional exhibit, a three-page Agenda from the Taneytown Elementary School SIT² Agenda, dated May 21, 2025 (App. Ex. 2). The Appellant attached App. Ex. 2 to the Motion. In the Motion, the Appellant stated that he received the document just following the hearing. The Appellant pointed specifically to the following language on App. Ex. 2, and argued that the language “strikes at the heart of [the Appellant’s] case.”

In other schools – physical altercations between kids are happening and teachers are not intervening. As a teacher, you need to step in before support comes.

On June 11, 2025, the CCBE filed its response, titled [CCBE’s] Memorandum In Opposition to Appellant’s Motion to Re-Open the Record (Response). The CCBE objected to the Motion and set forth its arguments for why the exhibit should be excluded. The CCBE included with its Response the following exhibits:

CCBE Ex. 6 Affidavit of Christy Farver, June 2, 2025

CCBE Ex. 7 Affidavit of Brie Bower, June 4, 2025

In its Response, the CCBE argued that App. Ex. 2 is not relevant to the Appellant’s case because it involved a Carroll County elementary school different from the one where the Appellant was employed, and only concerned intervention in fights between elementary school students, and not crisis intervention in accordance with the CCBE approved Safety-Care Crisis Prevention Training (Safety-Care).

The CCBE argued that the incident relevant to these cases did not involve a fight between students, but misbehavior by a single student, and the Appellant’s response to that misbehavior.

² School Improvement Team.

On July 1, 2025, I granted the Appellant's Motion. Specifically, I stated:

In the Motion,³ the Appellant argued that even though App. Ex. 2 had not been discovered until after the close of the record, the re-opening of the record and acceptance of App. Ex. 2 would not prejudice either party as no decision had been made, and there was ample time to review the document.

During the hearing, the CCBE presented, through several witnesses, that the expectation of the CCBE is that no teacher touch a student. The CCBE stressed that this no-touch policy is a rule that is understood county-wide, as well as at Runnymede Elementary School where the Appellant was a teacher at the time of the relevant incident. The Appellant argued that conversations had been circulating amongst Carroll County public school educators that teachers were being terminated for failing to break up fights that resulted in student injury. That point was particularly of import to the Appellant's testimony that his statement to his colleague, William Stoner, that he "could have been fired for that one," specifically referenced these conversations amongst teachers in Carroll County.

I find that App Ex. 2 is relevant as it directly addresses points that were discussed on both sides during the hearing. I find that neither party will be prejudiced by my re-opening of the record and acceptance of App. Ex. 2 because it was timely filed. Indeed, the Motion was filed mere hours after the close of the record on May 22, 2025. Additionally, despite not having the ability to address the document during the hearing, the CCBE has provided its position on the document within its Response, including the affidavits of Christy Farver, Director of Elementary Schools for Carroll County Public Schools (CCPS), and Brie Bower, Principal of Taneytown Elementary School.

Given the relevance of the document to the two cases, the high stakes the cases present for the Appellant, the proximity of time between the close of the record and the submission of the Motion, and out of an abundance of fairness, I will re-open the record to admit App. Ex. 2. . . .

The record for these matters is therefore closed on July 1, 2025. . . .

³ Pursuant to COMAR 28.02.01.11B I may: (3) rule upon offers of proof and receive relevant and material evidence, (4) consider and rule upon motions, (11) issue orders as are necessary to secure procedural simplicity and administrative fairness and to eliminate unjustifiable expense and delay, and (12) conduct the hearing in a manner suited to ascertain the facts and safeguard the rights of the parties to the hearing. Neither the OAH Rules of Procedure nor the rules governing fair hearings before the MSDE address the issue of re-opening the record. Nevertheless, the rules are intended to ensure the parties have a fair hearing and authorize me to make such evidentiary rulings.

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

ISSUES

- (1) Did the CCBE properly conclude the Appellant violated the corporal punishment policy and terminate the Appellant for misconduct as a result; and
- (2) Was the Appellant's Maryland Educator's Certificate properly revoked?

SUMMARY OF THE EVIDENCE

Exhibits

The parties offered the following Joint Exhibits, which I admitted into evidence:

- Jt. Ex. 1 Notice of Administrative Leave, March 1, 2024
- Jt. Ex. 2 Email between Kimberly Mahle and Martin Tierney, March 4, 2024
- Jt. Ex. 3 Email from Carroll County Child Protective Services (CPS), March 4, 2024
- Jt. Ex. 4 Email from Carroll County CPS, March 7, 2024
- Jt. Ex. 5 Letter from Appellant to Ms. Mahle, undated
- Jt. Ex. 6 Amended Letter from Appellant to Ms. Mahle, undated
- Jt. Ex. 7 Notice of three-day suspension, May 15, 2024
- Jt. Ex. 8 CCBE Policy AD⁴ – Core Statement, Values and Beliefs, September 24, 2012
- Jt. Ex. 9 CCPS Employee Handbook, Statement of Professional Conduct,⁵ undated
- Jt. Ex. 10 CCBE Policy JGA-Corporal Punishment, undated
- Jt. Ex. 11 CCBE Policy JLJ – Child Abuse and Neglect, implemented on November 10, 1993; Reviewed/Updated on June 14, 2002 and September 12, 2018

⁴ The letter combinations following the CCPS and CCBE policies and regulations were not defined during the hearing, but appear to be an identifying designation for the documents.

⁵ This exhibit contains only page 21 from the CCPS Employee Handbook.

