

DELPHONZO SELLERS,

Appellant

v.

HARFORD COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 26-18

OPINION

INTRODUCTION

Delphonzo Sellers (“Appellant”) appeals the decision of the Harford County Board of Education (“local board”) affirming his termination as a school safety liaison (“SSL”) for misconduct and insubordination. The local board responded that its decision was not arbitrary, unreasonable, or illegal. Appellant responded and the local board replied.

FACTUAL BACKGROUND

This is an appeal of Appellant’s termination based upon his improperly restraining Student A for a second time and violating a direct order from his supervisors to have no contact with Student A while the first incident between Student A and Appellant was under investigation. On May 8, 2023, Appellant was hired as a noncertified staff member to serve as an SSL at a Harford County Public Schools (“HCPS”) elementary school. He remained in that position until April 28, 2025, when he was reassigned to a HCPS high school prior to his termination. (R. 73).

Appellant received over 54 hours of training to prepare him for his SSL position including de-escalating strategies to ensure the safety and calmness of a student with disabilities and training focused on reducing the need for physical intervention while maintaining safety and order. (R. 92-162). On March 28, 2025, the same day as the incident which led to his termination, Appellant completed a four-hour training course for SSL recertification. (R. 210).

Appellant’s job description details that an SSL is to confer with students regarding negative or improper behavior and attempt to obtain voluntary compliance with school safety standards and to refer students to appropriate staff for behavior response. (R. 73, 90). Appellant also received instruction at the beginning of the school year on the “Who and When to Call” expectations for his assigned elementary school, which detailed a specific course of action for staff members in need of behavior assistance with a student. The instructions explained that Appellant’s role was to use his walkie talkie to report the need for behavioral assistance and the incident location so that behavior coaches, mental health team members or the administration could be dispatched for behavior incident responses. (R. 163-166).

On March 13, 2025, Appellant physically removed Student A from the cafeteria. Following this incident, the principal and the assistant principal instructed Appellant to have no contact or conversation with Student A during the pending investigation. (R. 178). Despite this instruction, on March 28, 2025, Appellant engaged with Student A again after a request to escort Student A to his bus. During this encounter, Appellant promised Student A a prize as they walked to the bus, but Appellant reneged on that promise and instead gave the prize to another student in front of Student A. (Appeal Ex. 1, Memo at 5).¹ Student A then became aggressive by kicking the seat in front of him and then kicking Appellant. *Id.* Appellant then restrained Student A by “picking him up from his seat by his arms and physically carrying him off the bus” without first calling for assistance. (R. 192). Once off the bus, Appellant continued to hold Student A and would not let him go. *Id.* Appellant admits that he forgot that his Assistant Principal said to stay away from Student A. (Appeal, Ex. 1, Memo at 4). The two incidents were investigated externally by the Harford County Department of Social Services and screened out for any finding of abuse. (R. 192 – 193).

The second incident was internally investigated by Ms. Holly Flynn, Compliance specialist/Investigator. On April 23, 2025, Ms. Flynn sent a Notice of Investigation to Appellant notifying him that it was alleged on March 28, 2025 that he made inappropriate physical contact with Student A after being instructed by his supervisor not to have any contact with Student A during a current investigation. (R. 198-199). Appellant declined to participate in the ongoing investigation. (R. 77).

Upon completion of the comprehensive investigation including a review of video evidence, witness statements, training materials, COMAR restraint regulations, MSDE Restraint & Seclusion Implementation Guidance, and input from the Coordinator of Special Education’s review of the video evidence, Cathy Bendis, Assistant Superintendent for Operations, requested that a *Loudermill* hearing be scheduled with Appellant. (R. 77).

Kim Ende, Administrative Support Specialist for Staff and Labor Relations, attempted to schedule the *Loudermill* hearing for the first incident. Appellant called in sick the week of April 28th and then submitted a request for FMLA leave on May 9, 2025, through the end of the ten-month school year calendar, June 20, 2025. On May 19, 2025, Appellant was notified that his *Loudermill* hearings would be put on hold until his return from FMLA leave. On June 5, 2025, Appellant requested by email that the first hearing be scheduled during his FMLA leave. The first *Loudermill* hearing was scheduled for June 18, 2025, and Appellant and his union representative attended the hearing. (R. 77, 78, 201).

