

IN THE MATTER OF

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BEFORE THE
BOARD OF EDUCATION
OF
CARROLL COUNTY

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DECISION OF THE BOARD OF EDUCATION OF CARROLL COUNTY

This is an appeal before the Board of Education of Carroll County (the "Board") pursuant to Section 4-205(c) of the Education Article to the Annotated Code of Maryland regarding a request for the reinstatement of an eliminated school bus stop. The Appellants,

on behalf of their elementary school-aged children, have appealed the October 30, 2006, decision of Stephen H. Guthrie, Assistant Superintendent of Administration, who served as the Superintendent's designee in this matter. In his decision, Mr. Guthrie upheld earlier decisions by Area Supervisor in Transportation Services, Richard Stimmel and Director of Transportation Services James A. Doolan, which denied Mr. and Mrs. request that a bus stop at in front of their residence at be reinstated rather than require their children to walk 241 feet to the present bus stop which is located at

The Board has reviewed all of the written material submitted by as well as the documentation submitted by Mr. Guthrie in response to their appeal. Pursuant to its review, the Board has determined that this appeal may be decided under its Rules of Procedure without an evidentiary hearing or oral argument.¹ For the reasons set forth below, the Board has

¹ The Maryland State Board of Education (the "State Board") has previously held that evidentiary hearings are not required for appeals involving claims which do not allege a deprivation of liberty or property interests which would violate 14th Amendment due process requirements such as appeals involving the denial of requested changes in the level of school bus transportation services. See, e.g., *Benoit v. Carroll County Board of Education*, MSBE Op. No. 04-24 (June 16, 2004); *Holten v. Montgomery County Board of Education*, MSBE Op. No. 04-08 (February 25, 2004).

determined that the decision denying _____ request is not arbitrary, unreasonable or illegal.² Accordingly, the Board shall affirm the decision upholding the denial of the requested bus stop reinstatement.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

_____, along with their children, reside at _____ in Carroll County, Maryland. For several years prior to the 2006-2007 school year, a school bus stop was located in front of the _____ residence. Additionally, two other bus stops were located in the _____ block of _____ a _____ and _____. The three bus stops were located within 453 feet of one another and, thus, were in violation of Board of Education Policy EEAC³ and its accompanying administrative regulation⁴.

² A decision may be arbitrary or unreasonable if: a) it is contrary to sound educational policy; or b) a reasoning mind could not have reasonably reached the conclusion the Superintendent or his Designee reached. A decision may be illegal if it is one or more of the following: a) unconstitutional; b) exceeds the statutory authority or jurisdiction of the Superintendent; c) misconstrues the law; d) results from an unlawful procedure; e) is an abuse of discretionary powers; or f) is affected by any other error of law. See COMAR 13A.01.05.05.

³ In pertinent part, Board Policy EEAC provides:

Bus stops shall be located at points where vision is unobstructed in both directions for at least 300 feet and where room is available for children to stand off the traveled portion of the road while waiting. To provide minimum obstruction to traffic flow and to minimize time to complete the run, where possible, stops shall be designated at least one-quarter mile apart.

It is the responsibility of the parent or guardian to provide supervision for their child(ren) while walking to, from or waiting at the designated bus stop.

⁴ Similarly, the administrative regulation which accompanies the subject Board policy provides, in pertinent part:

B. Bus stops:

1. Pupils shall be expected to walk up to one (1) mile to the established school vehicle stop, the same distance as students residing in non-transported areas are expected to walk to their respective schools.
2. Bus stops shall be located, where possible, at points where vision is unobstructed in both directions for at least 300 feet and where room is available for children to stand off of the traveled portion of the road while waiting for the bus.

Shortly after the start of the 2006-2007 school year and in accordance with COMAR § 13A.06.07 and Board policies EEA and EEAC and their corresponding administrative regulations, the Department of Transportation Services consolidated the three bus stops into the current one at _____ Consequently, the school bus stops which were previously located at _____ and _____ were eliminated.

On September 26, 2006, Area Supervisor in Transportation Services, Mr. Stimmel, telephoned _____ to inform them that the bus stop at _____

3. *To provide minimum obstruction to traffic flow and to minimize time to complete the run, bus stops should be designated at least one-quarter (1/4) mile apart. Exceptions may be made at the discretion of the transportation area supervisor.*

* * * * *

D. Exceptions – Criteria for Approving Exception:

1. Transportation area supervisor visits site to see if unusual conditions exist.
2. Transportation area supervisor does a stop evaluation form and looks for hazardous conditions such as:
 - a. Traffic patterns
 - b. Traffic volume
 - c. Traffic control devices
 - d. Speed limit
 - e. Alignment of road
 - f. Road width and composition
 - g. Road shoulders (width & composition)
 - h. Walk ways (sidewalks, pathways, walkways)
 - i. Sight distances
 - j. Type of community (residential, industrial, commercial, agricultural)
 - k. School level of students (elementary, middle, high)
3. Transportation area supervisor reviews data and determines if unusual conditions exist and whether an exception to the one (1) mile walking distance policy may be made.

had been eliminated. Mr. Stimmel further advised that students who had previously boarded the bus at that location were to now board the bus at a site midway between the previous three stops. As a result of eliminating the stop at students who had previously boarded the bus there were required to walk an additional 241 feet to the current bus stop location.

