

Circuit Court for Prince George's County
Case No. 01086

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1086

September Term, 2018

PRINCE GEORGE'S COUNTY
EDUCATORS' ASSOCIATION, *et. al.*

v.

BOARD OF EDUCATION OF PRINCE
GEORGE'S COUNTY

Graeff,
Arthur,
Wilner, Alan M.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Graeff, J.

Filed: October 28, 2019

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Prince George's County Educators' Association ("the Association"), appellant, appeals from an order of the Circuit Court for Prince George's County reversing a decision of the Maryland Public School Labor Relations Board ("the Labor Relations Board") that the Board of Education of Prince George's County ("the Board of Education"), appellee, violated state law in refusing to negotiate in good faith with the Association regarding employee salaries. The Association presents the following questions for this Court's review, which we have rephrased slightly, as follows:

1. Did the Labor Relations Board err in its determination that the Board of Education failed to negotiate in good faith pursuant to Section 6-408(a) of the Education Article?
2. Was the Labor Relations Board's decision supported by sufficient evidence?
3. Was the Labor Relations Board's decision moot at the time of issuance?

The Labor Relations Board, which intervened in this case, presents the following question, which we have rephrased slightly, as follows:

4. Did the circuit court exceed its jurisdiction in ordering the Labor Relations Board to refer this matter to the Office of Administrative Hearings?

For the reasons set forth below, we conclude that the issues presented are moot, and therefore, we shall dismiss the appeal.

FACTUAL AND PROCEDURAL BACKGROUND

Pursuant to Md. Code (2018 Repl. Vol.) § 6-408(a) of the Education Article ("ED"), when a public school begins negotiations with representatives for county public school employees regarding salaries and wages, the parties are required to "[c]onfer in good faith,

at all reasonable times.” The events leading up to the charge that the Board of Education did not engage in good faith negotiations with the Association were set forth in the Findings of Fact issued by the Labor Relations Board, as follows:

On February 23, 2017, the Board of Education adopted a proposed education budget for Fiscal Year 2018. The proposed budget included a \$53 million reserve for employee compensation, including specifically increased compensation for National Board Certified Teachers. On March 1, 2017, the Board of Education submitted its adopted budget to the Prince George’s County Council (“County Council”).

On March 8, 2017, the [Association] and the Board of Education agreed to enter into negotiations for a successor collective negotiations agreement. At a negotiations session held on April 26, 2017, the [Association] submitted a compensation proposal to the Board of Education. The Board of Education did not make a counter proposal during that meeting, and stated that it would not engage in negotiations regarding employee compensation until the County Council approved a Fiscal Year 2018 budget for the [Prince George’s County Public Schools].

On May 3, 2017, the [Association] and the Board of Education held another negotiations session. The Board of Education did not present a compensation proposal, and reiterated its position that it would not engage in negotiations regarding employee compensation until the County Council approved the Fiscal Year 2018 budget for the [Prince George’s County Public Schools].

While these events were occurring, the County Council was holding public hearings on the FY18 Budget. The County Executive reduced the Board’s requested funding level. In response to this reduction, at a hearing on May 8, 2017, the Chief Executive Officer for the Board of Education, Dr. Kevin Maxwell, submitted a revised budget to the County Council. This budget had only \$24 million for employee compensation. The Association claims that Dr. Maxwell unilaterally made this decision. The Board maintains that it was the County Executive who proposed the new funding level. Once the new budget was

approved by the County Council on May 25, 2017, the Board of Education made a counter-proposal to the Association.

On May 25, 2017, the same day as the County Council approved the budget, the Association filed with the Labor Relations Board a charge that the Board of Education violated Title 6 of the Education Article.¹ The Association alleged that the action of the Board of Education in refusing to engage in negotiations on salaries, and instead unilaterally setting salaries through its budget adoption process with the County Council, was inconsistent with the requirement of ED § 6-408(a) to engage in good faith negotiations, and its actions constituted “a per se violation of statutory law.” The Association requested the following remedies from PSLRB:

- 1) A declaration that the CEO failed to engage in good faith negotiations pursuant to § 6-408(a) of the Education Article;
- 2) An order that the CEO direct his bargaining team to engage in good faith negotiations with [the Association] regarding all mandatory subjects of bargaining, specifically that a salary proposal must be made at the bargaining table; and
- 3) An order for the CEO to delay its budget setting/reconciliation process with the Board of Education as it relates to salary until proper negotiations occur at the bargaining table with the exclusive representative, [the Association].

