

PAULA R.,

Appellant

v.

CHARLES COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 15-15

OPINION

INTRODUCTION

Paula R. (Appellant) appeals the decision of the Charles County Board of Education (local board) upholding the denial of her request that her son be classified as a homeless student under the McKinney-Vento Homeless Assistance Act. The local board submitted a Motion for Summary Affirmance, maintaining that its decision was not arbitrary, unreasonable, or illegal. The Appellant responded to the motion and the local board replied.

FACTUAL BACKGROUND

Prior to the 2014-15 school year, Appellant's son attended Theodore G. Davis Middle School ("Davis"), part of Charles County Public Schools ("CCPS"). Sometime in the summer of 2014, Appellant contacted the principal of Davis and informed her that she had temporarily moved to a different school zone but wanted permission for her son to remain at Davis until she returned to the area. (Motion, Ex. 4).

In September 2014, Appellant filed a change of address form with the school that listed her address as being on Pagnell Circle, outside the Davis attendance zone. Based on the new address, CCPS staff concluded that her son would be assigned to attend Benjamin Stoddert Middle School ("Stoddert") instead of Davis. CCPS staff contacted Appellant by phone to inquire about the change. Appellant told staff that she lived at two addresses – her former address on Gray Wolf Court in the Davis attendance zone and the new address on Pagnell Circle in the Stoddert attendance zone. Staff described her as being "very hesitant" in talking about her new residence. (Motion, Ex. 4).

On October 6, 2014, the school sent Appellant a letter seeking to verify her current address. The letter noted that students attending CCPS require two forms of proof of current residency within the assigned school zone. (Motion, Ex. 5).

In response to the letter, Appellant sent CCPS a Verizon bill and a Liberty Mutual insurance bill with the Gray Wolf address on them. CCPS staff informed her that the Verizon bill was not an acceptable form of proof of residency. In later conversations with CCPS staff, Appellant again stated that she lived at both addresses. (Motion, Ex. 6, 7). As part of an

investigation into Appellant's residency, a CCPS staff member drove by the Gray Wolf Court address and observed a "for rent" sign in the yard. In contrast, the Pagnell Circle address had curtains in the windows and items in the carport that suggested someone lived there. (Motion, Ex. 6).

A CCPS investigator spoke with Appellant by phone sometime in October 2014. Appellant maintained that she did live on Gray Wolf Court, that she paid all of the bills for the property, and that she was preparing to purchase the house. After being informed that the house appeared vacant, Appellant told the investigator that she and her son slept in her car and not in the home. The investigator informed Appellant that CCPS had resources available for families who have become homeless, but Appellant declined assistance, maintaining that she had "plenty of money and paid for everything in cash" and that she wanted her son to continue to attend Davis because he had started there in the sixth grade. Appellant explained that she moved out of Gray Wolf Court after her landlord requested she sign a long-term lease. Rather than sign the lease, Appellant said she decided to save her money so she could buy a home rather than rent. (Motion, Ex. 7).

After the investigator told Appellant that her son needed to reside in the school attendance zone to go to school at Davis, Appellant said she would let her son sleep at his grandmother's house. The investigator explained that CCPS based residency not on where a student slept on any particular night, but on where the student was domiciled with a parent or guardian. Appellant then inquired about whom to speak with concerning homelessness and was directed to another CCPS staff member. (Motion, Ex. 7).

On October 20, 2014, Tanisha Sanders, the CCPS youth in transition coordinator, met with Appellant to discuss her situation. Appellant explained that she was living with a friend in order to save up enough money to purchase her home on Gray Wolf Court or another home within the Davis school zone. Appellant continued to pay utilities at the Gray Wolf Court address to avoid the cost of re-starting service there after moving back. Ms. Sanders determined that Appellant did not qualify as homeless because she did not lose housing because of economic reasons. Instead, Ms. Sanders suggested Appellant file a Change of School Request. (Motion, Ex. 8).

The next day, Appellant filed the Change of School Request. In a letter accompanying the request, Appellant stated that she and her son were temporarily living with another family until she could find permanent housing in the Davis attendance zone. In support of granting the request, she explained that her son was undergoing grief counseling after losing his father over the summer and that Davis was aware of how to properly implement his Individual Education Plan ("IEP"). Appellant requested that her son be allowed to stay at Davis while she looked for housing in the zone. (Motion, ex. 9).

The school denied the request on October 22, 2014, listing the reason for the denial as "did not notify school of move." A letter accompanying the denial explained that Appellant's transfer request did not meet the local board's policy concerning transfers. (Motion, Ex. 10).

That same day, Appellant appealed the denial of the transfer decision. She attributed the family's move to "a major family hardship and parental death this summer." Appellant stated that the death of her son's father left a heavy financial burden on her. She argued that her son was "grounded" at Davis and that he was showing progress in meeting his IEP goals. Appellant expressed fears that any change could be detrimental to her son. (Motion, Ex. 11). On October 24, 2014, the superintendent's designee denied the appeal for failure to meet the transfer guidelines. (Motion, Ex. 12). The denial of the transfer decision is not a part of this current appeal.