In accordance with Section D(4) of the Administrative Regulations to Board Policy EEA, filed a written appeal of Mr. Stimmel's decision to eliminate the bus stop with Director of Transportation Services Mr. Doolan. By letter of October 12, 2006, Mr. Doolan denied appeal and cited the following reasons for upholding Mr. Stimmel's decision to eliminate the bus stop:

- The walking route of 241 feet does not contain unusual or hazardous conditions sufficient to warrant an additional stop at the Wikes' residence at
- COMAR 13A.06.07 gives the authority to the Board of Education Transportation staff to establish bus stops.
- COMAR 13A.06.07 and Board of Education policies set the parameters of establishing bus stops.
- Transportation Services staff responded to the Wikes' concern and conducted an on-site investigation.
- The established stop a is well within the normal walking distance to a bus stop.
- The shoulder of the road to the bus stop from the residence allows adequate room to walk along the shoulder of the road off the traveled portion of
- There is adequate space for the child(ren) to wait at the established bus stop.
- The parent or guardian is responsible for supervision of their child while walking to, from and while waiting at the bus stop.

- Three (3) bus stops within 453 feet existed prior to the investigation. The consolidated present stop is in the middle at _____. This stop allows the children from both directions to only walk a short distance to the present stop.
- The present stop is a fair decision to all families involved.

_____ appealed Mr. Doolan's decision to Superintendent Charles I. Ecker.

The Superintendent appointed Assistant Superintendent of Administration Mr. Guthrie as his designee to decide the appeal. In consideration of the appeal, Mr. Guthrie reviewed the record evidence and conducted a site visit at _____. During his site visit, Mr.

Guthrie inspected the bus route and the walking distance from the eliminated bus stop at _____ and the consolidated bus stop at _____.

In further consideration of the appeal, Mr. Guthrie also evaluated whether Department of Transportation Services officials based their decision on current Board policy and regulations and whether the rules and regulations were uniformly applied in this case. By letter of October 30, 2006, Mr. Guthrie upheld the previous decisions eliminating the bus stop. He further determined that the reasons set forth in the _____ application fail to meet the criteria for the granting of an exception.⁵

Upon reviewing _____ appeal and Mr. Doolan's decision upholding the elimination of the bus stop, Mr. Guthrie affirmed the denial, reasoning that Mr. Doolan's decision was consistent with Board policies EEA and EEAC as well as the administrative regulations on "Eligibility for School Bus Transportation" and "Bus Routes and Stops." A timely appeal was then filed with this Board. The Board agrees with the decision of the Superintendent's designee.

⁵ Section D of the Administrative Regulations to Board Policy EEA provides that, "[t]he [transportation] area supervisor reviews data and determines if unusual conditions exist and whether an exception to the one (1) mile walking distance policy may be made."

As provided by Board Policy EEAC, the Board of Education has the authority to establish policies on school bus routes and stops. Additionally, the Director of Transportation Services is charged with the responsibility of ensuring compliance with these policies. See Sections V and VIII of Board Policy EEAC. Similarly, the Board has set forth the procedures by which bus stop evaluations must be conducted. Specifically, upon request by a parent or guardian, the Transportation Area Supervisor must review any requests and conduct an on-site inspection of a requested bus stop area and *may* (but is not required to) approve an exception to the designated bus stop. See Sections C and D of the Administrative Regulations to Board Policy EEAC.

The record reveals that Assistant Superintendent of Administration Mr. Guthrie took these factors into consideration in making his determination regarding the eliminated bus stop location which the Wikes seek to reinstate. The record further reveals that Mr. Guthrie's decision was neither arbitrary, unreasonable, nor illegal. Compare COMAR 13A.01.05.05B-C. For example, Mr. Guthrie stated:

My observations of the relevant section of _____ existing bus stops, and walking areas concluded that no unusual hazardous conditions exist that would make it unsafe for students to walk from _____ to the bus stop located at _____. This observation is based on inspection of the walking conditions that exist in many areas of Carroll County. Further, the distance from your residence to the bus stop is well within established Board Policy.

Based on these observations and Board Policy, it clear that to re-establish an additional bus stop would require an exception to the policies and regulations governing bus stops. Board Policy EEA states, "Exceptions to these distance requirements may be made where unusual conditions exist, such as unsafe walking conditions. Other exceptions may be recommended by the Superintendent and must be approved by the Board of Education." In other words, Transportation officials are not being given the latitude in this case to make exceptions to Board Policy.

