

SECRETARIES AND ASSISTANTS
ASSOCIATION OF ANNE ARUNDEL
COUNTY, INC.

v.

BOARD OF EDUCATION OF
ANNE ARUNDEL COUNTY

* IN THE
* CIRCUIT COURT FOR
* ANNE ARUNDEL COUNTY
* MARYLAND
* Case No.: C-02-CV-19-002371

* * * * *

ORDER

For the reasons set forth in the Court's Memorandum Opinion filed this same day, it is by the Circuit Court for Anne Arundel County, hereby

ORDERED, the Petitioner's request for relief is **GRANTED**, and it is further

ORDERED, that the Decision of the Public School Labor Relations Board is **REVERSED**, and it is further

ORDERED, that the case is **REMANDED** back to the Public School Labor Relations Board to issue a directive requiring the Board of Education and the Secretaries and Assistants Association of Anne Arundel County, Inc. to enter into negotiations.

01/30/2020 CS

1/25/2020
DATE


JUDGE

I, Scott A. Poyer, Clerk of the Circuit Court for Anne Arundel County, hereby certify that this is a true copy from the record in this court.

Witness the hand and act of the undersigned this 30th day of January 2020



Circuit Court for Anne Arundel County, Maryland



SECRETARIES AND ASSISTANTS
ASSOCIATION OF ANNE ARUNDEL
COUNTY, INC.

v.

BOARD OF EDUCATION OF
ANNE ARUNDEL COUNTY

* IN THE
* CIRCUIT COURT FOR
* ANNE ARUNDEL COUNTY
* MARYLAND
* Case No.: C-02-CV-19-002371

* * * * *

MEMORANDUM OPINION

This matter came before the undersigned on November 25, 2019 on a petition for judicial review of a decision by the Public School Labor Relations Board (“PSLRB”) rendered on July 12, 2019 holding that hours worked by hourly public school employees is an illegal subject of bargaining.

ISSUE

Did the PSLRB err in finding that the hours worked by hourly employees is an illegal subject of bargaining?

STATEMENT OF FACTS

The Secretaries and Assistants Assoc. of Anne Arundel County (“SAAAAC”) is the exclusive bargaining representative for the Teacher Assistants (“T.A.’s”) and Permanent Substitutes (“P.S.’s”). Md. Code Ann., Educ. § 6-505. Pursuant to §6-510(c)(1), SAAAAC and the County Board of Education must engage in good faith negotiations on “all matters related to salary, wages, hours and other working conditions”. The record reveals that wages for this group had been a negotiated point between the parties for almost thirty years. On May 15, 2019, SAAAAC filed a Request to Resolve a Dispute as to Negotiability with the PSLRB. The request

01/30/2020 CS

arose from SAAAAC's proposal to increase the work hours of T.A.'s and P.S.'s to 6.75 hours per day as opposed to the current 6.5 hours as previously set forth in the Negotiated Agreement between the parties. In particular part:

C. (Hours)

T.A.'s and P.S.'s shall work six and one-half hours (6.5) exclusive of a one-half hour non-paid, non-duty lunch period per day.

The Anne Arundel County Board of Education (The Board of Education) contended that negotiating hours for hourly employees was no longer required after a PSLRB decision in arising out of a Washington County matter similar to the issues herein. The PSLRB requested briefs on whether the negotiating topic at issue is mandatory, permissive or illegal in nature. Although SAAAAC filed a brief, the Board of Education did not. On July 12, 2019, the PSLRB issued its decision concluding that SAAAAC's request was an illegal topic for negotiation. On July 25, 2019, SAAAAC filed a petition for judicial review and submitted a memorandum on September 10, 2019. The Board of Education submitted their response but provided no supporting memorandum.

STANDARD OF REVIEW

Judicial review of an administrative law decision is narrow; a reviewing court does not substitute its judgment for the expertise of those conducting the administrative law hearing. *United Parcel Service, Inc. v. People's Counsel for Baltimore County*, 336 Md. 569, 576-577, 650 A.2d 226 (1994). Deference must be accorded to the administrative agency in its interpretation and application of its statutes; the expertise of the agency in its own field should be respected. *Board of Physician v. Banks*, 354 Md. 59, 729 A.2d 376 (1999). An agency's interpretation of the statute it administers is generally entitled to weight. *Bd. of Ed. for Dorchester Co. v. Hubbard*, 305 Md. 774, 790-791, 506 A.2d 625, 633 (1986); *Comm'n on Hum.*

Rel. v. Mass Transit, 294 Md.. 225, 233, 449 A.2d 385, 389 (1982), and cases therein cited. Upon review of an error of law, however, the administrative hearing does not receive such deference. *Baltimore Lutheran High Sch., v. Employment Sec. Admin.*, 302 Md.. 649, 662,490 A.2d 701, 708 (1985).

