

SCOTT T.,
Appellant

v.

ANNE ARUNDEL COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION

Opinion No. 14-05

OPINION

INTRODUCTION

In this appeal, Appellant challenges the decision of the Anne Arundel County Board of Education (local board) denying his son bus transportation to and from school. The local board filed a Motion for Summary Affirmance maintaining that its decision should be upheld. The Appellant responded and the local board replied.

FACTUAL BACKGROUND

Appellant resides in Severna Park in the geographic attendance area for Oak Hill Elementary (Oak Hill). His residence is .69 miles from the school. During the 2012-2013 school year, Appellant had a son attending Kindergarten and a son attending the 5th grade at Oak Hill.

At the beginning of the 2012-2013 school year, Appellant requested bus transportation for his sons because he believed the walking route to and from school was unsafe. There were several communications between the Appellant and Alex Szachnowicz, Chief Operating Officer, regarding Appellant's request. Mr. Szachnowicz explained the following:

- Bus transportation had been established at the start of the 2012-2013 school year for Appellant's kindergarten aged son because kindergartners residing in excess of .5 miles of the school are eligible for bus transportation per Anne Arundel County Public School (AACPS) Administrative Regulation EAA-RA. Appellant, however, did not utilize the bus stop and advised the bus driver that he would be taking his kindergartner to school since he had to drive his older son who was not eligible for bus transportation. The school system thereafter eliminated the bus stop because it was not being used. Mr. Szachnowicz advised that the stop could be reinstated if Appellant so desired for use by his kindergartener during the 2012-2013 school year.
- Based on Appellant's request for bus transportation for both of his sons for the 2013-2014 school year, school system transportation staff inspected the walking route between Appellant's home and Oak Hill because Appellant's home is located less than one mile from school. Per AACPS regulation, elementary school students who reside within one

mile of school are not eligible for transportation unless specified hazards exist. The transportation staff determined that none of the hazards that warrant bus transportation existed and, therefore, Appellant's sons were not eligible. The shorter distance requirement of .5 miles would no longer apply to Appellant's younger son because he would no longer be in kindergarten.

- In response to Appellant's inquiries about transportation policy setting in the school system, Mr. Szachnowicz explained that the local board seeks public input when it goes through the process of crafting or revising policies.

(Appeal Record, Exs.4 – 10).

Appellant appealed Mr. Szachnowicz's decision to the local board. In his appeal, Appellant requested bus transportation for his younger son for the 2013-2014 school year, since he would no longer qualify under the provision for kindergartners who reside more than .5 miles from the school. The Appellant maintained that the 15-20 minute walking route was too hazardous for a 6 year old child. He claimed that there were several "blind" driveways, a large isolated wooded area close to the sidewalk, a community entrance with no crossing guard, no sidewalk on Bendale Drive; a high traffic volume and traffic issues on several roads during the morning rush hour and school dismissal times. Among other things, Appellant also stated that his son could lose focus while walking and that vehicles may not see him because of his size. (Appeal to Local Bd.).

The local board considered the Appellant's arguments but ultimately found that Appellant's son was not eligible for bus transportation because he resides within one mile of Oak Hill and does not meet any other criteria for transportation services. The local board gave significant weight to the affidavit of Christopher Carter, AACPS's Supervisor of Transportation, who has 30 years of experience in pupil transportation. (Local Bd. Decision). In his affidavit, Mr. Carter explained that the walking route did not satisfy any of the criteria for granting a transportation request. In particular, he noted that the route was free of any road hazards, had unobstructed views, and had two crossing guards posted along the way. (Appeal Record, Ex.2). The local board pointed out to Appellant that he could provide his own transportation for his son if he did not want him to walk along the route to school, as many other parents do for their children. (Local Bd. Decision).

This appeal followed.

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.

LEGAL ANALYSIS

The Appellant maintains that the local board's decision denying his son bus transportation is arbitrary and unreasonable because the walking route from his home to school is hazardous.

AACPS Administrative Regulation EAA-RA establishes the eligibility procedures for student transportation services in the school system. It states that elementary school students (excluding kindergartners) who reside less than one mile from their home schools and who do not meet any other criteria for transportation services are not eligible for bus transportation. Because Appellant lives less than a mile from Oak Hill, his son is not eligible for bus transportation for the 2013-2014 school year unless one of the criteria set forth in Administrative Regulation EAA-RA applies.

Regulation EAA-RA sets forth the specific criteria for which bus transportation is provided in the event the distance requirement is not satisfied. It provides, in pertinent part, that transportation from established bus stops will be provided to the following:

- Elementary school students residing within one mile of their assigned schools when a suitable walkway between their homes and their assigned school is not available. A suitable walkway is defined as a sidewalk of adequate width over which students could walk without being required to step on the traveled portion of the road surface. This provision does not apply when: (1) the residential community is adjacent to the school grounds or has little or no transient traffic; or (2) the volume of traffic is non-hazardous during the time students walk to and from school. (EAA-RA.D.4).
- Students who would otherwise be required to walk more than three tenths of a mile to or from school along a road having a shoulder of less than three feet and a posted speed limit in excess of 40 miles per hour. (EAA-RA.D.6)
- Students who would otherwise be required to walk across a divided state highway or any divided highway involving a safety hazard as determined by the Transportation Division. (EAA-RA.D.7).
- Students who would otherwise be required to walk across an active high-speed, at-grade railroad crossing or a bridge, tunnel, or overpass having inadequate walkways. (EAA-RA.D.8).
- Students who would otherwise be required to walk through or along an isolated wooded area when going to and from school. An isolated wooded area is defined as any location contiguous to a publicly used road where a student must walk in excess of three-tenths of a mile between residences or active business areas. (EAA-RA.D.9).