- Jt. Ex. 12 Administrative Regulation JLF – Child Abuse, Child Neglect, implemented on November 10, 1993, Reviewed/Updated on June 14, 2002 and September 12, 2018
- Jt. Ex. 13 CCBE Policy BHC: Reporting Improper Actions by [CCPS] Employees, Contractors or Agents, approved April 11, 2001
- Jt. Ex. 14 CCBE 6-202⁶ Appeal Hearing Transcript, July 17, 2024
- Jt. Ex. 15 Memorandum re: Placement for the Remainder of 2023-2024 school year and 2024-2025 school year, May 15, 2024
- Jt. Ex. 16 Hearing Examiner's Findings of Fact, Conclusions of Law and Recommendation, August 29, 2024
- Jt. Ex. 17 CCBE 6-202 Hearing Transcript, October 10, 2024
- Jt. Ex. 18 CCBE Opinion, October 10, 2024
- Jt. Ex. 19 Written statement, Nicole Spicer, special education instructional assistant, Runnymede Elementary School (Runnymede), October 3, 2024
- Jt. Ex. 20 Character Reference Letters from the following:
- Lucy Staley, undated
 - Tyler Forster, date illegible
 - Thomas Develin Sr., undated
 - Debbie Yaun, August 3, 2024
 - Michelle Thompson, undated
 - Patrick Boyd, August 2, 2024
 - Heather DeWees, August 2, 2024
 - John and Terri Gillis, August 3, 2024
 - Sean Davis, undated
 - Tyler and Hailey Stewart, undated
 - Merrienne and Frank Corino, August 6, 2024
 - Robin Hoff, October 9, 2024
 - Matthew Cahill, undated
 - Thomas Shawver, undated
 - Lenny Mills, October 8, 2024
- Jt. Ex. 21 Excerpt of handwritten notes taken by Ms. Mahle during her interview with Mr. Stoner, undated

⁶ 6-202 references Section 6-202 of the Education Article of the Maryland Annotated Code.

The CCBE offered the following exhibits, which I admitted into evidence:

- CCBE Ex. 1 Email chain between Martin Tierney, Mr. Stoner, Ernesto Diaz, and Kim Mahle, March 1, 2024
- CCBE Ex. 2 Handwritten notes by Ms. Mahle, March 1, 2024
- CCBE Ex. 3 Email chain between Ms. Mahle, the Appellant, and Mr. Tierney, March 1, 2024
- CCBE Ex. 4 Handwritten notes by Ms. Mahle, March 19, 2024
- CCBE Ex. 5 Handwritten notes from meeting between Ms. Mahle, the Appellant, union representative Nathan Curtis and Kristi Reppe, Human Resources specialist, notes taken by Ms. Reppe, April 19, 2024
- CCBE Ex. 6 Affidavit of Christy Farver, June 2, 2025
- CCBE Ex. 7 Affidavit of Brie Bower, June 4, 2025

The Appellant offered the following exhibits, which I admitted into evidence:

- App Ex. 1 Diagram depicting the gymnasium at Runnymede Elementary School, undated
- App Ex. 2 Taneytown Elementary School SIT Agenda, May 21, 2025

STIPULATED FACTS⁷

The Parties stipulated to the following facts:

1. Appellant was a Physical Education (PE) teacher employed by the CCBE and assigned to Runnymede Elementary School (Runnymede) for the 2023-2024 school year.
2. Prior to the 2023-2024 school year, the Appellant had been employed with CCPS for thirteen years and had no history of disciplinary action.
3. During the 2023-2024 school year, Martin Tierney served as Principal of Runnymede. Mr. Tierney has been employed by the CCBE as a teacher, assistant principal and principal for forty-four years, and has been assigned as Runnymede's principal for the past eight years.

⁷ The parties offered into evidence these Joint Stipulations of Fact which I have accepted as facts established by a preponderance of the evidence. COMAR 28.02.01.21H. I made some minor edits, but no substantive changes to the stipulated facts as presented.

4. Mr. Tierney and the Appellant previously worked together at Manchester Elementary School for two years. Mr. Tierney served as principal at that time.
5. The 5th grade student who was the subject of the report (Subject Student), was a student in Appellant's PE class.
6. Other students were present in the gym and allegedly witnessed the Appellant's conduct.
7. The Appellant apologized to the class.
8. Mr. Tierney promptly notified the Office of Human Resources (HR) of the allegations. Specifically, he spoke with Kimberly Mahle, Supervisor of Human Resources.
9. On March 1, 2024, Ms. Mahle spoke with the Appellant via speakerphone and in the presence of Mr. Tierney. She provided him with notification of the general allegations against him, and the Appellant was instructed to leave Runnymede.
10. The Appellant was thereafter provided with written notification that, effective Monday, March 4, 2024, he would be placed on administrative leave with pay, pending completion of an investigation.
11. On March 4, 2024, Kara Finamore, CPS representative advised that neither CPS nor the Carroll County Advocacy and Investigative Center would pursue the matter.
12. On March 7, 2024, Ms. Finamore informed Ms. Mahle that CCPS could continue its investigation.
13. Ms. Mahle led the internal investigation for CCPS.
14. Pursuant to Ms. Mahle's request, Mr. Tierney selected three classmates of the Subject Student for interviews.

15. Mr. Tierney stated that he selected the three students based on his opinion about their respective ability to be honest and provide a fair description of what occurred during the March 1, 2024 PE class.

16. Ms. Mahle conducted the student interviews on March 19, 2024. Mr. Tierney remained in the room while Ms. Mahle interviewed each student.

17. Ms. Mahle stated that each student was interviewed separately.

18. Ms. Mahle interviewed the Subject Student on March 22, 2024. Ms. Mahle stated that to the best of her knowledge, the Subject Student was not previously told the purpose of his meeting with her.

19. Ms. Mahle also interviewed Mr. Stoner, the teacher who reported the incident.

20. On April 19, 2024, Ms. Mahle, Kimberly Reppe, HR Specialist, met with the Appellant and Nathan Curtis, union representative for the Appellant.

21. During the meeting, Ms. Mahle shared with the Appellant, the allegations against the Appellant regarding an incident on March 1, 2024 during the 5th grade PE class.

22. During the meeting, the Appellant was provided an opportunity to respond to the allegations.

23. During the meeting, the Appellant acknowledged that he told Mr. Stoner, his colleague, to confirm that his actions were to protect the other students.

24. During the meeting, the Appellant expressed his frustration about the lack of accountability for student behavior. He also stated that if teachers were able to be more forceful, behaviors of the type demonstrated by the Subject Student would not occur.

25. The Appellant was provided with an opportunity to submit additional information after the meeting.

26. In his two written statements submitted after the meeting, the Appellant denied any wrongdoing, and offered that he would never hurt a child.