The Court of Appeals has also recognized that there is a limit to the judicial deference that will be granted to the State Board of Education's statutory interpretation. "If the State Board's interpretation or application of [the statute at issue], in a particular situation, would clearly be contrary to the statute's plain meaning, a reviewing court must reject that interpretation." *Howard Cty. Md. Code Ann., Educ. Ass'n-ESP, Inc. v. Bd. of Md. Code Ann., Educ. of Howard Cty.*, 220 Md.. App. 282, 293-94, 103 A.3d 1060, 1067 (2014), *aff'd*, 445 Md.. 515, 128 A.3d 68 (2015) (citing *Montgomery Co. Ed. Ass'n v. Bd. of Md. Code Ann., Educ.*, 311 Md.. 303, 309, 534 A.2d 980 (1987)). In the instant case, it is the statutory language found in Md. Code Ann. Educ. § 6-510 which is central to this matter.

ANALYSIS

The PSLRB erred in finding that the hours worked by hourly employees is an illegal subject of bargaining.

I. PSLRB's Authority and Md. Code Ann., Educ. § 6-510

When the General Assembly created the PSLRB in 2010, it transferred authority to interpret the Education Article from the State Board of Education to the newly created labor relations board. As part of that reassignment of authority, Md. Code Ann., Educ. § 2-205(e)(4) was added. The language of the statute specifically states that the PSLRB shall decide any controversy or dispute arising under Title 6, Subtitle 4 or Subtitle 5 of the Education Article.

The issue before this Court is whether the PSLRB appropriately found that hours worked by hourly public school T.A's and P.S.'s is an illegal subject of bargaining. In order to

determine whether or not this decision should be upheld, this Court needs to determine whether the PSLRB accurately interpreted Md. Code Ann., Educ. § 6–510(c), governing matters subject to negotiation.

The provision of Md. Code Ann., Educ. § 6–510(c)(1), states in pertinent part mandatory topics of negotiation:

On request, a public school employer or at least two of its designated representatives **shall meet and negotiate...on all matters that relate to salaries, wages, hours, and other working conditions, including the discipline and discharge of an employee for just cause.** (emphasis added).

Md. Code Ann., Educ. § 6–510(c)(2) states that any topic that the parties mutually agree to negotiate is a permissive subject of bargaining. Md. Code Ann., Educ. § 6–510(c)(3) defines the illegal subjects of bargaining which include school calendar, the maximum number of students assigned to a class, **or any matter that is precluded by applicable law** (emphasis added). Finally, § 6–510(c)(5) gives the Board the authority, when resolving a dispute under this section of the Education Code, to develop a balancing test to determine whether the impact of the matter on the school system as a whole outweighs the direct impact on the employees.

II. *Applying the Facts of this Case to Md. Code Ann., Educ. § 6-510*

When interpreting a statute, “we begin ‘with the plain language of the statute and ordinary, popular understanding of the English language dictates interpretation of its terminology.’ *David A. v. Karen S.*, 242 Md. App. 1, 25, 213 A.3d 685, 699, cert. denied, 466 Md.. 219, 217 A.3d 1133 (2019) (citing *Blackstone v. Sharma*, 461 Md.. 87, 113, 191 A.3d 1188 (2018). In reading the plain language, “we will not add or delete words from the statute.” *Melton v. State*, 379 Md.. 471, 477, 842 A.2d 743 (2004). “In parsing whether plain meaning or ambiguity is the case, we view the relevant statutory scheme as a whole, rather than seizing on a single provision.” *Conaway v. State*, 464 Md.. 505, 523, 212 A.3d 348, 358 (2019). Statutory

interpretation requires the Court to ascertain and effectuate the intent of the Legislature [and] the Legislature is presumed to have meant what it said and said what it meant. *Arundel Corp. v. Marie*, 383 Md. 489, 502 (2004) (quoting *Witte v. Azarian*, 369 Md. 518, 525 (2002)).

This particular relevant statutory provision in question, Md. Code Ann., Educ. § 6-510(c)(1), was enacted by amendment in 2010. However, even in 2002, when the General Assembly designed the statutory scheme of the collective bargaining statute by creating mandatory, permissive and illegal subjects of bargaining, “hours” were considered a mandatory topic of negotiation.