From the outset we note that the transportation of students is a matter traditionally within the domain of the local school system and school systems have discretion in addressing transportation issues. *See Lucas v. Board of Educ. of Garrett County*, 5 Ops. MSBE 421

(1989)(denial of bus transportation upheld despite claims of dangerous route with no sidewalks, barriers or guardrails). Here, the school system transportation professionals evaluated the walking route from Appellant's home to Oak Hill and determined that it did not satisfy any of the criteria for the provision of transportation that are set forth in Administrative Regulation EAA-RA.

With regard to the issue of sidewalks, almost the entire walking route has sidewalks except for Bendale Drive, which is the road on which Appellant's house is located. Mr. Szachnowicz explained that the Appellant's home is only 2 houses and a very short walk from the Benfield Road intersection where there is sidewalk access. He also explained that Bendale Drive is a dead end residential grade road, the implication being that there is little or no transient traffic. (See Appeal Record, Ex.6, Szachnowicz Email, 10/2/12). While neither Mr. Szachnowicz nor Mr. Carter specifically addressed the parking lot entry on Bendale Drive for the church that has daycare services, they both acknowledged that the transportation staff had assessed the walking route and found that it did not warrant transportation under the established standards.

The wooded area along the route was another concern for the Appellant. By Appellant's own claim, the wooded area along the walking route runs a distance of .2 miles. Administrative Regulation EAA-RA.D.9 states that the isolated wooded area must run a distance of .3 miles along the walking route to warrant transportation, something that Appellant himself acknowledged in the appeal. Thus, under the regulation, this is not a basis for transportation services.

As the local board noted, Mr. Carter, the school system's Supervisor of Transportation, submitted an affidavit setting forth the criteria warranting transportation as provided for in Administrative Regulation EAA-RA. He attested to the fact that the walking route from Appellant's home to Oak Hill did not satisfy those criteria. (Appeal Record, Ex.2). In addition to the lack of sidewalk and the size of the wooded area not presenting qualifying hazards, the walking route did not require Appellant's son to walk more than three tenths of a mile along a road having a shoulder of less than three feet and a speed limit in excess of 40 miles per hour; it did not require him to walk across a divided state highway or any divided highway involving a safety hazard determined by the Transportation Division; and it did not require him to walk across an active high-speed, at grade railroad crossing, or a bridge, tunnel, or overpass having inadequate walkways.

The Appellant disagrees with the assessment of Mr. Carter and the school transportation staff, and does not believe that the route was reviewed in the context of his arguments and the established criteria. Appellant's own disagreement with the assessment, however, does not render the local board's decision arbitrary or unreasonable. Appellant did not present the opinion of any individual with expertise on transportation issues to counter the opinions of Mr. Carter and the school transportation staff. Based on the record before us, we find that the local board reasonably relied on the uncontroverted opinion of the school system transportation professionals in denying bus transportation.

Appellant argues that the local board erred because it failed to respond with specificity to each and every one of the alleged hazards he maintains exist along the walking route in his appeal to the local board. First, the local board acknowledged in its decision that both the superintendent and the Appellant had “submitted substantial information” regarding the appeal, which the local board had “reviewed in detail.” (Local Bd. Decision, p.1). Second, eligibility for bus transportation is considered in the context of the criteria set forth in the Administrative Regulation. Those are the relevant factors in the eligibility determination. As such, it was only necessary for the local board to determine whether or not the walking route satisfied the criteria set forth in the regulation rather than the criteria Appellant believes create an unsafe walking route.


Appellant also argues that the criteria for determining bus eligibility are not limited to those set forth in the Administrative Regulation based on the definition of “eligible riders” in EAA-RA.C. The provision defines “eligible riders” as follows:

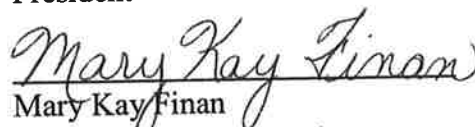
[S]tudents who meet the distance requirements from their respective schools to allow transportation services, or who have received an exception from the Superintendent of Schools of his/her designee for extraordinary circumstances that warrant bus transportation, such as disabled students or students who must use hazardous roads or routes on the way to and from school.

We disagree with the Appellant that the stated language broadens consideration of the hazardous condition criteria to those beyond what are listed in Administrative Regulation EAA-RA. The “eligible riders” definition refers to three groups of students who are eligible to ride the bus – (1) students who live more than one mile away; (2) disabled students; and (3) students on hazardous walking routes. Administrative Regulation EAA-RA specifies the criteria used to identify the hazardous roads or routes. All parts of the Administrative Regulation must be read together to determine their meaning.

CONCLUSION

For the reasons stated above, we affirm the decision of the local board denying bus transportation for Appellant’s son.


Charlene M. Dukes
President


Mary Kay Finan
Vice President


James H. DeGraffenreidt, Jr.

Linda Eberhart

Linda Eberhart

Absent

S. James Gates, Jr.

Absent

Larry Giammo

Absent

Luisa Montero-Diaz

ABSENT

Sayed M. Naved

Madhu Sidhu

Madhu Sidhu

Donna Hill Staton

Donna Hill Staton

Guffie M. Smith, Jr.

Guffie M. Smith, Jr.

February 25, 2014