

2. The Hearing Examiner correctly concludes that “[t] he Respondent...has the right as a citizen to file a complaint [with MOSH] regarding safety and health issues that generally affect the public.” *H. E. Report p.11.*
However, the Hearing Examiner erred in failing to find that the Respondent’s unauthorized access to confidential student records for personal and, perhaps, professional gain rises to the level of misconduct in office. Respondent acknowledged that “she did not get permission [from her supervisors] to obtain the [home] addresses of the students at SMS; nor did she get permission to mail the notice out”. *H.E. Report p.6; CEO Exhibit 1.* These addresses constitute confidential student information that the Respondent would not otherwise have had access to as private citizen. Indeed, by attaching a business card to the notice identifying herself as a lead abatement expert, it can reasonably be argued that Respondent was actually soliciting the parents for business. *CEO Exhibit 1.* Further, Respondent’s admission that she did not bring her concerns to the attention of her superiors shows a total disregard for the chain of command. Her actions created a conflict or appearance of conflict between the interest of the BCPSS and that of her own.

3. The Hearing Examiner erred in finding that the CEO offered no evidence that “the parents, students or ...staff members at the three (3) schools complained about the Respondent issuing the two (2) communications.”

H.E. Report p.11. The Respondent's actions prompted a rash of calls from concern parents, and caused unnecessary alarm among the faculty.

Transcript pp. 50-54. This required the faculty and administration at the three affected schools to divert valuable teaching, planning and administrative time to addressing the concerns of the parents and the community. Moreover, the BCPSS had to commit resources to have a health provider assess the extent of possible lead exposure to staff and students at one of the three schools. *H.E. Report, p. 4.*

4. Contrary to the Hearing Examiner's findings, Respondent's actions do, in fact, bear upon her fitness to teach in the BCPSS. The record supports a finding that Respondent's repeated pattern of inappropriate behavior incited panic and disruption in the BCPSS. On three separate occasions, at three separate schools, Respondent disseminated information to parents, students, and staff concerning the health and safety issues at the schools. *H. E. Report, pp. 2-4.* Because Respondent has demonstrated an inability to follow the chain of command when addressing safety issues (*H.E. Report p.10*), she has unduly caused the community to lose confidence in the Board's ability to protect the health and safety of the children in their charge. The integrity of the BCPSS has been seriously compromised by Respondent's actions. The Area Executive Officer testified "that the parents were confused over why CEO Exhibit 1 came from someone other than the principal or the school system." *H.E. Report, p. 7.*

Argument

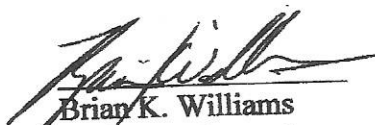
The CEO presented substantial evidence to support its charge of misconduct in office against Respondent. To constitute misconduct in office, a teacher must engage in unprofessional conduct, which bears, upon a teacher's fitness to teach, such that it undermines her future classroom performance and overall impact. See Resetar v. State Board of Education 284 Md. 537 (1979). By inappropriately gathering and using confidential student information to further her own personal and professional interests, Respondent abused her privilege as a teacher and as a BCPSS employee.

Further, by attaching her personal business card to the communication mailed to students' home, Respondent violated Baltimore City's Code of Conduct. The Code states, in relevant part, that "Board of Education officials and employees ...shall not: (h) [i]mproperly use the prestige of their offices for their own personal gain or that of another; or (i) use confidential information acquired in their official school system position for their own benefit or that of another. See Ethics Laws and Code of Conduct of Baltimore City, Section 6. (h) and (i).

The BCPSS works faithfully and diligently to foster a partnership between parents and the public schools, which is based on mutual trust and respect. This partnership is essential to the furtherance of academic success, and the safety and welfare of the students. The Respondent's actions have seriously undermined those efforts and in effect render her overall impact on the students and school system counter-productive.

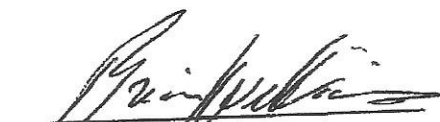
WHEREFORE, it is respectfully requested that the recommendations of the Hearing Examiner be rejected and the recommendation of the CEO to dismiss Diana Williams be upheld.

Respectfully submitted,


Brian K. Williams
Associate Counsel
Office of Legal Counsel

Certificate of Service

I HEREBY CERTIFY that on this 27th day of October 1999, a copy of the foregoing Exceptions was mailed, postage prepaid, to the Respondent, Diana Williams, 1311 N. Ellwood Ave., Baltimore, Maryland 21213.


Brian Williams, Esq.