

IN THE MATTER OF

*
*
*
*
*
*
*

BEFORE THE

BOARD OF EDUCATION

OF

CARROLL COUNTY

* * * * *

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 of the Annotated Code of Maryland, regarding a request for the establishment of an additional school bus stop. The Appellant, _____, on behalf of her elementary school-aged daughter, has appealed the January 11, 2010, 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 of Transportation Services Richard Stimmel and Director of Transportation Services James A. Doolan, which denied _____ request that a bus stop be established in front of her residence at _____ rather than requiring _____ daughter to walk 624 feet to the present bus stop. The present bus stop is located around the corner on _____

_____ a residential street which runs along the southeastern boundary of _____ s' property.

The Board has reviewed all of the written material submitted by _____ as well as the documentation submitted by Mr. Guthrie in response to her 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 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.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

along with their children, reside at Westminster, Maryland. daughter, a seven year old, second grade student, attending Elementary School, currently rides bus by utilizing a bus stop located 624 feet from the driveway at a residential street which intersects at the southeast corner of the property. daughter can reach the bus stop at and by using one of two routes. First, she may exit the driveway and proceed east along the grassy shoulder of to corner of turn left, and proceed northeast along to the bus stop. Alternatively, she can simply walk east on the grass from the residence across the unobstructed, side yard to at the southeastern border of the property and proceed northeast to the bus stop.

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., Barbeito, et al. v. Frederick County Board of Education*, Op. No. 09-32 (September 21, 2009); *See also, Benoit v. Carroll County Board of Education*, MSBE Op. No. 04-24 (June 16, 2004); *See also, Holten v. Montgomery County Board of Education*, MSBE Op. No. 04-08 (February 25, 2004).

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.

Another bus stop for bus [redacted] exists to the west of the [redacted] residence at [redacted] 1e

However, the route from the [redacted] residence to the bus stop at [redacted] involves traversing an uphill portion of [redacted] with limited sight distances for oncoming traffic.

In August of 2009, [redacted] submitted a request to Carroll County Public Schools Transportation Services, requesting that her daughter's bus assignment be switched from bus [redacted] to bus [redacted] and that an additional stop, in front of the [redacted] home, on [redacted] be added to the route for bus [redacted]. After having conducted an investigation into request, which included a site visit on September 9, 2009, Richard Stimmel, Area Supervisor of Transportation Services, sent [redacted] a letter on September 11, 2009, denying her request for a change in bus assignments and the establishment of a new bus stop. Mr. Stimmel's denial of [redacted] request was predicated on his finding that adequate walking and waiting surfaces were available on the route from the [redacted] residence to the bus [redacted] stop at [redacted]

and the fact that adding another stop on [redacted] in front of the [redacted] residence would require bus [redacted] to stop twice in 573 feet. Mr. Stimmel found that the current bus assignment and stop were in accordance with Board Policy and that insufficient justification existed to grant an exception to Board Policy.

On October 12, 2009, [redacted] appealed Mr. Stimmel's decision to deny her request to James Doolan, Director of Transportation Services. Mr. Doolan conducted his own investigation of [redacted] request, which included an on-site visit, a review of the documentation produced by Mr. Stimmel, and a review of applicable Maryland regulations, and Board Policies. Mr. Doolan concluded by letter of November 5, 2009, that the current bus assignment and stop were in accordance with Maryland regulations and Board Policies and that

the requested placement of a new bus stop in front of the residence would violate COMAR 13A.06.07.13 which directs that bus stops be placed approximately ¼ mile apart in order to avoid unnecessary disruption of traffic through an area.

On November 30, 2009, [redacted] appealed the denial of her request by Mr. Doolan via e-mail to the Superintendent of Carroll County Public Schools. An investigation was conducted by Stephen H. Guthrie, Assistant Superintendent of Administration and the Superintendent's Designee for the purposes of this matter. In response Mr. Guthrie reviewed the investigations conducted by Mr. Doolan and Mr. Stimmel, the documentation submitted by [redacted], and applicable Maryland regulations and Board Policies. Mr. Guthrie concluded that the current bus assignment was in accord with Board Policy and upheld the decision of Mr. Doolan.