On June 30, 2025, Ms. Ende attempted to schedule the second *Loudermill* hearing for July 8, 2025, but Appellant notified Ms. Ende that he would be out of the country until the end of July. The hearing was rescheduled at Appellant’s request and Appellant and his representative received written notice of the charges against him and notice that the second *Loudermill* hearing was rescheduled for August 7, 2025. (R. 78, 203, 204). On July 7, 2025, Ms. Bendis notified Appellant that she planned to defer her decision regarding his first *Loudermill* hearing. Although Appellant had participated in the first investigation, he declined to participate in the second

¹ Appellant’s Ex. 1 attached to his appeal to the State Board, was filed untimely with the local board and was not accepted for consideration by the local board. (R. 210). However, the local board does not object to the inclusion of Appellant’s Ex. 1 and cites to Appellant’s Ex. 1 as part of its briefing before the State Board. Accordingly, we will accept Appellant’s Ex. 1 as part of the record.

investigation and Ms. Bendis wanted to hear from Appellant on both matters before determining the appropriate discipline for each incident. (R. 78, 206).

On August 5, 2025, Appellant and his representative were sent electronic copies of the evidence gathered as part of the internal investigation process which included 12 PDF documents. (R. 213). Appellant did not attend the hearing or notify HCPS that he could not attend the hearing. Appellant's representative attended the hearing but reported he had not been notified that Appellant would was not attending. Ms. Bendis proceeded with the disciplinary decision without the Appellant's input. (R. 78).

By letter dated August 20, 2025, Appellant received a letter of reprimand for misconduct for the first incident for "improper restraint of a student when removing a student from the cafeteria without permission to take such actions and without following guidance and protocols." (R. 209). The letter of reprimand for the first incident is not on appeal before this Board.

By letter dated August 21, 2025, Appellant received notice that he was terminated effective August 21, 2025 for misconduct and insubordination, specifically for:

taking actions that unnecessarily escalated a student's behavior and the improper restraint of a student when removing the student from the school bus without permission to take such actions without following guidance and protocols and having contact with a student after being directed not to have any contact with the student and thereby creating a situation on the bus that led to the unnecessary escalation of the student's behavior.

(R. 81 – 82).

On September 16, 2025, Appellant appealed his termination to the local board. The Appellant did not request a hearing before the local board, so the local board conducted an appeal on the record and by decision dated November 11, 2025, affirmed Appellant's termination by a decision of 5 – 0.² This appeal followed.

STANDARD OF REVIEW

In *Venter v. Howard Cnty. Bd. of Educ.*, MSBE Op. No. 05-22 (2005), *aff'd* 185 Md. App. 648, *cert. denied*, 410 Md. 561 (2009), the State Board held that a non-certificated employee is entitled to an administrative appeal of a termination pursuant to §4-205(c)(3) of the Education Article. The standard of review that the State Board applies to such a termination is that the local board's decision is considered *prima facie* correct. The State Board will not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. COMAR 13A.01.05.06A. The Appellant has the burden of proof by a preponderance of the evidence. COMAR 13A.01.05.06D.

² HCPS's Rules of Procedure in Appeals and Hearings governs appeals before the local board and allows an appellant to state the reasons in support of any request for oral argument or an evidentiary hearing before the local board and provides that without such request, the appeal filed under §4-205 will be considered by the local board based upon any documents or arguments submitted in writing by the parties. (R. 220).

LEGAL ANALYSIS

Appellant contends that his termination was illegal because it violated his due process rights and was arbitrary and unreasonable because it violated sound educational policy.

Due Process Violations

Appellant argues he was denied due process and deprived of a meaningful opportunity to respond to the charges against him claiming that he did not receive the evidence against him prior to his *Loudermill* hearing scheduled for August 7, 2025, to which his union representative was also invited, attended, and participated. This argument is not supported by the record. The record reflects that the Appellant and his representative were provided with electronic copies of the 12 evidentiary PDF documents gathered during the investigation on August 5, 2025 prior to his hearing.

Furthermore, we have held that the essential due process required by *Loudermill* prior to termination of a non-certified employee is “notice and an opportunity to respond.” *See Goines v. Prince George’s Cnty. Bd. of Educ.*, MSBE Op. No. 17-16 at 1 (2017) (“A *Loudermill* conference, also known as a pre-termination hearing, is a conference where employees are given notice of the charges against them and provided with an opportunity to respond”). The record reflects that Appellant was provided with clear notice of the charges against him via the charging document and *Loudermill* hearing notice dated June 30, 2025, and was given several opportunities to respond to the charges.

Appellant refused to participate in the ongoing investigation, and he also failed to participate in the *Loudermill* hearing which was rescheduled at his request to accommodate his leave and travel schedules. At the scheduled hearing, he would have received an explanation of the evidence against him and, with the assistance of his representative, he would have had an opportunity to respond to the evidence. He chose not to participate in the hearing. He and his representative had written notice of the date and time of the hearing. At the hearing his representative participated and reported that the Appellant did not notify him that Appellant would not be attending.

