

IN RE: PETITION FOR DECLARATORY
RULING

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION

Opinion No. 12-18

OPINION

INTRODUCTION

Baltimore City Public Schools System has filed a Petition for Declaratory Ruling requesting this Board to rule on certain matters related to the Out of County Living Arrangements Program (OCLA).

FACTUAL BACKGROUND

Under the OCLA law, the Department of Social Services or the Department of Juvenile Services may place a child in State supervised care in a residence located in a county different from the one in which the child's parent resides. Md. Educ. Art. §4-122(a)(2). If the agency does so, the school system from which the child came (sending school) must reimburse the receiving school system for education services it provides. *Id.* §4-122(c).

In 2012, over 500 such OCLA placements were made or continued by Baltimore City Department of Social Services. Baltimore City Public School System is responsible for paying the receiving county school systems for providing education services to those children.

The law allows, however, an appeal to the Maryland State Department of Education (MSDE) if the financially responsible school system disputes its responsibility for payment. *Id.* §4-122(d). On February 3 and 6, 2012, City Schools filed an "appeal" of every one of the over 500 OCLA placements cases. (Attachment 5 & 6 to Petition).

On February 27, 2012, the Interim Superintendent sent a letter to City Schools explaining that:

[The OCLA appeal provision] was not intended to be a placeholder to allow additional time for a jurisdiction to request and review the documentation supporting the notice of financial responsibility from other systems. This, in effect, is using the appeal process to transfer the review to the Maryland State

Department of Education or using the process as an extension of the review period to allow an incremental acceptance/decline of financial responsibility as the reviews are performed by BCPSS. This process of appealing all placements, which the BCPSS used last year, created a tremendous backlog as well as delays in payments to local school systems that had legitimate invoices. In order to expedite this process, please provide to us all supporting documentation that was utilized to make the determination to appeal the financial responsibility for each child. The documentation should include forms, emails, and any other communication with the receiving LSS. Furthermore, we are requesting this documentation on or before March 9, 2012.

(Attachment 7 to Petition).

On March 9, 2012, City Schools withdrew its appeal as to some school systems, but not as to 450 students placed in OCLA in Baltimore County and served by Baltimore County Public School System (BCPS). (Attachment 8 to Petition). City Schools provided no additional appeal documentation for those 450 cases.

On March 28, 2012, the Interim Superintendent informed City Schools that because “BCPSS did not provide the Maryland State Department of Education (MSDE) with the documentation to support its appeals, only copies of requests to other LSS’s for documentation . . . MSDE has determined that BCPSS appeals were not perfected and as a result, we will continue processing BCPSS’s FY 2012 OCLA placements for payment to the receiving LSS.” (Attachment 10 to Petition). The letter went on to say:

Your letter indicated a concern with the reliability of the OCLA placement data. Please note that as a continuing safeguard, MSDE’s audit branch has built into its current audit procedures, a review of placements in each audit cycle. The procedure will provide additional assurance that OCLA students charged to a financially responsible county are properly documented.

(*Id.*).

In its Petition for Declaratory Ruling, City Schools requests that this Board direct:

1. MSDE to review the documentation from BCPS that BCPS refused to provide to City Schools or in the alternative order BCPS to provide the documentation to City Schools so that City Schools may conduct an expedited review and provide MSDE with a revised list of appeals by June 1, 2012;
2. the three (3) student from AACPS’s Verification From be deemed not OCLA-eligible and therefore not the financial responsibility of City Schools; and

3. the ten (10) overage children identified in AACPS's and BCPS's Verification Forms be stricken from the lists and therefore not the financial responsibility of City Schools.

(Petition at 8).

LEGAL ANALYSIS


This Board has the authority to declare the true intent and meaning of education law. Md. Educ. Code Ann. §2-205(e). In its Petition for Declaratory Ruling, however, City Schools does not ask for a declaration of the meaning of a law. It asks that this Board reverse the decision of the Interim Superintendent that the City Schools had not perfected its appeals. The State Board does not act as an appeal board to review decisions of the Superintendent on OCLA or other matters. A Petition for Declaratory Ruling cannot transform the State Board into such an appeal board.

CONCLUSION

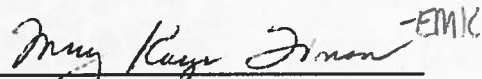
For all those reasons, the Petition for Declaratory Ruling is dismissed.




James H. DeGraffenreidt, Jr.
President



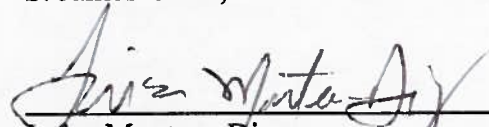
Charlene M. Dukes
Vice President




Mary Kay Finan



S. James Gates, Jr.



Luisa Montero-Diaz



Sayed M. Naved

Madhu S. Sihu

Madhu Sihu
Guffie M. Smith, Jr.

Guffie M. Smith, Jr.

Absent

Donna Hill Staton

Ill

Ivan C.A. Walks

Kate Walsh

Kate Walsh

June 26, 2012