27. The internal investigation resulted in a finding that the Appellant's actions constituted a violation of Board Policy AD – Core Statement, Values and Beliefs; Board Policy JGA – Corporal Punishment; the school system's Statement on Professional Conduct and the related Administrative Regulations.

28. Prior to the Superintendent's official written recommendation, the Appellant declined the opportunity to voluntarily accept a three-day suspension or a letter of reprimand and an anger management course, instead, the Appellant chose to avail himself of this appellate due process rights.

29. On May 15, 2024, the Superintendent recommended to the CCBE that the Appellant be suspended for three days without pay.

30. In accordance with Md. Code Ann., Educ. § 6-202, the Appellant requested a hearing on the Superintendent's recommendation.

31. In accordance with Md. Code Ann., Educ. § 6-203, the CCBE assigned the matter to Hearing Officer Tammy L. Turner, Esq., who was tasked with presiding over the hearing, accepting testimony and evidence, making evidentiary rulings, and preparing a written recommendation to the CCBE including findings of fact and conclusions of law.

32. On July 17, 2024, Ms. Turner held an evidentiary hearing. The Appellant attended the hearing and had the opportunity to cross-examine Mr. Tierney and Ms. Mahle, and to present his own witnesses.

33. On August 28, 2024, Ms. Turner issued written Findings of Fact and Conclusions of Law and Recommendation in which she concluded that the Superintendent had established by a preponderance of the evidence that the Appellant committed misconduct in office. She recommended that the CCBE modify the Superintendent's recommendation and terminate the Appellant's employment.

34. On October 10, 2024, oral arguments were held before the CCBE. The Appellant appeared and represented himself.

35. On October 10, 2024, the CCBE unanimously held that the Appellant's conduct constituted misconduct in office in accordance with Md. Code Ann., Educ., § 6-202(a)(1)(ii), and a majority of the CCBE, CCBE members Marsha Herbert, Tara Battaglia and Dr. Patricia Dorsey, rejected the Superintendent's initial recommendation of a three-day suspension and adopted Ms. Turner's recommendation of termination. Two CCBE members, Stephen Whisler and Donna Sivigny, issued dissenting opinions expressing their opposition to the Appellant's termination.

FINDINGS OF FACT

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

Background

1. The Appellant has been certified as a teacher since December 2011. He has a Master's Degree in Education and is also certified in special education. During the 2023-2024 school year, the Appellant was employed by the CCBE as a PE and health teacher at Runnymede. In that role, the Appellant teaches students in kindergarten through fifth grade, including special education and adaptive physical education with students requiring different supports.

2. The CCPS utilizes a system called Crisis Prevention Intervention (CPI). CPI is trauma informed de-escalation training that teaches educators how to recognize when a student is acting out, how to best react and respond, and physical restraint techniques. All CPI holds involve an educator putting his or her hands on a student.

3. In 2014, the Appellant voluntarily became certified in CPI and maintained his certification through 2021 by taking bi-annual classes during that time. The Appellant was also certified in special holds that were more involved and for incidents requiring a greater level of intervention.

4. During the 2023-2024 school year, Mr. Stoner was also a physical education teacher at Runnymede Elementary School. At the time of the hearing, Mr. Stoner worked at Runnymede for approximately five years.

5. Mr. Stoner's first date of CPI certification is not evident in this record, but he was last recertified in CPI in 2018.

6. During the 2023-2024 school year, the Subject Student was in the 5th grade at Runnymede. Since he was in the 2nd grade at Runnymede, the Subject Student had been identified as struggling with frustration and anger. Since that time, the Subject Student had been supported by the guidance department at Runnymede around those issues.

7. Fifth grade students at Runnymede are, on average, ten-to-eleven years old.

8. In or about September 2023, the Appellant returned to school after a three-week paternity leave, and learned that his schedule had changed. While the Appellant was out, Mr. Stoner had told Mr. Tierney that he and the Appellant had agreed to the change, but they had not. The Appellant chose to resolve the conflict without third-party intervention, and came to a compromise with Mr. Stoner.

9. In late February 2024, Mr. Stoner expressed frustration to both Mr. Tierney and the Appellant that he had missed the window to put in for a transfer to another school. Mr. Stoner blamed the Appellant's absence for paternity leave on his inability to timely complete the transfer request.

March 1, 2024 Incident

10. On March 1, 2024, the Appellant and Mr. Stoner were assigned to a 5th grade PE class. The class was considered a "double class" and was comprised of two 5th grade classes. In a double class, while Mr. Stoner and the Appellant are assigned to one of the two classes, the classes intermingle in the gymnasium, participate in activities together, and the two teachers are responsible for supervising all students. On March 1, 2024, there were approximately fifty students present in the 5th grade double PE class. The Subject Student was a student in the Appellant's class.

11. The Appellant has taught the Subject Student since he was five years old.

12. The gymnasium at Runnymede is approximately half the size of a regular basketball court.

13. At the start of the class, Mr. Stoner ran the warm-up activity. The students were asked to gather on either side of the gymnasium in approximately twelve total squad lines of five students. The squad groups would then run towards the center of the gymnasium doing various relays all involving six-inch rubber cones. During the warm-up, the Subject Student did not follow instructions.

14. The rubber cones used were approximately six inches high and made of dense, unbreakable rubber material.

15. During the last relay, the Appellant blew his whistle to reset as half of the students did not appear to understand the instructions. At that time, the Appellant and Mr. Stoner were standing next to one another with their backs to the gymnasium doors, facing the students. The Subject Student was upset that the relay had been stopped and started violently slamming the cones down, causing them to bounce back approximately five feet in the air. Both the Appellant and Mr. Stoner observed the Subject Student's activity.

16. Mr. Stoner walked to the East side of the gym to reinstruct his class in the relay. Mr. Stoner's back was to the West side of the gym where the Appellant was gathering with his class.

17. The Appellant spoke to the Subject Student and asked him to calm down, stating that they would re-do the relay. The Subject Student ignored the Appellant's verbal redirection and kicked a cone in anger, nearly striking another student who was seated in her squad line. The Subject Student kicked another cone that nearly struck a second student's head.

