

IN THE MATTER

* BEFORE THE NEW BOARD

*

OF

* BALTIMORE CITY BOARD OF

*

* SCHOOL COMMISSIONERS

*

DIANA R. WILLIAMS

* Case No.: 99-17

EXCEPTIONS TO EXCEPTIONS TO FINDS OF FACT,
CONCLUSIONS OF LAW AND RECOMMENDATION
OF HEARING EXAMINER

The Respondent, Diana R. Williams, by her representative, Diana R. Williams, respectfully takes exception to the Chief Excecutive Officer's (hereinafter "CEO"), through his attorney, Brian K. Williams's, Exceptions to Findings of Fact, Conclusions of Law and Recommendation of Hearing Examiner (hereinafter "H.E. Report"), dated November 4, 1999 for reasons as follows:

1. In the October 14, 1997 copy of the Board Policy Report and under the Board Action Policy for Appeals Procedures, namely, policy 201.07 (B)(5) - (10): Suspension and/or Dismissal of Professional Employees the Board cites"Within ten (10) business days from the date of the Recommended Order, the CEO or Employee may submit to the New Board written exceptions to the hearing officer's recommended Order which explain the basis for opposing the Recommended Order." The Hearing Examiner's Recommended Order is dated October 12, 1999 and the CEO, through his attorney Brian, K. Williams, submitted his exceptions on October 26, 1999, which is not within ten (10) days from the date of the Recommended Order. Rules are only effective if they are enforced, otherwise there is no need to have rules, policy, or procedures. Thus, the Respondent respectfully requests the Board to enforce its own policy and deny the CEO's "Exception to Findings of Fact, Conclusions of Law and Recommendation of Hearing Examiner."

2. The Respondent disagrees with paragraph one (1) the CEO's Exceptions. Where the health, welfare, and safety are concern, there is no such thing as inappropriate conduct unless the Respondent is deceiving the public. However, the dismissal charges against the Respondent were erroneous and the substantial evidence supports the Respondent's allegations and were substantiated by the Respondent being certified and accredited by Maryland Department of the Environment (hereinafter "MDE") as a lead abatement expert as well as from MOSH and Martel Laboratories. Further, as the Hearing Examiner explained in the H.E. Report on page 11, citing"Employees have a legal right to file complaints regarding safety and health issues affecting their condition of employment directly to MOSH. The Respondent also has the right as a citizen to file a complaint regarding safety and health issues that generally affect the public to MOSH. Moreover, the concerns raised in the Respondent's complaint were validated by MOSH."...

3. The Respondents disagrees with paragraph two (2) the CEO's Exceptions. As a thorough review of the transcript of two-day hearing on the issue of dismissal of the Respondent, the Respondent never testified that she accessed or had access to the confidential students records for personal or professional gain, nor were there any witnesses from the CEO that testified or had any documentation to prove that the Respondent accessed or had access to the confidential students records. Perhaps, if the attorney for the CEO would carefully read and re-read the entire transcript, he would be able to observe that there was never any testimony or evidence given to infer that the Respondent had computer access to the confidential students records. Also, the transcript will reveal that the Respondent has testified on the issue of having the student's alpha made available to her. During the time of the allegations against the Respondent and presently the Respondent was and still is an employee of Baltimore City in the capacity of

a Mathematics teacher at Southeast Middle School (hereinafter "SEMS"), not as a private citizen. Thus, the Respondent, as a Mathematics teacher at SEMS would ordinarily have access to all students records which are customarily made available to all teachers at the school. Again, it is obvious that the CEO, through his attorney, Brian K. Williams, has not carefully reviewed the transcript and is basically relying on the correspondence in the Hearing Examiner's report or else he would have known that the Hearing Examiner thoroughly addressed the issue of the Respondent's business card being placed in each of the letters she sent to the parents at SEMS. The Hearing Examiner concluded that there was no evidence to support the claim that the Respondent used her business card for professional gain, but that the business card was used to allow the parents to contact the Respondent if they had any questions or concerns about the validity of the February 24, 1999 correspondence that was sent to them by the Respondent and to assure the parents of her expertise in lead hazard control and reduction. Further, the Hearing Examiner concluded that there was no indication in the Respondent's correspondence that she was trying to seek professional gain or monetary compensation. The Hearing Examiner addressed the issue in regard to the Respondent following the chain of command by citing on page 10 of the H.E. Report that "In regards to the situations at FHHS and SMS (having lead-based paint and asbestos hazards and lead contaminated drinking water, respectively), the Respondent did raised her concerns to the principles of the school, respectively." The Respondent testified that, after her experience at FHHS, she did not believe that the school system would take her concerns seriously. The Respondent testified further that, because the health and welfare of the students were the issue, she felt time was of the essence in having the situation investigated."