Here, the Court finds that the plain meaning of Md. Code Ann., Educ. § 6-510(c)(1) is clear in defining “hours” as a mandatory subject of negotiation. The plain language of the term “hours” clearly encompasses SAAAAC’s proposal to increase the work hours of T.A.’s and P.S.’s to 6.75 hours per day as opposed to the current 6.5 hours. When looking at the statutory scheme of Md. Code Ann., Educ. § 6-510 as a whole, this interpretation is unambiguous. There is no dispute as to the applicability of § 6-510(c)(1) and therefore a balancing test need not be applied under § 6-510(c)(5).

The PSLRB, in its decision, claims that the SAAAAC’s proposal is an illegal subject of negotiation under Md. Code Ann., Educ. § 6-510(c)(3) because such negotiations are “precluded by applicable statutory law.” The “applicable statutory law” cited by the PSLRB are Md. Code Ann., Educ. §§ 4-103(a) and 6-201(f). These statutes give the county board the power to appoint non-certificated personnel, set salaries, and determine qualifications, tenure, and compensation.

In this matter, §§ 4-103(a) and 6-201(f) are not “applicable statutory law” that make the proposal an illegal subject of negotiation. While the statutes may give the County authority in setting compensation, this only generally relate to hours worked by employees. The subject


matter of the proposed negotiations are directly addressed in the language of § 6-510(c)(1). Maryland law is clear that “where one statutory provision specifically addresses a matter, and another more general statutory provision also may arguably cover the same matter, the specific statutory provision is held to be applicable and the general provision is deemed inapplicable.” *Lumbermen's Mut. Cas. Co. v. Ins. Com'r*, 302 Md. 248, 268, 487 A.2d 271, 281 (1985).

It is important to note that the subject of negotiation in this matter does not deal with a job reclassification decision. In *Montgomery Co. Educ. Ass'n, Inc. v. Board of Educ. of Montgomery Co.*, 311 Md. 303, 320-21 (1987), the Court of Appeals defined reclassification as the “process of reassessing a classified employee’s duties and responsibilities in order to assign a new classification or status to the employee’s position.” Here, the SAAAAC’s proposal does not alter employees’ duties or responsibilities.

CONCLUSION

The SAAAAC’s proposal to increase the work hours of Teacher Assistants and Permanent Substitutes to 6.75 hours per day was a mandatory subject of negotiation. The Court rejects the PLSRB’s interpretation of Md. Code Ann., Educ. § 6-510(c) as the plain language of the statute clearly makes “hours” a mandatory subject of negotiation. Therefore, the Court reverses the decision of the PSLRB, and remands the matter to the PSLRB to issue a directive requiring the Board of Education and SAAAAC to enter into negotiations consistent with this Court’s Order.

1/25/2020
Date


Judge
Circuit Court for Anne Arundel County

CASE SUMMARY
CASE NO. C-02-CV-19-002371

In the Matter of Secretaries & Assistants Assoc of Anne Arundel County

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§

Location: Anne Arundel Circuit Court
 Filed on: 07/25/2019
 Administrative Agency: N 2019-04

CASE INFORMATION

Case Type: **Appeal - Administrative Agency**
 Case Status: **07/25/2019 Open**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number C-02-CV-19-002371
 Court Anne Arundel Circuit Court
 Date Assigned 07/25/2019




PARTY INFORMATION

Petitioner	Secretaries & Assistants Assoc of Anne Arundel County Appellant 2521 Riva Road, Suite L3 Annapolis, MD 21401	<i>Attorneys</i> Anderson, Kristy K <i>Retained</i> 443-433-3665(W)
Respondent	Board of Education of Anne Arundel County Appellee 2644 Riva Road Annapolis, MD 21401	BURNS, B DARREN <i>Retained</i> 410-573-2001(W)
Administrative Agency	Maryland Public School Labor Relations Board 45 Calvert Street, Rm 102 Annapolis, MD 21401	