18. In an effort to isolate the Subject Student, the Appellant separated his class and the many remaining cones from the Subject Student by placing himself in-between them. The Appellant used the "Barbie Hold" by placing his hands on the Subject Student's shoulders and directing him against a wall. The Subject Student was agitated and red-faced. The Appellant, who was also upset, told him that his behavior was dangerous.

19. After a minute or two, when the Appellant and the Subject Student had calmed down, the Appellant told the Subject Student that he had to have more respect for the PE equipment. The Appellant analogized the behavior to the Appellant going to the Subject Student's home to break his toys. The Appellant escorted the Student to the "think box" to give him a chance to self-reflect and cool down.

20. While the Appellant was talking with the Subject Student, Mr. Stoner took the rest of the students in the class to the middle of the gymnasium. The Appellant could hear Mr. Stoner speaking to the class while he was speaking to the Subject Student.

21. When the Appellant finished speaking with the Subject Student, he walked over to Mr. Stoner who asked, "what happened?" The Appellant said, "Man, I could lose my job over that one. If anyone asks, I was doing it out of concern for the safety of the other kids."

22. The Appellant apologized to the double class for interrupting the fun and stopping their activity, and the Appellant assisted the classes to resume the final relay.

23. After the final relay was completed, the Appellant approached the Subject Student and spoke to him again about his behavior. He told him his actions had been unacceptable, and that his classmates could be harmed. The Subject Student then returned to his class and appropriately participated until dismissal.

24. At some point after the gym class, and during Mr. Stoner's planning period, Mr. Stoner went into the Subject Student's class and asked his teacher if he could speak to the Subject Student in the hallway. He placed his hands on the Subject Student's back, and said, "if you're not ok, it's ok to not be ok. There are people here who can help you. I am one of those people."

25. Around midday on March 1, 2024, Mr. Stoner met with Mr. Tierney and shared his concerns about what he had observed between the Appellant and the Subject Student during the 5th grade PE class earlier that day.

26. After speaking with Mr. Stoner, Mr. Tierney called Ms. Mahle and told her about Mr. Stoner's statement. Ms. Mahle then directed Mr. Tierney to get a written statement from Mr. Stoner and the Subject Student, which he did.

27. Per Ms. Mahle, Mr. Tierney asked the Subject Student to go to the nurse's office but the Subject Student declined.

28. After their conversation, Ms. Mahle and Mr. Tierney spoke to the Appellant and advised the Appellant about the allegations, but not who had made them. Ms. Mahle placed the Appellant on administrative leave.

29. When the Appellant returned to the office in the gymnasium to retrieve his belongings and wait for his two children to meet him for dismissal, he spoke with the Mr. Stoner. The Appellant told Mr. Stoner he had been placed on administrative leave, and told Mr. Stoner that he assumed the guidance counselor, as a mandatory reporter, had ultimately told Mr. Tierney about the incident.

30. Someone at Runnymede reported the incident to the Carroll County Department of Social Services, Child Protective Services and the Carroll County police department⁸ and both agencies declined to investigate.

CCPS Investigation

31. On March 19, 2024, Ms. Mahle came to Runnymede to interview students who had been present on March 1, 2025 during the 5th grade PE class. Mr. Tierney selected three students for her to interview. He selected the students based on his belief that they were hardworking students, would be honest and would remember what had occurred two-and-a-half weeks prior. Those students shared that the Appellant had gotten angry and screamed at the Subject Student. Two students reported that the Appellant pushed the Subject Student against the wall and one student stated the Appellant lifted the Subject Student from the ground.

⁸ The Carroll County police department were contacted by way of the Carroll County Advocacy Investigative Center which is the arm of the Carroll County police department who work in collaboration with Child Protective Services.

32. The following week, Ms. Mahle returned to Runnymede and interviewed the Subject Student. The Subject Student got teary eyed and reported that the Appellant's actions had made him feel scared. He reported that the Appellant had said, "what if I came to your house and busted up all of your toys?"

33. On April 19, 2024, Ms. Mahle, Christy Reppe, human resources specialist CCBE, and the Appellant and his CCEA⁹ union representative, Nathan Curtis, attended a due process meeting to discuss the allegation and allow the Appellant an opportunity to respond.

34. After discussing the incident with Ms. Reppe and Ernesto Diaz, director of human resources for CCBE, Ms. Mahle concluded that the Appellant's actions on March 1, 2025 amounted to corporal punishment of the Subject Student. Ms. Mahle prepared a recommendation to the CCBE that the Appellant receive a three-day suspension without pay.

35. On May 15, 2024, Mr. Diaz reassigned the Appellant to Robert Moton Elementary School as a PE teacher for the remainder of the 2023-2024 school year. Robert Moton Elementary School houses a special program specifically designed for emotionally challenged students. The letter of reassignment also stated, in part:

You will be assigned to a different school for the 2024-2025 school year.
This assignment will be shared with you prior to the last day of school.
You will be able to utilize the voluntary transfer process, if you choose,
after you have received your 2024-2025 placement.

Joint Ex. 15.

CCBE Evidentiary Hearing

25. The Appellant requested a hearing on the Superintendent's recommendation in accordance with Md. Educ. Art., § 6-202.

⁹ Carroll County Education Association

26. On July 17, 2024, hearing officer Tammy Turner held an evidentiary hearing in the matter. On August 29, 2024, Ms. Turner issued her Findings of Fact, Conclusions of Law and Recommendations to the CCBE (Turner Recommendation). In the Turner Recommendation, Ms. Turner concluded that the Appellant's actions on March 1, 2024 had amounted to misconduct in office and recommended that the CCBE modify the Superintendent's recommendation and terminate the Appellant's employment.

26. On October 10, 2024, the CCBE heard oral arguments on the proposed recommendation that the Appellant, a public-school employee, may be suspended without pay or terminated. Mr. O'Meally represented the superintendent, Dr. Cynthia McCabe, Charles L. Scott represented the CCBE and the Appellant represented himself.

