

BRIAN K.,

Appellant

v.

MONTGOMERY COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 14-27

OPINION

INTRODUCTION

In this appeal, Appellant challenges the decision of the Montgomery County Board of Education (local board) denying his request that the school system establish a bus stop at his house in order to provide bus transportation for his son. The local board filed a Motion for Summary Affirmance maintaining that its decision should be upheld. The Appellant responded and the local board replied.

FACTUAL BACKGROUND

Appellant resides in the geographic attendance area for John T. Baker Middle School (Baker). His son is attending the 6th grade at Rocky Hill Middle School (Rocky Hill) on an approved transfer.

This case began with Appellant's request that his son be granted a transfer from Baker to Rocky Hill so that he could attend the same school as his cousin. In his transfer request, Appellant explained that the families share child care responsibilities and help each other with before and after school transportation with the children. Appellant pointed out that the cousin's school bus passes by the Appellant's house, which is located between two existing bus stops. He explained that his son could ride that bus to the cousin's house on days when the Appellant is not able to be at home. (Mtn. Exs.1 – 3, 5). Although the Appellant's transfer request was initially denied, Appellant successfully appealed. By memorandum dated May 31, 2013, the Superintendent advised the local board and the Appellant that he had approved the transfer request after receiving clarification about the work schedules and responsibilities of the Appellant and his wife. (Mtn. Ex.6). The Superintendent stated that "[a]ccording to the provisions of the transfer policy, the parents will be responsible for [their son's] transportation to Rocky Hill Middle School." *Id.*

Appellant appealed the decision to the local board. He requested that the school system establish a new bus stop at his house and provide bus transportation for his son at that location. Appellant argued that creating a bus stop at his house would not place a burden on the school system because the bus route passes right by his home. Appellant also stated that his older daughter had attended Rocky Hill and had received bus transportation from their house for the 3 years that she went to school there. (Mtn. Ex.7). In a memorandum to the local board, the Superintendent recommended that Appellant's transportation request be denied because the

MCPS transfer policy states that parents are responsible for providing transportation for their children if they accept the change of school assignment. (Mtn. Ex.8).

In a unanimous decision issued July 16, 2013, the local board upheld the Superintendent's decision to grant the change of school assignment without the provision of transportation. (Mtn. Ex.9). In its decision, the local board highlighted the transfer policy requirement that parents provide their own transportation and stated that the Appellant had not demonstrated a unique hardship warranting transportation. *Id.*

This appeal followed.

STANDARD OF REVIEW

Because this appeal involves the decision of the local board involving local policy, the local board's decision is considered *prima facie* correct, and the State Board may not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable or illegal. COMAR 13A.01.05.05A.

LEGAL ANALYSIS

Mootness

At the outset we note that bus route 2601 no longer passes in front of Appellant's house based on route changes this past school year, thus suggesting that Appellant's request for the creation of a bus stop at his house is now moot. While Appellant acknowledges that route 2601 is no longer an option, he maintains that the case is not moot because bus route 2631 passes by his house and the school system could create a bus stop along that bus route instead. The local board has not provided any information about bus route 2631. For purposes of this appeal, we will assume that Appellant's representation is correct and there is currently a bus that passes by his house. We, therefore, decline to dismiss the case as moot.

In addition, during October 2013, while this appeal was pending, the local board offered to allow the Appellant's son to ride a bus from a bus stop near his house. Appellant has chosen not to utilize the bus stop because he finds it too dangerous for his son to walk between the house and the stop. He explains that it is approximately one mile from his home and would require his son to walk along Maryland Route 27, which he claims is a busy and dangerous section of road with no sidewalks.¹

The decision to decline the offered transportation is Appellant's prerogative. Because the school system has offered Appellant bus transportation, the only issue left in this case is Appellant's request that the school system establish a bus stop at his home.

Request for Bus Stop

Montgomery County Public Schools (MCPS) makes it clear to parents seeking a change of school assignment for their child that they are solely responsible for transporting their child to and from school should they accept the transfer. This information is set forth in the Request for

¹ Under the MCPS transportation policy, parents are responsible for supervising their child along the walking route to and from the bus stop. EEA-RA(II.D.5(c)).

Change of School Assignment form; the Change of School Assignment (COSA) Information Booklet 2013-2014, local board Policy JEE, *Transfer of Students*, Section C.4; and MCPS Administrative Regulation JEE-RA, *Transfer of Students*, Section IV.D.2. (Mtn. Exs. 10 – 12). The local board’s decision is consistent with this policy. Appellant does not dispute that this is the existing policy and that he was aware of it at the time he accepted the transfer for his son.

Although the Appellant does not dispute that the transfer policy places the transportation responsibility on the parents, he argues that the local board’s decision is arbitrary and unreasonable because child care and transportation issues served as the basis for the transfer and because the student lives along an existing bus route. Thus, he maintains that there is no extra cost or burden to the school system to provide the bus stop. In contrast, he claims that it is a waste of his time and resources to transport his son to and from school. He also argues that the uncertainty of transportation arrangements on a regular basis due to the family work schedules would cause his son undue stress.

The Superintendent ultimately granted Appellant’s transfer request, allowing his son to attend Rocky Hill with his cousin, thereby making it easier for the families to arrange child care and transportation for the two children and easing the hardship of dealing with two different school locations and school schedules. The transfer policy is clear. Even if there is a unique hardship that justifies the transfer, transportation becomes the parent’s responsibility. While we recognize that it would be more convenient for the Appellant to have the bus stop and that transportation arrangements can at times be stressful to students and families, it is our view that the local board did not act arbitrarily or unreasonably by applying the established policy.

The Appellant also argues that the local board had discretion to establish a bus stop at his home pursuant to the MCPS Transportation Policy, but abused that discretion by failing to do so. Appellant relies on Regulation EEA-RA(II.B.3) which states that “[b]us service on established routes may be provided to students who live outside the transported area of the school they attend, on a space-available basis” and that “[p]arents are responsible for students’ transportation to and from an established neighborhood or centralized bus stop.” The regulation states nothing about creating new bus stops in front of a specific house. Rather, it gives MCPS discretion to allow students who live outside the transported area of their school to ride a bus on an established route from an established neighborhood or centralized stop, on a space-available basis. As noted above, the local board granted permission for Appellant’s son to ride an already existing bus with available space from an established bus stop near his home, but Appellant has declined the offer. There is no legal provision that Appellant can point to that would require MCPS to establish a bus route at his house.

It is our understanding that the school system’s standard practice is to allow students to ride buses home from school with other students on a given day if there is space on the bus and notice is provided to the school. The Appellant may wish to inquire about this practice to determine whether or not it could apply to his son riding the bus home to his cousin’s house on days when Appellant is unavailable to pick him up from school.

CONCLUSION

For the reasons stated above, we affirm the decision of the local board denying Appellant’s request for a bus stop at his house.



Charlene M. Dukes
President

Absent

Mary Kay Finan
Vice President



James H. DeGraffenreidt, Jr.



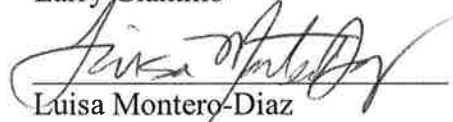
Linda Eberhart

Absent

S. James Gates, Jr.

Absent

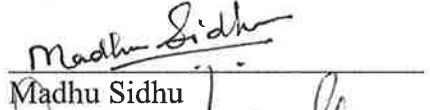
Larry Giammo



Luisa Montero-Diaz



Sayed M. Naved



Madhu Sidhu



Donna Hill Staton



Guffie M. Smith, Jr.

May 20, 2014