The Board of Education filed an answer denying that its actions were not in good faith, stating that it had “no authority to place a compensation proposal on the table” before the budget was approved, and it was the County Executive, not Dr. Maxwell, who proposed

¹The Public School Labor Relations Board is an independent unit of State government whose members are appointed by the Governor with consent of the Senate. Md. Code (2018 Repl. Vol.) § 6-802 and § 6-803(a) of the Education Article.

the new funding structure. The Board of Education denied that Dr. Maxwell had attempted to set salaries outside of bargaining, and it stated that there had “been no refusal to bargain in good faith.”

On November 17, 2017, without holding a hearing, the Labor Relations Board found that the Board of Education violated ED § 6-408(a) by refusing to negotiate in good faith with the Association regarding salary and wages. It ordered that: (1) the Board of Education engage in good faith negotiations with the Association; (2) the Board of Education “delay its budget setting” process until the good faith negotiations had been completed; (3) the parties “explore all available means to obtain funds,” including, if appropriate, requesting supplemental funds from the County Council; and (4) the order remain in effect for all negotiations between the parties dealing with employee compensation for 2019.

On November 29, 2017, the Board of Education filed a petition for judicial review in the Circuit Court for Prince George’s County and requested that the court stay the order from the Labor Relations Board. The Board argued, among other things, that there were “critical facts” in dispute on the issue of good faith, which warranted an evidentiary hearing, and, in any event, the case was moot because the parties had negotiated an agreement regarding employee compensation.

On May 11, 2018, after hearing oral argument, the circuit court reversed the decision of the Labor Relations Board. The court found that the decision resulted from unlawful procedure, relied on a misinterpretation of law, was not supported by substantial evidence,

and the issues addressed had been rendered moot. The court remanded the case, ordering the Labor Relations Board to send the case to the Office of Administrative Hearings (“OAH”) for an evidentiary hearing. After the court denied the Association’s Motion for Clarification and Amendment of Order and for Immediate Stay Pending Further Review, the Association noted this appeal.

DISCUSSION

The issue presented here, whether the Board of Education, to meet its statutory duty to negotiate in good faith regarding salary and wages of employees, must negotiate with the Association to present a joint proposal to the County Council, is an interesting one. We will not, however, resolve that issue in this appeal because the issue of good faith negotiation is moot.

The parties advise that, after the charge was filed, the parties engaged in negotiations regarding salary and wages. The day before the Labor Relations Board issued its decision, the Association and the Board of Education entered into a two-year contract. Thus, at this point, there is no effective remedy that this Court can provide with respect to the claim that the Board of Education initially failed to negotiate in good faith pursuant to ED § 6-408(a).

“It is well established that the role of this Court is not to decide moot or abstract questions or to render advisory opinions.” *Montgomery Cty. Career Fire Fighters Ass’n v. Montgomery Cty.*, 210 Md. App. 200, 209 (2013). A question is deemed moot “when there is no longer an existing controversy when the case comes before the Court or when there is no longer an effective remedy the Court could grant.” *Suter v. Stuckey*, 402 Md.

211, 219 (2007). “Although this Court may have the legal authority to express an opinion about the issues in a moot case, the appeal is typically dismissed.” *Voters Organized for the Integrity of City Elections v. Balt. City Elections*, 451 Md. 377, 392 (2017).

Here, although we have concerns about the propriety of the Labor Relations Board’s decision, including the decision to resolve the issue without an evidentiary hearing, the subsequent negotiation and agreement reached by the parties on the issue of salaries and wages renders the issue of good faith negotiation moot.² Accordingly, we dismiss the appeal.

APPEAL DISMISSED. COSTS TO BE PAID BY APPELLANT.

² The circuit court also determined that the issue presented was moot, but curiously, it then remanded the case for further proceedings. Any further proceedings similarly would be moot given the agreement reached by the parties.