26. On October 10, 2024, after oral arguments, three of five members of the CCBE voted to adopt the Turner Recommendation and terminate the Appellant's employment. The CCBE stated in its Opinion, in part:

A majority of the [CCBE] believes that the Superintendent's initial recommendation of a three-day suspension is inappropriate, especially since the Appellant has repeatedly failed to acknowledge his misconduct or express any contrition, remorse or desire to improve from the time the Superintendent's recommendation was issued on May 15, 2024 through the hearing and oral argument on October 10, 2024. Accordingly, the [CCBE] adopts and incorporates by reference herein the [Turner Recommendation].

Joint Ex. 18.

27. The two dissenting members of the CCBE made the following statement in the CCBE's October 10, 2024 Opinion:

While we concur that [the Appellant] committed misconduct in office, given [the Appellant's] thirteen years of tenure in the system without a disciplinary violation, we would have preferred a punishment less severe than termination, such as an extended suspension without pay with a requirement that [the Appellant] successfully complete an anger management course prior to his return.

Joint Ex. 18.

After the Evidentiary Hearing

28. In the Fall 2024, the Subject Student enrolled in the Junior Eagle football program where the Appellant was one of his coaches.

29. On May 21, 2025, the Taneytown Elementary School SIT Agenda, included a discussion about the following:

In other schools – physical altercations between kids are happening and teachers are not intervening. As a teacher, you need to step in before support comes.

DISCUSSION

THE LEGAL STANDARDS

CCBE Policies

CCBE Policy AD – Core Statement, Values, and Beliefs, effective June 12, 1991, states, in part:

- I. Purpose: To set forth the [CCBE's] Core Statement, values and beliefs necessary for a successful school system
...
- III. Policy Statement:
...
Core Values: The [CCBE] establishes the following core values:
 - The pursuit of excellence
 - Life-long learning and success
 - A safe and orderly learning environment
 - Community participation
 - Fairness, honesty, and respect
 - Continuous improvement
 - Reflecting the priorities, beliefs and morals of our local community
...

Core Beliefs: The [CCBE] believes that the [CCPS] operates effectively and efficiently when:

... All school staff:

...

- Provide a safe and orderly learning environment for students and staff

...

All students:

...

- Demonstrate respect for the learning environment and other individuals

...

Joint Ex. 8.

The CCPS employee handbook details the CCBE's expectations for all staff members.

The Statement of Professional Conduct states, in part:

Each [CCPS] employee in every position serves an important role in fulfilling the Core Values and Beliefs of the [CCBE]. To contribute effectively in a quality educational system, all employees must conduct themselves in a professional manner at all times and convey a positive image to students, colleagues, and the community that reflects and upholds our community standards and expectations.

While it is impossible to list every example of proper conduct, the following represent the manner in which our employees are expected to conduct themselves in the course of their employment with CCPS:

...

- treat students, colleagues, professional associates, and community members with courtesy and respect, without discrimination or harassment;
- serve as a model of good behavior for the students of CCPS;

...

- be knowledgeable of, and comply with, all applicable laws, regulations, and policies of CCPS

Joint Ex. 9

CCPS Administrative Regulations, [CCBE] Policy JGA: Corporal Punishment states, in part:

- I. State Regulation:
 - A. COMAR 13A.08.01.11A: Each local board of education is required to adopt a set of regulations designed to maintain an atmosphere of order and discipline necessary for effective learning. These regulations should provide for counseling and standards for appropriate disciplinary measures, and may permit suspension, or expulsion.
 - B. COMAR 13A.08.01.11E: Corporal punishment may not be used to discipline a student in a public school in the State of Maryland.
- II. [CCPS] Regulations:

Corporal punishment may not be used to discipline a student in a Carroll County public school, on [CCPS] property, or at a [CCPS] sponsored activity. Persons of authority who inflict corporal punishment on a student will be:

 - A. Reported to appropriate agencies for investigation of possible child abuse.
 - B. Subject to Disciplinary Action
- III. Definitions:
 - C. Corporal punishment means physical punishment used by a person of authority to correct student misbehavior. Approved behavioral interventions, such as defending one's self from an attack, approved methods of physical restraint, or intervening in student fight or physical struggle are not considered corporal punishment.

Joint Ex. 10.

BOARD OF EDUCATION: DISCIPLINE

Section 6-202 of the Education Article of the Maryland Code provides that “[o]n the recommendation of the county superintendent, a county board may suspend (or dismiss) a teacher, principal, supervisor, assistant superintendent, or other professional assistant for . . . misconduct in office . . .” Educ. § 6-202(a)(1)(ii) and (v) (2022). Section 602(a)(2)-(4) sets forth the procedure for such suspension, including notice, opportunity for a hearing before the county board, in person or by counsel, to bring witnesses to the hearing, and the right to appeal the decision of the county board to the State Board. Educ. § 6-202(a)(2)-(4). The county board may have the proceedings heard first by a hearing examiner. Educ. § 6-203(a), (b).

Pursuant to COMAR 13A.01.05.03D(1), (2), when a decision is appealed to the State Board, the county board shall transmit the record of the local proceedings with its response to an appeal, including a transcript of the proceedings.

COMAR sets forth the standard of review, applicable to this proceeding, in an appeal to the State Board:

Certificated Employee Suspension or Dismissal pursuant to Education Article, §6-202, Annotated Code of Maryland.

- (1) The standard of review for certificated employee suspension and dismissal actions shall be de novo as defined in §F(2) of this regulation.
- (2) The State Board shall exercise its independent judgment on the record before it in determining whether to sustain the suspension or dismissal of a certificated employee.
- (3) The local board has the burden of proof by a preponderance of the evidence.
- (4) The State Board, in its discretion, may modify a penalty.

COMAR 13A.01.05.06F.

COMAR 13A.01.05.07E provides that “[t]he administrative law judge shall submit in writing to the State Board a proposed decision containing findings of fact, conclusions of law, and recommendations, and distribute a copy of the proposed decision to the parties.” To prove something by a preponderance of the evidence means that “something is more likely so than not so,” when all the evidence is considered. *Coleman v. Anne Arundel Cnty. Police Dep’t*, 369 Md. 108, 125 n.16 (2002); *see also Mathis v. Hargrove*, 166 Md. App. 286, 310 n.5 (2005).