It is certainly understandable that you are concerned that a long-standing bus stop at your house was eliminated. Each year Transportation officials evaluate many

bus stops and bus routes to continue to provide efficient and effective student transportation. Many times existing bus stops are eliminated or changed to ensure that students spend the least time possible on the bus. It is incumbent upon these officials to make corrections to existing runs as they are discovered.

The impact of any decision to remove or change a bus stop must be measured, not on how it affects one bus run or one family, but on the entire school system. Transportation Services receives hundreds of requests to provide additional bus stops at the homes of Carroll County Public Schools' students. The granting of hundreds of additional stops for reasons that fall outside of Board Policy would create an inefficient and ineffective transportation service for the citizens of Carroll County.

* * * * *

Based on the submitted evidence and my visit to the site, I find that Mr. Stimmel's decision to eliminate the bus stop at 2608 Old Washington Road is consistent with Board Policies EEA and EEAC and relevant to administrative regulations. I, therefore, affirm Mr. Doolan's decision to uphold Mr. Stimmel's decision and deny the appeal.

According to _____ the bus stop in front of their residence should be reinstated because: a) the consolidated bus stop location does not provide ample space for parents to park their cars while awaiting arrival of the school bus; b) children are unable to safely walk along the stretch of _____ from the eliminated stop at _____ to the consolidated bus stop at _____ and c) they are concerned about the reported attempted abduction two to three years ago of a child on _____ Road, near the consolidated bus stop location. We find, however, that the evidence in this case is uncontraverted by the _____

In response to the concerns expressed by _____ we offer the following. The Department of Transportation Services is not required by Board Policy to factor in the availability of parking spaces when establishing bus routes or bus stops for the Carroll County Public School system. _____ fail to offer any tangible evidence to support their concerns that the change in bus stop location presents any unusual or hazardous conditions for

those students impacted by the change in bus stop location to safely navigate the 241 feet from the eliminated bus stop at _____ to the consolidated bus stop location at _____

1. _____ have failed to produce any evidence to substantiate their concerns that the elimination of the bus stop at _____ will result in an increased likelihood that students will be abducted. Therefore, upon examination of the record before us, we find that Mr. Guthrie acted rationally in concluding that the elimination of the bus stop at _____ is warranted and that the consolidation of the current bus stop at _____ is a safe place for students to enter and exit the school bus. We likewise determine, based upon our review of the record, that Mr. Guthrie did not act unreasonably or illegally in reaching his decision.

In light of the above, we will affirm the decision to deny reinstatement of the bus stop at _____

. See *Angela Brown v. Howard County Board of Education*, MSBE Op. No. 99-14 (March 30, 1999) (denying parents' request for bus stop change where parents failed to prove that the local school board acted arbitrarily, unreasonably or illegally in its decision to deny a requested bus stop relocation); *Doreen Robinson v. Board of Education of Howard County*, MSBE Op. No. 98-44 (July 29, 1993) (rejecting parent's contention that the location of the bus stop jeopardized student safety); *Judy Hanson v. Board of Education of Howard County*, 7 Op. MSBE 709 (1997) (finding bus stop along State highway to meet the acceptable level of safety); *Lane v. Howard County Board of Education*, 6 Op. MSBE 587, 588 (1993)(rejecting allegations of unsafe walking route); see also *Deborah Holten v. Montgomery County Board of Education*, MSBE Op. No. 04-08 (February 25, 2004) (upholding elimination of bus transportation for students residing within the approved walking distances from community to and from local middle and high schools); *Michael P. Callahan v. Howard County*

Board of Education, MSBE Opinion No. 03-15 (March 25, 2003) (upholding elimination of bus transportation to _____ for children residing within the one mile walking zone).

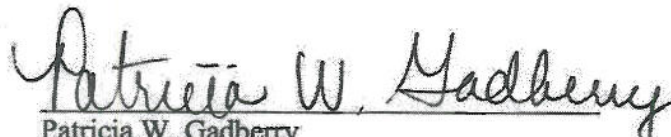
DECISION

For the reasons discussed above, this Board affirms the decisions upholding the denial of the request to reinstate the school bus stop. Should they choose to do so, _____ may appeal this decision to the Maryland State Board of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, in writing, within thirty (30) days of the date of this decision.

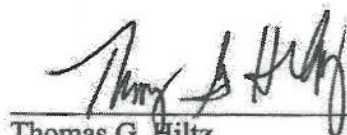
1-16-07
Date



Gary W. Bauer, President



Patricia W. Gadberry



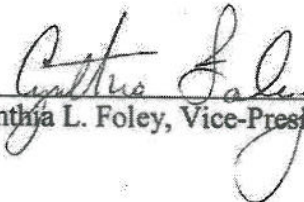
Thomas G. Hiltz



Barbara Shreeve

Dissent

I disagree with the decision of the majority and believe the bus stop at
_____ should be reinstated.


Cynthia L. Foley, Vice-President