

WILLIAM K.

Appellant

v.

ANNE ARUNDEL COUNTY BOARD  
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 12-38

## OPINION

### INTRODUCTION

In this appeal, the Appellant challenges the decision of the Anne Arundel County Board of Education (local board) denying his son transportation to Frank Hebron-Harman Elementary School (Hebron-Harman ES). The local board filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable, or illegal.

### FACTUAL BACKGROUND

When he began school in 2008, Appellant's son, P.K., rode the bus. (Appellant's Appeal, Ex. 1). In February 2011, Appellant requested that the school investigate a bullying incident P.K. experienced on the bus involving a fourth grade student.<sup>1</sup> (Motion, Ex. A). Appellant also expressed concerns about overcrowding on the bus. (*Id.*)

Wanda McIntire, Specialist in Transportation for the Hebron-Harmon attendance area, conducted an audit to determine which students were eligible for transportation on the bus. (*Id.*) On March 4, 2011, the bus driver advised the Appellant that P.K. was ineligible for bus transportation because he lives within a one mile walking distance of Hebron-Harman ES. On March 7, Ms. McIntire also advised Appellant of this fact. (Appeal Record, Ex. 1). The following day, Appellant, Ms. McIntire, and a representative from Hebron-Harman ES conducted a joint walking survey from the school to Appellant's home using a Rolatape Professional Series Model 400 walking device to measure the distance. (*Id.*) The measurement walk determined that P.K.'s residence fell inside the one-mile (5,290 feet) non-transport area. (Appeal Record, Ex. 4).

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<sup>1</sup> The Assistant Principal investigated whether or not P.K. was bullied on the bus. She determined that a fourth grade student used inappropriate language to P.K. on one occasion. (Motion, Ex. A). The school's guidance counselor met with P.K. to develop a safety plan and provided a copy to the Appellant. Following this meeting, P.K. did not report any additional problems. (*Id.*)

On March 10, 2011, Appellant appealed Ms. McIntire's determination to the Supervisor of the Transportation Division, Christopher B. Carter, requesting that P.K. be granted an exception to the bus transportation requirement under Policy Code 700.101. (Appeal Record, Ex. 1). Appellant also challenged the accuracy of the measuring device used by the school system to measure the distance. Mr. Carter denied the request stating that Appellant's home is located within the non-transport area of the school. Mr. Carter based that determination on the Hebron-Harman ES walking measurements completed on January 31, 2007, the March 8, 2011 measurement walk, and a site visit to Appellant's home.

On March 28, 2011, Appellant appealed the decision to Alex L. Szachnowicz, Chief Operating Officer and Superintendent's Designee. Mr. Szachnowicz upheld Mr. Carter's decision to deny bus ridership to P.K. He explained that exceptions may be granted for disabled students or for students who must use hazardous roads or routes, neither of which applied in this case. (Motion, Ex. 4).

Appellant appealed to the local board, reiterating his prior arguments. He also argued that there should be an exception to the one-mile limit when seating is available on the bus. The local board affirmed the decision of the Superintendent's Designee, finding that Appellant resided within the non-transport zone because his home is less than one mile from Hebron-Harman ES.

This appeal ensued.

#### 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.

#### ANALYSIS

Appellant contends that the local board erred in finding that P.K. lives within the non-transport area and is therefore ineligible for bus transportation. He claims that he lives more than a mile from Hebron-Harmon ES when the route is measured from the front door of his house to the school, and that the school system used an unreliable measuring device to determine the distance. He also argues that the presence of registered sex offenders and dogs in the area near his home creates a safety issue.

The school system's transportation policy on eligible riders states that bus transportation will be provided for elementary school students who live more than one mile from their school. (Appeal Record, Exs.12 (Policy 700.01) & 13 (AR700.01)). Exceptions may be made for disabled students and for students who must use hazardous roads or routes on the way to and from school. (*Id.*). Under the Transportation Division's procedures for evaluating the walking

distance, the Transportation Division representative uses a mechanical measuring distance wheel to measure the most direct route from the school's closest facility entrance to the closest property line at the identified residence location. (Appeal Record, Ex. 7).

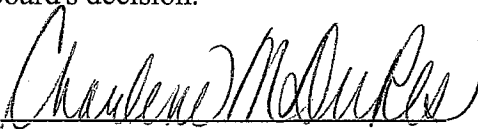
Ms. McIntire used the measuring wheel, which determined that the distance from the school property to P.K.'s home was 5,209 feet. (Appeal Record, Ex. 10). A registered property lien surveyor also measured the distance and concluded that the distance from the school to Appellant's property is 5,216 feet (.0988 mile). (Appeal Record, Ex. 11). Although there was a seven feet discrepancy between the two measurements, the difference does not affect P.K.'s eligibility to ride the bus since both measurements concluded the distance between the home and the school is less than one mile.

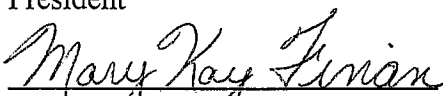
As for Appellant's argument concerning the measuring device used by the school system to determine the distance, because there was independent verification from the Department of Public Works that the distance between P.K.'s home and the school was less than one mile, it is our view that the measurement was accurate.

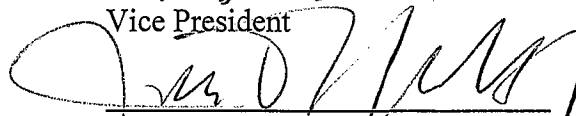
Further, P.K. does not fall under either exception set forth in the transportation policy that would allow him to ride the bus. As stated by the Superintendent's Designee, the presence of crossing guards, crosswalks, sidewalks, improved shoulders, and adequate sight lines provides support that the hazardous route exception does not apply to P.K. (Appeal Record, Ex. 4). The presence of sex offenders living in neighborhood along a school route is understandably concerning, and may invite a heightened level of parental supervision. Similarly, a walk through neighborhoods where homeowners have pets might warrant a route alteration. We are not passing judgment on the validity of the concerns. Rather our review is limited to whether the local board's decision, in essence, runs afoul of its own policy. We conclude it does not.


### CONCLUSION

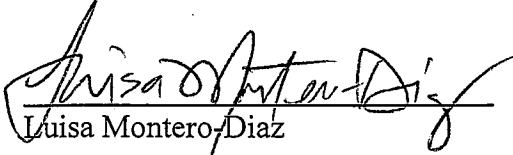
For all of these reasons, we affirm the local board's decision.

  
Charlene M. Dukes  
President

  
Mary Kay Finan  
Vice President

  
James H. DeGraffenheidt, Jr.

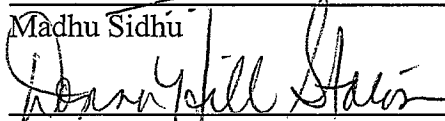
  
S. James Gates, Jr.

  
Luisa Montero-Diaz

Sayed M. Naved

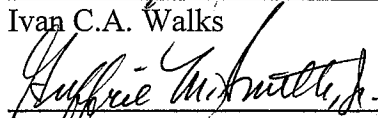


Madhu Sidhu

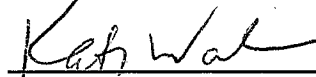


Donna Hill Staton

Ivan C.A. Walks



Guffie M. Smith, Jr.



Kate Walsh

September 25, 2012