Accordingly, on behalf of the State Board and on the record before me, I shall exercise my independent judgment to determine whether the CCBE established by a preponderance of the evidence that the Appellant engaged in misconduct in his interactions with the Subject Student on March 1, 2024, and should be subject to discipline.

MARYLAND STATE DEPARTMENT OF EDUCATION: LICENSE

Pursuant to COMAR 13A.12.05.02(5), once a decision has been made to terminate a teacher with a Maryland Educator's Certificate, the State Superintendent "shall" suspend or revoke a certificate "if the certificate holder. . . [i]s dismissed. . . after notice of allegation of misconduct involving a student. . . is substantiated." Upon notice that the State Superintendent plans to either suspend or revoke a certificate, the holder of the Maryland Educator's Certificate has thirty days to request a hearing; if the request is timely made, the State Superintendent then refers the case to the OAH for a hearing. COMAR 13A.12.05.03D; 13A.12.05.04A

At the hearing before the OAH, the Administrative Law Judge will determine if the charges against the Maryland Educator's Certificate are supported by a preponderance of the evidence. COMAR 13A.12.05.04D. As the party asserting that its proposed revocation of the Appellant's Maryland Educator's Certificate is proper, the Superintendent bears the burden of proof and must show that its charges are more likely true than not true when all the evidence is considered. *See Coleman*, 369 Md. at 125 n.16.

THE POSITION OF THE PARTIES

The CCBE argued that the Appellant's actions on March 1, 2024 in handling the Subject Student's behavior constituted corporal punishment in violation of the CCPS Employee Code of Conduct and CCBE regulations. For the violation, the Superintendent first recommended a three-day suspension without pay. The CCBE later modified the recommendation to a termination. That modification was based on the majority of the board members belief that, since the incident, the Appellant had not taken responsibility or shown remorse for his actions.

The Appellant argued that he took reasonable steps in the moment to protect the other students in the class, and did not inappropriately hold the Subject Student.

The Appellant said he had a six-year history teaching the Subject Student, who was quick to anger and become dysregulated. The Subject Student's actions could be a difficult child to manage in a large class, and the Appellant argued that his actions were a reflection of his experience with the Subject Student paired with his concern for protecting the safety of the rest of his class. The Appellant admitted to getting a bit angry, using a loud "coach voice," and immediately apologized to the class for interrupting the positive energy created by the relay-races.

For the following reasons, I recommend that the CCBE's conclusion that the Appellant's actions rose to the level of misconduct warranting a termination should be reversed and revised.

ANALYSIS

EVENTS OF MARCH 1, 2024

The first part of the analysis turns on what actually happened between the Appellant and the Subject Student in the gymnasium on March 1, 2024. As there is no video recording, and two differing stories, the conclusion largely turns on a credibility determination.

The CCBE primarily presented its version of events through the testimony of William Stoner, who was also present in the gym class that day. Mr. Stoner described that the Appellant picked the Subject Student up by the arms, put him against the wall, and then yelled "how would you like me to come to your house and break your toys?" Ms. Mahle, who interviewed three students from the gym class eighteen days after the incident, testified briefly about what the students had told her. She said that the first student said that the Appellant pinned the Subject against a wall and was using a mean tone; the second student said that the Appellant pushed the Subject Student into the wall and was "a little rough;" and the third student said the Appellant picked up the student and had a very serious look on his face.

Ms. Mahle testified that all three students recalled that the Subject Student had been kicking the cones prior to the Appellant interacting with him, and that the Appellant said something similar to the aforementioned quote about breaking the Subject Student's toys at his home.

Mr. Stoner testified that when the interaction was over, the Appellant approached him and said, that the interaction could have cost him his job. He then described that the Appellant instructed him to tell anyone who asked that the Appellant was acting to protect the safety of the rest of the students. Mr. Stoner described the Subject Student as being very upset about the interaction.

By his own testimony, the Appellant presented his version of events. He testified that the Subject Student typically responded to verbal redirection, but that on that day he had not. The Appellant testified that when the Subject Student ignored the verbal redirection, he became concerned for the safety of the other students in the class who were not all aware of the danger presented by the Subject Student's kicking the cones. He said that he did not feel an invasive measure was required but rather used his body to separate and isolate the Subject Student from the cones and the other students. Once the Student was separated from the cones, the Appellant used a "Barbie hold" that he described as placing your hands on the outside of the student's shoulders to guide them where you want them to go. He described the hold as placing pressure on the student without causing pain.

The Appellant admitted that he was angry and had used a loud "coach voice" when talking to the Subject Student. He admitted to asking the Subject Student how he would feel if the Appellant came to his house and broke his toys but explained that it was in an effort to better explain the importance over the Subject Student's disrespectful behavior towards the cones.

The Appellant testified that it was a similar method he had used with the Subject Student in the past, and he believed the Subject Student understood, and responded to the analogy. The Appellant also admitted that he told Mr. Stoner that he could get fired over the incident, and that he had been protecting the other students. He explained that the comments were in response to Mr. Stoner's question about what had happened. The Appellant commented further that there had been talk amongst educators in the Taneytown community where he both lives, and works, that teachers were being disciplined for failing to intervene in incidents where children ultimately are injured. The Appellant testified that he had a friend who had been placed on suspension for not proactively stepping in to prevent a similar incident, and described his statement as referencing the "optics" of what could have happened had he not stepped in.

I found the Appellant's testimony credible. He was straightforward about what happened, admitting when he did things that in hindsight had not necessarily been the best choices. His recollection of events has been consistent over time, in the face of multiple hearings and cross examinations. He was attentive throughout the hearing, polite and clearly passionate about teaching and supporting his community.

I did not give Mr. Stoner's testimony, or recollection of events, as much weight. Mr. Stoner had his back to the incident and was also busy with the other students during the interaction between the Appellant and the Subject Student. Mr. Stoner had a motive to exaggerate the Appellants actions, and this motive was never addressed or considered by the Superintendent or the CCBE. I found Mr. Stoner to be nervous and fidgety during his presentation in contrast to the Appellant's calm, respectful and confident demeanor. Mr. Stoner's testimony also contained some inconsistencies.