Furthermore, the local board’s hearing procedures allowed Appellant to request a full evidentiary hearing before the local board, but Appellant failed to request such a hearing at the local level. Instead, he chose to proceed based upon his filings with the local board. Consequently, the Board properly reached its termination decision based on the written record consistent with its procedures.

The record supports the conclusion that Appellant had three separate opportunities to respond to the charges against him and the termination was processed in accordance with the local board procedures. We find no due process violations.

Arbitrary and Unreasonable

Appellant argues that the local board's decision is arbitrary and unreasonable claiming that he was well within his rights as a SSL to physically retrain Student A during the March 28, 2025 bus incident. Following the first March 13, 2025 incident, Appellant was given a direct order by the principal and assistant principal to have no contact or conversation with the student.

Appellant admits he ignored this directive on March 28, 2025, and he engaged in insubordinate actions when he misused PBIS rewards and strategies which caused and escalated the challenging behaviors with the student. Then, Appellant reacted to the situation he created by engaging in misconduct and using a prohibited restraint that was inconsistent with his hours of training (including recertification training on the date of the incident), his job description, Maryland law, and HCPS guidance.

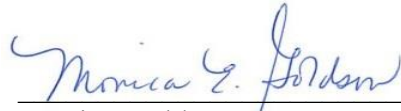
Under COMAR 13A.08.04.05(A)(1)(a), physical restraint is prohibited absent a risk of "imminent, serious physical harm" and other less intrusive, nonphysical interventions have failed or been demonstrated to be inappropriate for the student. COMAR 13A.04.02(B)(22) defines serious physical harm as serious bodily injury as defined in 18 U.S. C. §1365(h)(3) which involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty. We do not find the student's behavior—kicking a bus seat or attempting to kick Appellant while the bus was not moving—met the high threshold of risk of death or extreme physical pain required to justify the physical restraint. Appellant had many other options including waiting for the situation to deescalate or seeking out assistance from the other staff members who were within the vicinity.

A decision is unreasonable if a reasoning mind could not have reasonably reached the conclusion of the local board. Here, the record supports the local board's findings of misconduct and insubordination. We find that the local board's decision to terminate Appellant following his repeated reaction to difficult student behavior by initiating inappropriate physical contact with the child was not arbitrary or unreasonable. *Urbaniak v. Harford Cnty. Bd. of Educ.*, MSBE Op. No. 26-14 (2026) (a reasoning mind could certainly conclude that a bus attendant who fails to apply de-escalation techniques after being specifically trained in them is appropriately subject to termination).

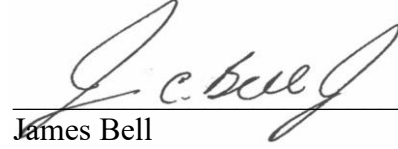
CONCLUSION

For the reasons stated above, Appellant has failed to meet the burden of proving that the local board's termination decision was illegal, arbitrary, or unreasonable.

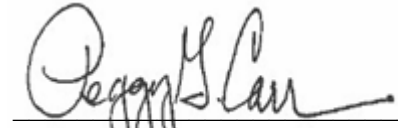

Joshua L. Michael
President



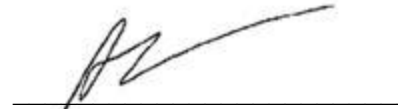
Monica Goldson
Vice-President



James Bell



Peggy Carr



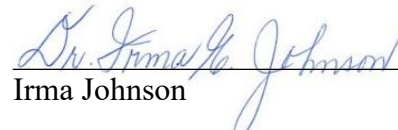
Chet Chesterfield



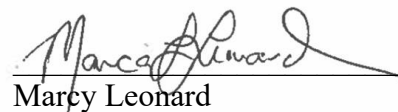
Kenny Clash



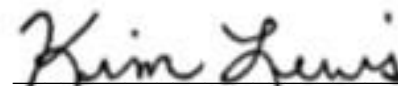
Nick Greer



Irma Johnson



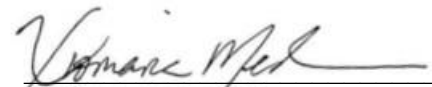
Marcy Leonard



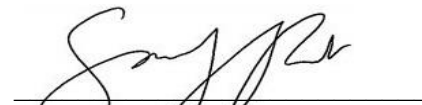
Kim Lewis



Nicole Murray-Lewis



Xiomara Medina



Samir Paul

April 28, 2026