On January 15, 2010, [redacted] appealed the denial of her bus stop request by the Superintendent's Designee to the Board of Education for Carroll County pursuant to Section 4-205(c)(3) of the Education Article of the Maryland Annotated Code. However, the Board notes that unlike [redacted] previous appeals she is only requesting in the instant appeal that a stop be added in front of the residence for bus [redacted] and not that her daughter's bus assignment be changed to bus [redacted]

The administration of Carroll County Public Schools' school bus transportation network is conducted in accordance with Maryland regulations, Board Policies and Administrative Regulations. For instance all elementary school students are eligible for school bus transportation under Board Policy EEA, Section III.A. Under COMAR 13A.06.07.13B(1) and the Administrative Regulations to Board Policy EEAC bus stops should be established ¼ mile apart. Further, the Administrative Regulations implementing Board Policy EEAC direct that "[b]us

stops shall be located, when possible, at points where vision is unobstructed in both directions for at least 300 feet..." Board Policy EEAC states "[i]t 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." Finally, Board Policy EEA states that "[e]xceptions to these [bus stop] distance requirements may only be made when unusual conditions exist, such as unsafe walking conditions."

has advanced several arguments in support of her request for the establishment of a new stop for bus in front of the residence. (1) The hazards created by the excessive speed of vehicles on and tractor trailer traffic. (2) The lack of adequate walking surfaces along the route from the residence to the bus stop at . (3) The fact that traversing the side yard in order to reach can cause wet or muddy feet.

argues that the speed of the traffic on and the presence of tractor trailer trucks renders the route to the stop at hazardous and therefore justifies a policy exception. However, the on-site visits of Mr. Guthrie, Mr. Doolan, and Mr. Stimmel all credibly support the finding that an adequate walkway exists in the grass to the side of a safe distance from traffic. This finding is further supported by the photographs submitted by which clearly show a level grass walking surface to the side of .

argues that the grass walking surfaces along the route to the bus stop at become wet and justify granting an exception to Board Policy. However, the fact that a walking surface may become wet or muddy during inclement weather conditions is insufficient justification for granting an exception under Board Policy EEA. If a wet walking

surface during inclement weather conditions was to serve as sufficient justification for the establishment of a new bus stop, Carroll County Public Schools would rapidly find itself offering door to door transportation to all its students, thus rendering the school transportation network untenable. The Board is sympathetic to [redacted] concern that her daughter arrive at school with dry feet; however, Board Policy EEAC clearly states that parents and guardians are responsible for supervising children on route to and from their bus stops. Also, students may wear overshoes or boots to keep their feet dry on trips to and from the bus stop.

In addition several other considerations weigh against establishing an additional bus stop in front of [redacted] residence. First, should [redacted] choose to have her daughter avoid the traffic on [redacted] she can do so by simply having her daughter walk across the side yard directly to [redacted]. Finally, the establishment of the proposed bus stop in front of the [redacted] residence, for either bus [redacted] or [redacted], would necessitate placing a bus stop in an area of limited visibility. As Mr. Guthrie pointed out in his letter of January 21, 2010, the terrain to the west of the [redacted] driveway on [redacted] is uphill and therefore involves limited sight visibility for oncoming traffic.

In light of the above, we will affirm the decision to deny the addition of a bus stop at [redacted]. 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 Op. No. 03-15 (March 25, 2003) (upholding elimination of bus transportation to St. John's Elementary School for children residing within the one mile walking zone); *Benoit, et al. v. Carroll County Board of Education*, Op. No. 4-24 (June 16, 2004) (upholding the denial of a request for an additional bus stop when child had to traverse grass and gravel areas in order to reach current the stop); *Resalee C. v. Harford County Bd. of Education*, Op. No. 09-14 (April 28, 2009)(upholding the denial of a request to move a bus stop closer to student's home because parents were unable to see children at current bus stop from their residence); *Barbeito, supra* (upholding the decision to eliminate a bus stop on private property because residents parked cars unsafely in area where bus had to turn around). For the foregoing reasons the Board finds that decision of Mr. Steven Guthrie, the Superintendent's Designee in this matter, reflects a fair and accurate application of the information in the record to Board Policies regarding bus transportation and is neither arbitrary, unreasonable nor illegal.

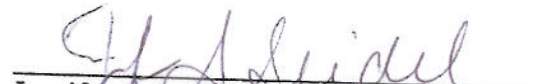
DECISION

For the reasons discussed above, this Board affirms the decisions upholding the denial of the request to create an additional school bus stop. Should she 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.

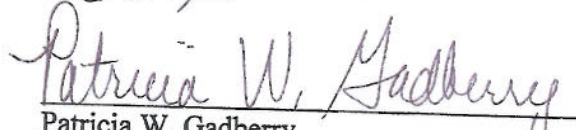
3-24-10

Date

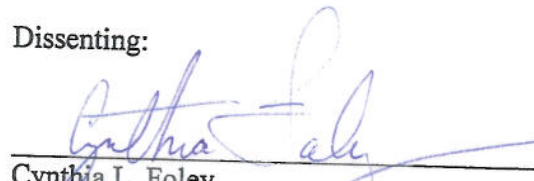

Barbara Shreeve, President


Jennifer A. Seidel, Vice President


Gary W. Butler


Patricia W. Gadberry

Dissenting:


Cynthia L. Foley