4. The Respondent disagrees with paragraph three (3) of the CEO's Exceptions and claims that the Exception is frivolous, as again, the Respondent as her own Representative and Hearing Examiner thoroughly and accurately addressed issue of the parents' concern versus the parents' complaint during Dr. Abernathy's examination and cross examination. The Hearing Examiner cited in the H.E. Report, on page eight (8) that ... "The CEO must prove by a preponderance of the evidence that the information contained in two (2) communications was erroneous. The Hearing Examiner finds that the CEO failed to carry his burden of proof. In fact, based on the substantial documentation presented at the hearing, the Hearing Examiner finds that the information in the two (2) communications concerning SMS, FHHS and JMES was basically true. First, the Hearing Examiner finds that the Respondent has received substantial training in the field of lead paint assessment and abatement and could validly consider herself an expert in the field. See Respondent's Exhibits 8 & 9. Secondly, with regards to the correspondence dated February 24, 1999, to parents SMS students regarding lead in the water, the Respondent present sufficient documentation to support the statements made in the correspondence." Still too, the H.E. Report cited that.... "It is also clear from the evidence that it was the complaints filed by the Respondent that spurred the school system into taking corrective action at the two (2) schools." And that "The report indicates that there is lead in the water at SMS and that at least one (1) fountain that was still in use prior to February 11, 1999 had a lead content in excess of EPA standards for drinking water. Elam testified that SMS was 1 of 32 schools that had been identified with lead in its' drinking water [Transcript p. 130, Line 9 et. seq.]. Though the Respondent may not have had her dates correct to when the fountains were turn off, the fountains were in deed turned off after the Health Department's inspection and the parents of the students were not notified of the situation

as stated in the correspondence (letter dated February 26, 1999 from the principal, Ms Jane Fields). It would appear prudent to recommend that students who may have consumed water with a high lead content be tested as a precaution. The CEO complains that the actions of the Respondent cause panic amongst the parents, students, and staff that disrupted the educational process. According to Fields' testimony, the primary disruption to school activities was telephones calls from parents inquiring about the accuracy of the information contained in the communication and about the person who disseminated the information. Fields also testified that she had to call an emergency staff meeting to answers concerns raised by the staff regarding the information in the communication. However, the facts clearly establish that school system did not fully disclose to the parents that there was an issue with the lead content of the water at SMS before the Respondent issued her communication. Additionally, it appears to the Hearing Examiner that the school system, relying on the February 11th Health Department report, may have issued misinformation regarding the matter [CEO Exhibit 6]. The Hearing Examiner also finds that the weight of the evidence supports the Respondent's claim that FHHS and JMES had been cited for lead paint hazards [CEO Exhibit 10, p. 3]. "JMES was cited in a report by MOSH to have a lead base paint problem and was ordered to abate the lead bearing paint through out the facility [Respondent's Exhibit 29, p. 14]."... Further, the witnesses for the CEO didn't have a single parent, student, or staff person to testify that the Respondent's correspondence caused disruption, nor did any parent, student, or staff person present any affidavit or correspondence into evidence that implicated that they were complaining about the correspondence written by the Respondent. However, the H.E Report and the transcript support the fact that the parents and teachers were concerned about the validity of the correspondence and wanted to know or get in contact with the person who wrote the correspondence. Therefore, the

Respondent's actions created a conflict or appearance of conflict between the interest of BCPSS to intentionally, negligently misrepresent the facts about the lead and/or asbestos hazards and/or lead in the drinking water in these schools and intentionally deceive and conceal the existence of the substantial evidence to support the fact that there were lead-based paint and/or asbestos hazards and/or lead contaminated water in these schools versus the Respondent, being righteously indignant and tremendously desiring and persevering to bring the truth to the light, namely, that these schools, as well as others in Baltimore City, are exposing our future leaders of tomorrow, the staff, as well as others that may enter the facility to the potentially fatal hazards of lead-based paint and/or asbestos hazards and/or lead contaminated drinking water, the school system has long been aware of the exposures of these hazards, has intentionally never given any written notification to the Respondent or others about these hazards as they are required to do by Federal, State, and Local laws and regulations, has intentionally deceive and concealed the facts about the existence of these hazards, and has caused severe psychological damage to the Respondent as a result of them continuously publicly stating that the Respondent was issuing erroneous statements when they knew that she was telling the truth, allowing the Respondent to continue to suffer anxiety, stress, and depression because of the Respondent's fear that the children, pregnant, females, and others were being unnecessarily being exposed to lead-based and/or asbestos and/or lead in the drinking water at these and other school (fears which was reality based and were overwhelmingly supported by data and reports to prove the exposures of these hazards), continuously defaming the Respondent as an expert in lead abatement and as a Mathematics teacher, thereby causing the public and others to look upon the Respondent as being "deranged" or "crazy" because the CEO publicly stated on several occasions that the Respondent lying, and didn't know the facts about the conditions of these schools. Moreover, the BCPSS should have had

