

STATE OF MARYLAND
PUBLIC SCHOOL LABOR RELATIONS BOARD

IN THE MATTER OF: *

HARFORD COUNTY EDUCATION *
ASSOCIATION *

Petitioner *

v. * PSLRB Case No. N 2015-03

BOARD OF EDUCATION OF *
HARFORD COUNTY *

Respondent *

* * * * *

ORDER DISMISSING REQUEST
TO RESOLVE DISPUTE AS TO NEGOTIABILITY

I. PROCEDURAL BACKGROUND

On December 5, 2014, the Harford County Education Association (“Association”) filed a “Request to Resolve a Dispute as to Negotiability” (“Form PSLRB-04”), with the Public School Labor Relations Board (“PSLRB”). Form PSLRB-04 reflects the authority granted to the PSLRB by Section 6-408(c)(5)(i) of the Education Article to decide disputes over the negotiability of bargaining topics. The responding party is the Board of Education of Harford County (“County Board”).

The instant negotiability dispute is related to a charge of statutory violation filed by the Association against the County Board in PSLRB SV 2015-03. The charge of

statutory violation was filed on October 13, 2014 and is currently pending before the PSLRB. In the charge of statutory violation, the Association alleges, in part, that the County Board violated certain provisions of Subtitle 4 of Title 6 of the Education Article by its issuance of a ban or “no-trespass” letter to Association President Ryan Burbey, which the County Board issued pursuant to Education Article § 26-102.

The Association also filed a grievance over the County Board’s issuance of the ban. The County Board denied the grievance at Step 1 of the grievance procedure, in part, on grounds that the subject of banning members of the public under § 26-102 is non-negotiable and thus non-grievable. The Association filed the instant negotiability dispute request in response to the County Board’s position that the matter of the ban issued to Burbey was not grievable.

The PSLRB received the following filings in PSLRB SV 2015-03, in addition to the Association’s initial charge of statutory violation: the Response on Behalf of the Harford County Public School System (“Response”) (filed October 27, 2014); the Association’s Memorandum of Law (filed November 20, 2014); and the Rebuttal on Behalf of the Board of Education of Harford County to the Petitioner’s Memorandum of Law (“Rebuttal”) (filed December 11, 2014).

In its Response, the County Board argued that the decision whether to deny access to school premises to a person, such as was made with respect to Burbey, is an illegal subject of bargaining, rendering the grievance over the ban non-arbitrable and depriving the PSLRB of jurisdiction to adjudicate the charge of statutory violation in PSLRB SV 2015-03. In its Memorandum of Law, the Association took the position that its right of

access to school premises, as treated in Article IV of the parties' collective bargaining agreement, is a mandatory subject of bargaining. In its Rebuttal, the County Board stated that it was prepared to proceed with the grievance procedure, up to and including arbitration, with respect to the grievance over the ban issued to Burbey; the County Board also withdrew its challenge to the PSLRB's jurisdiction over the charge of statutory violation.

In light of the parties' filings in the charge of statutory violation case, particularly in light of the County Board's Rebuttal, the PSLRB issued a letter, on December 12, 2014, to the parties setting forth its understanding that the County Board had withdrawn its challenge to the PLSRB's jurisdiction and that it was no longer taking the position that the subject of the ban was an illegal subject of bargaining. In accordance with this understanding, the PSLRB advised the parties that it intended to proceed as follows: (1) declare the Request to Resolve a Dispute as to Negotiability in N 2015-03 moot; (2) to proceed with the charge of statutory violation in SV 2015-03; and (3) to provide further communication regarding how the PSLRB will proceed with the charge of statutory violation case. The PSLRB advised that if either party wished to challenge the manner in which the PSLRB intended to proceed in the instant negotiability dispute and the charge of statutory violation case, that the party must file a written brief in support of its position within seven days of receipt of the letter.

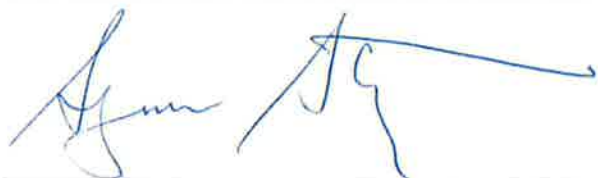
On December 16, 2014, the County Board responded to the PSLRB's letter of December 12, 2014, confirming that it was withdrawing its challenge to the PSLRB's jurisdiction and confirming its position that the dispute involving the ban to Burbey is

both negotiable and arbitrable. As of December 23, 2014, the PSLRB has not received any challenge or response from the Association to its letter to the parties of December 12, 2014.

ORDER

Having considered the Association's request to resolve a dispute as to negotiability, the parties' filings in PSLRB SV 2015-03, the letter of the PSLRB to the parties issued December 12, 2014, the response of the County Board thereto and the lack of response on the part of the Association, it is hereby ORDERED that the dispute as to negotiability, in PSLRB Case No. N 2015-03, is dismissed as having been rendered moot.

BY ORDER OF THE PUBLIC SCHOOL LABOR RELATIONS BOARD



Seymour Strongin, Chairman



Ronald S. Boozer, Member



Robert H. Chanin, Member



Charles I. Ecker, Member



Donald W. Harmon, Member

Annapolis, MD

December 23, 2014

APPEAL RIGHTS

Any party aggrieved by this action of the PSLRB may seek judicial review in accordance with Title 10, Subtitle 2 of the State Government Article, Annotated Code of Maryland, Sec. 10-222 (Administrative Procedure Act – Contested Cases), and Maryland Rules 7-201 *et seq.* (Judicial Review of Administrative Agency Decisions).