On October 22, 2014, the same day that Appellant filed her transfer request, she also filled out a CCPS "homeless information form." On the form, she stated that she was living with another family due to loss of housing and that the move occurred in September 2014. She predicted the length of stay would be between 40 and 60 days. (Motion, Ex. 13).

The request for homeless status was denied on October 23, 2014 because Appellant "did not lose housing due to an economic hardship and she can afford housing." The denial also stated that Appellant's son "does not lack a fixed, regular and adequate nighttime residence." (Motion, Ex. 16).

On October 29, 2014, Appellant appealed the homelessness determination, stating that "there has not been a discussion with CCPS staff regarding my economic situation." She argued that her situation fit two circumstances described under the McKinney-Vento Act: she currently had insufficient resources immediately available to attain housing stability and she currently was living in the home of another because of economic hardship. Appellant provided no other specific details of her situation. (Motion, Ex. 17).

The Davis principal denied the homelessness appeal on October 31, 2014. She wrote that Appellant's son was not without a fixed address and that his parent's income did not qualify him as eligible for services as a disadvantaged student. (Motion, Ex. 18).

Appellant appealed the principal's homelessness determination. She questioned the school's statement about her income, maintaining that she had not spoken with the school about it and was unclear how the school obtained that information. Appellant otherwise reiterated her claim that her circumstances qualified her as homeless under the McKinney-Vento Act. (Motion, Ex. 19).

On November 5, 2014, the superintendent's designee denied her appeal of the homelessness determination. The designee relied, in part, on Appellant's prior statement that she left the home on Gray Wolf Court because she didn't want to sign a long-term lease and planned to save up to purchase a home rather than spend money on rent. The designee explained that the amount of Appellant's income had been obtained from a pay stub she had previously submitted as proof of residency. That pay stub, from January 2012, showed her yearly income as \$119,238, and the designee observed that Appellant's employment status had not changed. (Motion, Ex. 14, 20). The designee acknowledged that "[t]ypically, there is no economic criterion, but statistically the mean income of families experiencing homelessness is less than half the federal poverty line."

On December 1, 2014, Appellant appealed the decision to the local board. In her appeal, she maintained that her family was experiencing a financial hardship and that she had been issued an eviction notice in July 2014. She complained that no one from CCPS had contacted her to discuss her situation and that assumptions and determinations had been made without her input. She argued that CCPS was unfairly applying an economic criterion to her case and that the McKinney-Vento Act does not contain a salary limitation. She again reiterated that she was living with another family because of insufficient economic resources and economic hardship, but provided no further specific details. (Appeal).

On January 13, 2015, the local board upheld the superintendent's decision denying homeless status to Appellant and her son. The board determined that Appellant: initially denied moving out of the Gray Wolf Court home and claimed she still paid utilities there; denied needing homeless services because she had plenty of funds and paid for everything in cash; had moved because she wanted to buy a home rather than enter into a long-term lease; stated the move was temporary only until she could find permanent housing in the attendance zone; maintained employment at a job paying \$119,000 a year; and provided no support for her claims of economic hardship. The board observed that Appellant did not challenge the sworn affidavits of CCPS staff.

This appeal to the State Board followed. According to the local board, Appellant's son has remained enrolled at Davis throughout the appeals process.

STANDARD OF REVIEW

The decision of a local board concerning a local dispute or controversy is presumed to be *prima facie* correct and the State Board will not substitute its judgment for that of the local board unless the decision is shown to be arbitrary, unreasonable or illegal. COMAR 13A.01.05.05A. A decision may be arbitrary or unreasonable if it is (1) contrary to sound educational policy or (2) a reasoning mind could not have reasonably reached the conclusion the local board or local superintendent reached. COMAR 13A.01.05.05B.

LEGAL ANALYSIS

As a preliminary matter, the local board seeks to dismiss Appellant's claim because she failed to provide reasons in support of her appeal, as required by COMAR 13A.01.05.02. Appellant's letter of appeal is short – she contends that the local board “included many inaccuracies regarding this matter and no effort was made to contact me for discussion.” She included her prior letters of appeal, but otherwise did not explain what inaccuracies the local board relied upon. In response to the local board's motion to dismiss, Appellant claims that she followed the appeal procedures and that all of the required information was included in her appeals package and the previous letters she had written to CCPS. It is our view that Appellant's prior letters provide the basis for her appeal: that her son should be classified as a homeless student because she has suffered an economic hardship and is living with another family. Because we have sufficient information upon which to proceed, we decline to dismiss the appeal.

The CCPS Superintendent's Rule 5126 requires that students attend their zoned school, which is based on the location of the residence in which a student is domiciled with a parent or guardian. (Motion, Ex. 3). A student "who lacks a fixed, regular, or adequate nighttime place of residence" is considered homeless.¹ COMAR 13A.05.09.02. The definition of homeless includes youth "who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason." *Id.* Local school systems are required to have procedures in place to continue a homeless student's education at the student's previous school or at the school serving the area where the homeless student currently lives, depending on what is in the youth's best interest. COMAR 13A.05.09.04.