to commit more resources to have a Health Provider assess the extent of the possible lead exposures to staff and students at more than one (1) of three (3) schools, especially at SEMS as well as the other 31 schools that have lead in the drinking water and in which the owners of these public facilities knew about since 1992. Thus, it is was the Respondent's actions that prompted a rash of calls from concern parents, and caused necessary alarm among the faculty and which should have 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, staff, and the community about the substantial evidence to support the fact that there was lead-based paint and/or asbestos hazards and/or lead in the drinking water at these schools, that these individuals should have been given written notifications, and that the children and staff should have been given the blood lead test within six (6) to eight (8) weeks of their initial ingestion or inhaling of lead or drinking the lead contaminated water (lead only stays in the blood stream about two (2) months, but ultimately the lead goes to the human bones where it can remain up to 30 years and resurface in the blood stream, particularly during post menopausal years for females or anytime one get sick and needs calcium from the bones, lead will come up in the blood stream instead of the calcium and can cause major organ damage, hypertension, and even death).

5. The Respondent disagrees with paragraph five (5) of the CEO's Exception with the exception of the fact that the CEO is correct in his statement in this paragraph that says ..."The integrity of the BCPSS has been seriously compromised by Respondent's actions." Thus, it is up to the BCPSS to admit that they were wrong, apologize to the Respondent for all the pain and suffering that they have caused her in trying to literally break her to the point of irreversible depression by continuing to suppress the truth and

deceiving and concealing the facts, while at the same time constantly lying to the parents, students, staff, and public at large, trying to strike down or tarnish the integrity and credibility of the Respondent, and ultimately trying to take away the Respondent's source of income which would cause the Respondent more anxiety, stress, and depression. Finally, the CEO needs to have an outside, independent agent to assess the lead-based paint and asbestos hazards and lead in the drinking water for all of Baltimore City Public Schools to insure that our children and the staff are not being exposed to the number one environmental hazard in the United States and in which Baltimore City ranks second, namely, lead poisoning.

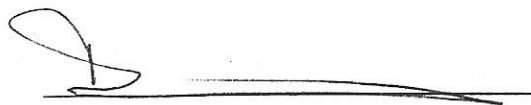
6. The Respondent have tried on several occasions to bring the issue of the lead-based paint and/or asbestos hazards and/or lead in the drinking water at the various Baltimore City Public Schools before the School Board, during the 1997-1998 school. However, the School Board has summarily denied the Respondent the opportunity to be heard or give a presentation regarding the issue mentioned above. Because of the voluminous amount of evidence the Respondent had to support the facts regarding the lead-based paint and/or asbestos hazards and/or lead contaminated drinking water in the school, the two or three-minute presentation allotted by the School Board to the Respondent instead of a more considerate amount of time for such critical facts and supporting evidence to be presented was not sufficient. Consequently, the question that the Respondent would like to respectfully put to the School Board is why would they want to hear the issue at this time. Also, the Respondent is respectfully requesting that the School Board and all parties after the School Board waive their rights so that the matter can be heard in open Civil Court before a jury of the Respondent's peers because the School Board should not set in on judgment when there is pending Civil litigation, in which the School Board is a

party or Defendant and in which the Affidavit of Service for the Writ of Summons upon the School Board from the Respondent was filed on September 24, 1999 in Circuit Court.

ARGUMENT

The Respondent simply reiterate the Hearing Examiner's claim on page 11 of the H.E Report, namely, that ... "The Hearing Examiner finds that there was more than some validity to the Respondent's allegations." ... "The Hearing Examiner does not find that the acts committed by the Respondent bears upon her fitness to teach such that it would undermine her future classroom performance and overall impact on her students. There was no evidence offered by witnesses for the CEO that any parents, students, or other staff members at the three (3) schools complained about the Respondent issuing the two (2) communications. In addition, there was no evidence offered by witnesses for the CEO that the Respondent was not a competent teacher." "WHEREFORE, the undersigned Hearing Examiner respectfully recommends that the CEO's recommendation to dismiss the Respondent be denied."

Respectfully submitted,



Diana R. Williams

Representative for Respondent