After the incident, Mr. Stoner continued teaching the class with the Appellant, not intervening when the Appellant went back over to the Subject Student to address him again, and release him from the thinking corner. Yet Mr. Stoner testified that he was so concerned for the Subject Student, that he visited with him later in the day to ensure he was ok. The actions Mr. Stoner described are not congruent with a teacher who was concerned for a child's mental and physical health and, therefore, I find his motives questionable, and his credibility lessened.

He testified on direct examination that prior to March 1, 2024, he and the Appellant got along. On cross examination, he conceded that he had told Ms. Mahle that the Appellant is "just not a nice person," that he "cannot work with [the Appellant]," "cannot be in a room with [the Appellant]," and that the Appellant "needs to be in charge." Mr. Stoner testified that he's never viewed the Appellant as a nice person.

The Appellant detailed incidents just prior to March 1, 2024, when Mr. Stoner had become upset with him first over scheduling, and then over the negative impacts the Appellant's paternity leave had on him. Neither Mr. Tierney nor Ms. Mahle looked into any of these incidents, or considered how they could have impacted Mr. Stoner's reliability. Likewise, Ms. Mahle never asked Mr. Stoner where he was standing in the gym, what angle he had viewed the incident, how far away he had been or why he had allowed the Appellant to continue interacting with the class and the Subject Student for the remainder of the class.

The CCBE also relied on student statements that were originally taken by Ms. Mahle eighteen days after the incident and recounted by Ms. Mahle during her testimony. Both Ms. Mahle and Mr. Tierney testified that they are always concerned with the veracity of student statements, and a young student's ability to remember events. Ms. Mahle testified that she has concerns even when there is a one-week lapse.

Ms. Mahle and Mr. Tierney also both testified about how surprised they were by the student's ability to remember so many details, and how similar the details were in one another's statements.

The Appellant testified that he heard from student's parents, and from his own children who were students at Runnymede, that students at the school were talking about the incident and their conclusion that the Appellant had been terminated. The Appellant argued that there was no way to ensure that the students' statements had not been either intentionally or unintentionally tainted by rumors. Mr. Tierney and Ms. Mahle expressed surprise over the readiness of their statements after eighteen days, and the similarity between the details and all of that does give rise to the question about the reliability of their reports.

The students were not randomly selected but specially picked by Mr. Tierney because of his belief that they were good students, and would be more likely to recall the events. I find that the orchestrated nature of the students' selection was more unlikely to illicit untrustworthy responses than a more random selection. The students selected were admittedly students who aimed to please. Ms. Mahle testified that she initially told the students that she talks to students when there is a "problem" with a school system employee. Given the Appellant's unexplained absence from the school following the incident, the rumors that he had been terminated, and Ms. Mahle's suggestion that there had been a "problem" with him, these students may have aimed to please Mr. Tierney, who was seated in the room during the interviews, by restating a version of events supporting the conclusion that the Appellant had done something wrong.

The most concerning part of the students' statements, however, is the fact that Ms. Mahle did not ask them important questions such as where they had been during the incident, how far away they had been, what their relationship was with the adults and students involved, if they had heard rumors about the incident, what direction the cones were being kicked, where the

cones were landing, what Mr. Stoner was doing during the interaction and if the incident had been discussed outside of school. The Appellant was neither given the names of the student witnesses nor given an opportunity to cross-examine them. For all of these reasons, I give the students' statements little weight.

Corporal Punishment or Misconduct

As described in the Findings of Facts and by the Appellant's testimony, I found the Appellant's version of events most credibly explains what occurred on March 1, 2024 between the Subject Student and the Appellant. The second part of the analysis turns on whether those actions amount to corporal punishment, or misconduct in office.

CCBE Policy JGA defines corporal punishment as physical punishment used by a person of authority to correct student misbehavior. The definition carves out exceptions including approved behavioral interventions such as defending oneself from an attack, approved methods of physical restraint, or intervening in student fight or physical struggle. The definition explicitly states that these exceptions are not corporal punishment.

The only version of events that falls within the corporal punishment definition is the Appellant's use of the Barbie hold to direct the Subject Student away from the cones and the rest of the class. The legal issue to resolve is whether the Appellant's use of physical restraint, by way of the Barbie hold, violated school policy and therefore was misconduct.

The CCBE's ultimate recommendation of termination was on the ground of Misconduct in Office. The seminal Maryland case on Misconduct in Office is *Resetar v. State Board of Education*, 284 Md. 537, 560-61 (1979), in which the Supreme Court of Maryland stated that the term misconduct "is sufficiently comprehensive to include malfeasance as well as misfeasance,"

and “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.”¹⁰

The CCBE argued, through the opinion of Mr. Tierney and the various Board of Education members’ testimony, none of whom were qualified to testify as experts, that there is a distinct difference between student fights and individual student misbehavior. Several of the CCBE witnesses testified that while an educator could intervene and physically touch a student in an effort to break up a fight, an educator could not intervene and physically touch a student in an effort to prevent harm if there was no fight. The CCBE witnesses concluded that on March 1, 2024, the Subject Student was not engaged in a fight, and therefore, prior to intervening, the Appellant would have been required to alert the team of individuals certified in CPI who would respond to assist.

Mr. Tierney testified that in a situation where one student is about to strike another student, the expectation is that an educator would break up the fight without utilizing any hold on the students. He stated that an educator can get in between fighting students, and remove other students from the area so that they are not at risk of harm.

The Appellant argued that he was not utilizing a hold that required the assistance of the CPI team and that he was specifically acting to prevent further harm by deescalating the situation before it reached a point where more invasive intervention may be required. He also testified that even if the Barbie hold the he employed had required him, as a best practice, to alert the CPI

¹⁰ *Black’s Law Dictionary* defines “misfeasance” as:

[a] misdeed or trespass. The doing what a party ought to do improperly.... The improper performance of some act which a man may lawfully do.... Misfeasance, strictly, is not doing a lawful act in a proper manner, omitting to do it as it should be done; while malfeasance is the doing an act wholly wrongful; and non-feasance is an omission to perform a duty, or a total neglect of duty. But misfeasance is often carelessly used in the sense of ‘malfeasance.’ (citations omitted). <https://thelawdictionary.org/misfeasance/> (last visited September 26, 2025).