The record indicates that Appellant and her son have been "sharing the housing of other persons." The question faced by the local board was whether this arrangement was "due to loss of housing, economic hardship, or a similar reason." The local board concluded that it was not and determined that Appellant's son did not qualify as homeless. Appellant bears the burden in this appeal to demonstrate that the local board's decision was arbitrary, unreasonable, or illegal.

In evaluating the local board's decision, we must consider what information Appellant presented to the local board to support her case. Appellant initially alerted CCPS of her move in the summer of 2014 and characterized it as being only temporary. That fall, Appellant told CCPS staff that she was living at two addresses: Gray Wolf Court in the Davis attendance zone and Pagnell Circle in the Stoddert attendance zone. It was only after an investigator visited the Gray Wolf Court home and found it vacant that Appellant admitted she moved out of the house because she did not want to sign a long-term lease. Instead, Appellant decided to save her money in order to buy a home, rather than rent. She declined offers of homeless assistance, maintaining that she had "plenty of money and paid for everything in cash." During the appeals process, Appellant attributed the family's move to the death of her son's father, which she explained caused a heavy financial burden. It was not until Appellant appealed the homelessness determination to the local board that she described her move in the summer as being the result of an eviction notice from her landlord.

Appellant's contradictory statements – that she deliberately chose to move or was evicted; that she had no financial problems or was in financial distress – gave the local board sufficient grounds to question whether Appellant had moved "due to loss of housing, economic hardship, or a similar reason." Beyond simply stating that she has faced economic challenges and been forced to live with another family as a result, Appellant has not provided any specific details of her situation or supporting documents, nor contested the facts as presented in affidavits by CCPS employees. In her appeal, she claims there were inaccuracies in the local board's decision, but does not state what the inaccuracies were.

Appellant argues that the local board improperly considered her income as a factor in its decision. As the local board acknowledges, there is no specific economic threshold that must be met to be considered homeless. For myriad reasons, income alone may not reflect a person's

¹ A youth's residence only needs to lack one of those three qualities in order for the student to be considered homeless. See "McKinney-Vento Eligibility," National Center for Homeless Education at SERVE, available at http://center.serve.org/nche/downloads/briefs/det_elig.pdf.

true financial state. In our view, Appellant's income, standing alone, was not enough to reject her claim, but when coupled with her prior conflicting statements, it gave CCPS additional grounds to conclude that Appellant's move was not due to economic or other circumstances.

Appellant also argues that the decision was unreasonable because no one from CCPS talked with her about her situation. The record demonstrates, however, that she talked to several CCPS staff members about her case on multiple occasions, beginning in the summer of 2014. These conversations are memorialized in the affidavits included in the record. It was Appellant's statements, in fact, that led CCPS to question her claim of homelessness because she initially denied having any financial problems and claimed to have made a conscious decision to move from her home in order to save money to buy a house. Although Appellant asserts that she informed CCPS of her financial problems early on, she provides no support for this claim and it is contradicted by the emails and affidavits submitted by the local board.

In the end, Appellant failed to meet her burden by presenting evidence that would support her claim that she moved because of a financial hardship or the loss of her home. Given all of this, it was not arbitrary, unreasonable, or illegal for the local board to reach the conclusion that it did.

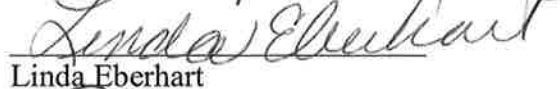
CONCLUSION

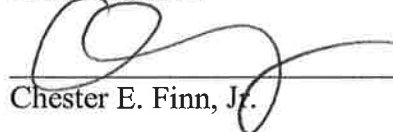
For all these reasons, we affirm the decision of the local board because it is not arbitrary, unreasonable, or illegal.

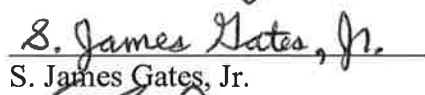

Mary Kay Finan

President


James H. DeGraffenreidt, Jr.

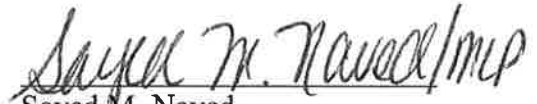

Linda Eberhart


Chester E. Finn, Jr.


S. James Gates, Jr.


Larry Giammo

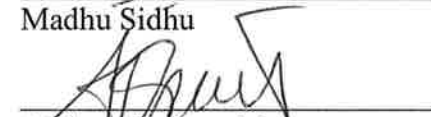

Luisa Montero-Diaz




Sayed M. Naved



Madhu Sidhu



Andrew R. Smarick



Guffie M. Smith, Jr.

May 19, 2015