DATE

EVENTS & ORDERS OF THE COURT

INDEX

07/25/2019	 Petition <i>Petition for Judicial Review</i> Filed by: Petitioner Secretaries & Assistants Assoc of Anne Arundel County Regarding: Respondent Board of Education of Anne Arundel County	
07/25/2019	 Case Information Report Filed <i>Case Information Rpt</i> Filed by: Petitioner Secretaries & Assistants Assoc of Anne Arundel County	
07/25/2019	Attorney Appearance - No Fee Counsel: Attorney Anderson, Kristy K For: Petitioner Secretaries & Assistants Assoc of Anne Arundel County	
07/29/2019	 Notice to Administrative Agency Issued Party: Administrative Agency Maryland Public School Labor Relations Board	
07/29/2019	Additional Notes Exist <i>Copy of Petition and Notice mailed to Maryland Public School Labor Relations Board</i>	

CASE SUMMARY
CASE NO. C-02-CV-19-002371

07/29/2019	Additional Notes Exist <i>Copy of Notice mailed to Board of Education of Anne Arundel County and E-Serve atty Anderson</i>
08/12/2019	 Transcript and Record
08/16/2019	 Notice of Filing Record <i>Copy to Board of Education of Anne Arundel County and Maryland Public Relations Board. E-Service to Atty Anderson</i>
09/10/2019	 Memorandum <i>Memorandum</i> Filed by: Petitioner Secretaries & Assistants Assoc of Anne Arundel County
09/10/2019	 Supporting Exhibit <i>Exhibits - Memorandum</i>
10/04/2019	 Response <i>Response to Petition</i> Filed By: Respondent Board of Education of Anne Arundel County
10/04/2019	Attorney Appearance - No Fee Counsel: Attorney BURNS, B DARREN For: Respondent Board of Education of Anne Arundel County
11/21/2019	 Memorandum <i>Answering Memorandum</i> Filed by: Respondent Board of Education of Anne Arundel County
11/25/2019	 Hearing - Administrative Appeal (9:00 AM) (Judicial Officer: Vitale, Cathleen M. ;Location: Courtroom 3B)
11/25/2019	 Hearing Sheet / Open Court Proceedings (Judicial Officer: Vitale, Cathleen M.)
01/30/2020	 Memorandum Opinion and Order (Judicial Officer: Vitale, Cathleen M.) <i>Therefore, the Court reverses the decision of the PSLRB, and remands the matter to the PSLRB to issue a directive requiring the Board of Education and SAAAAC to enter into negotiations consistent with this Court's Order. (Copy mailed to Maryland Public School Labor Relations Board, Notification E-Served to Attys Anderson, Burns)</i>
01/30/2020	 Order - Remand (Judicial Officer: Vitale, Cathleen M.) <i>Ordered that the Petitioners Request for Relief is GRANTED. The Decision of Public School Labor Relations Board is REVERSED. Ordered, that the Case is REMANDED to the Public School Relations Board to issue a directive requiring the Board of Education and the Secretaries and Assistants Association of Anne Arundel County Inc. to enter into negotiations. (Copy mailed to Maryland Public School Labor Relations, Notification E-Served to Attys Anderson, Burns)</i>
01/30/2020	Additional Notes Exist <i>Certified Docket Entries mailed to Maryland Public School Labor Relations Board</i>

TARGET DATE

TIME STANDARDS

Time to Disposition Deadlines

01/23/2021

Circuit Civil Case Time Standard

07/25/2019
 Active

CASE SUMMARY

CASE No. C-02-CV-19-002371

DATE

FINANCIAL INFORMATION

Petitioner Secretaries & Assistants Assoc of Anne Arundel County	
Total Charges	175.00
Total Payments and Credits	175.00
Balance Due as of 01/30/2020	0.00

I, **Scott A. Poyer**, Clerk of the Circuit Court for Anne Arundel County, hereby certify that this is a true copy from the record in this court.

Witness the hand and act of the undersigned

this 30th day of January 2020

Scott A. Poyer

Circuit Court for Anne Arundel County, Maryland





**CIRCUIT COURT FOR ANNE ARUNDEL COUNTY,
MARYLAND**

8 Church Circle
Annapolis, Maryland 21401

Main: 410-222-1397
Civil: 410-222-1431
Criminal: 410-222-1420
Juvenile: 410-222-1427
Trust/Adoption: 410-222-1331
TTY for Deaf: 410-222-1429
Maryland Relay Service: 711

To: MARYLAND PUBLIC SCHOOL LABOR RELATIONS
BOARD
45 CALVERT STREET, RM 102
ANNAPOLIS, MD 21401

Case Number: C-02-CV-19-002371
Other Reference Number(s):

IN THE MATTER OF SECRETARIES & ASSISTANTS ASSOC OF ANNE ARUNDEL COUNTY