Black’s Law Dictionary defines “malfeasance” as: The wrongful or unjust doing of some act which the doer has no right to perform, or which he has stipulated by contract not to do.” (citations omitted). <https://thelawdictionary.org/malfeasance/> (last visited September 26, 2025).

team, the urgency of the situation did not allow him time to call for the team without risking that students would be injured. The Appellant explained that in all of the CPI trainings he had attended, someone had always posed the question of what to do if there was no time, or imperfect conditions to employ CPI standards and holds as they were taught, and the response was always to “use your best judgment.”

I disagree with the CCBE’s interpretation that the exceptions within the definition of “corporal punishment” refer only to fights between students. The definition explicitly lists intervening in a student fight as distinct from intervening in a physical struggle, both of which are exceptions to corporal punishment. It would be redundant to list both if they referred to the same thing. While “physical struggle” is not defined, I conclude that the CCBE intended that there be an exception for intervening in something other than student fights. Certainly, intervening to remove student whose behavior is posing a risk to a classroom of students, could warrant the use of what the Appellant referred to as the “least restrictive hold” such as the Barbie hold, seems logical. I disagree that the Appellant’s actions were corporal punishment and more properly falls within the exception as an approved physical restraint.

The hearing examiner’s decision was based on an inappropriate application of the school policy, and the Superintendent’s decision largely relied on the hearing examiner’s misapplication of policy to determine to further conclude that the Appellant had committed misconduct in office. Based on my review of the evidence and the applicable law and policy, I conclude that the Appellant’s conduct to physically restrain the Subject Student on March 1, 2025, did not violate the corporal punishment policy and was not misconduct.

Discipline

Having concluded that the Appellant did not commit Misconduct in Office, I also conclude that no discipline is warranted. In the event the CCBE does not agree with my conclusion, I will briefly address discipline.

The Appellant worked for the CCPS as a teacher for fourteen years with no prior disciplinary action required. He volunteered to be CPI certified, and took further education in adaptive physical education and education leadership. He volunteered and lived in the community. The Appellant's career is a testament to his passion for teaching and supporting students. The fact that the Subject Student's mother enrolled him in the Appellant's football program and did not take issue with the Appellant coaching him is an indication that the incident was not as serious as the CCBE has concluded.

CCBE President, Marsha Herbert testified about her reasoning for supporting termination for the Appellant rather than a three-day-suspension. She largely referred to the CCBE's responsibility to communicate to educators, through their actions, that they are in charge. She referenced other cases where the CCBE had terminated educators for use of corporal punishment and surmised that they had to, therefore, do the same here. It was clear that the CCBE did not reasonably consider any mitigating factors, such as the Appellant's long unblemished record as an educator and community volunteer and coach. I did not find her testimony persuasive. Ms. Herbert did not testify about facts unique to the Appellant or the March 1, 2024 incident, but placed it in a group with other cases involving corporal punishment and concluded that they all required the same treatment. I find that this failure to view cases independently based on their particular facts and nuances discredits her conclusions.

CCBE member Dr. Patricia Spence Dorsey also testified, and agreed with the CCBE majority that the Appellant should be terminated. I found her testimony to be credible, but disagree with the CCBE conclusion. The overall decision of the CCBE to terminate the Appellant relied largely on his actions following March 1, 2024, and the CCBE's feelings that he was not remorseful for what he had done. The Appellant did apologize to the class immediately after the incident, and was honest about the missteps he had taken. He did not agree that his actions constituted corporal punishment, but rather felt he had acted to protect the class in the swiftest and least intrusive way possible. As such, he had nothing more for which to be remorseful. The Appellant's continued allegiance to this position lends strength to his credibility. A person's pursuit of due process and to defend himself against disciplinary charges as permitted, should not be construed to be a lack of remorse.

CCBE member Stephen Whistler testified for the Appellant as one of the board members who joined the dissenting opinion. He testified that he did not believe that anything happened between the time of the Superintendent's recommendation of a three-day suspension, and the CCBE's recommendation of termination to warrant such a leap in disciplinary action. As a result, and given the Appellant's lack of any previous discipline, Mr. Whistler testified that he could not support the recommendation of termination.

I agree with Mr. Whistler that the CCBE has not proven any support for the conclusion that the Appellant's actions warranted termination. I find that the Appellant did not commit misconduct, and should not receive any discipline. If the CCBE disagrees, I propose the imposition of a written reprimand.

Given my finding that the Appellant committed neither corporal punishment nor misconduct in office, the Superintendent's recommendation of revocation of the Appellant's Maryland Educator's Certificate would be arbitrary and not based on the weight of the evidence.

CONCLUSION OF LAW

Based on the foregoing Findings of Fact and Discussion, I conclude, as a matter of law, that the Board of Education of Carroll County improperly terminated the Appellant for Misconduct in Office for corporal punishment. Md. Code Ann., Educ. § 6-202(a)(1)(ii) (2022); COMAR 13A.01.05.06F; Carroll County Public Schools Administrative Regulation, Carroll County Board of Education Policy JGA. (Jt. Ex. 10).

Based on the foregoing Findings of Fact and Discussion, I conclude as a matter of law that the Appellant was improperly dismissed after notice of misconduct involving students, and the revocation of the Appellant's Maryland Educator's Certificate was improper. COMAR 13A.12.05.02(5).

PROPOSED ORDER

I **PROPOSE** that the decision of the Board of Education of Carroll County terminating the Appellant for Misconduct in Office for corporal punishment be **REVERSED**, and

I **PROPOSE** that the decision to revoke the Appellant's Maryland Educator's Certificate be **REVERSED**.

September 29, 2025
Date Decision Mailed

Alecia Frisby Trout

Alecia Frisby Trout
Administrative Law Judge

AFT/sh
#220557

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. COMAR 13A.01.05.07F. 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.

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