

LINDA REESE, ET AL.,

Appellant

v.

PRINCE GEORGE'S COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 06-18

OPINION

In this case, Appellants challenge the local board's decision to change the boundary attendance areas for certain students, including Appellants' children, who would have attended Benjamin Tasker Middle School but who will now be reassigned to attend Thomas Johnson Middle School.

Because this case involves school redistricting, the matter was transferred to the Office of Administrative Hearings for review by an Administrative Law Judge (ALJ). *See* COMAR 13A.01.05.07A(1). In his proposed decision, the ALJ recommends that the State Board uphold the local board's redistricting decision. Appellants have not filed exceptions objecting to the ALJ's decision. Under the regulations for appeals to the State Board, if no party files exceptions, there is no entitlement to oral argument before the State Board. *See* COMAR 13A.01.05.07F(3). The State Board is therefore reviewing this case on the record.

FACTUAL BACKGROUND

In April 2004, the Prince George's County Public Schools' (PGCPS) Boundary and Attendance Area Peer Committee (Committee), after investigating and assessing overcrowding in the school system, issued a Final Report to the Chief Executive Officer which concluded that changes needed to be made to reduce severe overcrowding at Tasker and other schools throughout the County. On April 14, 2004, the CEO presented the local board with "Short and Long Term Boundary Adjustments to Accommodate Enrollment Changes and Implementation of Systemic Initiatives."

After discussion and opportunity for public comment, on May 13, 2004, the local board approved the CEO's recommendations on boundary changes for certain high school students who attended Bowie High School to now attend DuVal High School. Because Tasker and Johnson serve as feeder schools into Bowie and DuVal High Schools, it was understood that boundary changes would need to occur for these middle schools to accomplish realignment of the feeder patterns between the middle and high schools and to relieve overcrowding at Tasker. The local board deferred the Tasker-to-Johnson boundary change until the following year to allow time for adjustment and to address various concerns about possible overcrowding at Johnson.

By March 2005, the local board began considering boundary changes for the 2005-2006 school year. On March 24, 2005, the local board reviewed and deliberated the recommended boundary changes, including the Tasker-to-Johnson change. The local board was provided with information supporting the recommendations that had previously been provided to the public. Thereafter, the local board held various public meetings, work sessions, and monthly meetings where the proposed boundary changes were discussed and public input was received.

The enrollment data demonstrated that the State-rated capacity for Tasker, as of July 2005 was 1029, while current enrollment was 1486. Without the boundary change, the 2005-2006 enrollment projection for Tasker was 1521. With the boundary change it was projected at 854. At Johnson, the State-rated capacity was 930 as of July 2005, while current enrollment was 969. Without the boundary change, the 2005-2006 enrollment projection for Johnson was 1018. With the boundary change, it was projected to decrease to 991.

On May 5, 2005, the local board approved the CEO's recommendation on the school boundary changes for the 2005-2006 school year, including the recommendation for the Tasker-to-Johnson boundary change. Reasons for the local board's decision included prioritizing capital improvement and school facility needs, including appropriate classroom space for students; returning students to their neighborhood schools; opening new schools to address increases in population; facility improvements while aligning feeder patterns; and ensuring that all schools have the resources to meet the needs of students.

STANDARD OF REVIEW

Because this appeal involves a decision of the local board involving a 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.01.05.03E(1).

The State Board referred this case to OAH for proposed findings of fact and conclusions of law by an ALJ. In such cases, the State Board may affirm, reverse, modify, or remand the ALJ's Proposed Decision. The State Board's final decision, however, must identify and state reasons for any changes, modifications, or amendments to the Proposed Decision. *See* Md. Code Ann., State Gov't § 10-216. In reviewing the ALJ's Proposed Decision, the State Board must give deference to the ALJ's demeanor-based witness credibility findings unless there are strong reasons present that support rejecting such assessments. *See Dept. of Health & Mental Hygiene v. Anderson*, 100 Md. App. 283, 302-303 (1994).

ANALYSIS

After reviewing all of the evidence and testimony in this case, the ALJ found that the local board's redistricting decision was not arbitrary, unreasonable, or illegal. He recommends that the State Board affirm the decision of the local board to change the boundary attendance

areas for certain students who would have attended Benjamin Tasker Middle School so that they will now be attending Thomas Johnson Middle School.

The ALJ found that Appellants failed to satisfy their burden of proving that the redistricting decision was contrary to sound educational policy, while the local board presented significant and compelling evidence to support its boundary change decision. The ALJ explained that the local board engaged in appropriate consideration of educational programs as required under the PGCPS Administrative Procedure No. 8391.¹ The ALJ cited the educational initiatives that the local board intends to undertake as part of the overall boundary change process, including restructuring magnet programs, implementing neighborhood school concepts, expanding special programs, and making grade level adjustments towards achieving a true middle school configuration that includes grades six through eight.

The ALJ found the local board's decision to be a reasonable one as well. He explained that the local board's decision was made, in part, to alleviate overcrowding at Tasker, which the evidence established would have worsened had no measures been taken. The local board also looked beyond overcrowding and considered enrollment trends, building capacities, and transportation, all of which support the boundary change decision.

The ALJ found no merit in Appellants' claims that the local board's decision was illegal because the local board failed to consider the racial composition of the student bodies affected by the redistricting as required by PGCPS Administrative Procedure No. 8391. The ALJ explained that while the local board did not review any diversity data, the PGCPS Department of Pupil Accounting and School Boundaries reviewed the data and concluded that the boundary change would have no significant impact on diversity. Appellants presented no evidence to refute testimony that the boundary change had little impact on diversity at Johnson and moved the total percentage of minority students attending Tasker closer to the average of the minority population of the school system as a whole.

As stated above, Appellants have failed to submit exceptions to the ALJ's proposed decision.

CONCLUSION

Based on the record in this case, we agree with the ALJ that the local board's decision is not arbitrary, unreasonable, or illegal. Accordingly, we affirm and adopt as final the ALJ's decision upholding the local board's boundary change decision.

¹The PGCPS Administrative Procedure No. 8391 provides that the following factors will be considered by the school system in the process of changing the boundaries in geographic attendance areas: student enrollment trends, school building capacities, capacity utilization rates, transportation, educational programs, racial composition of student body, financial considerations, and community impact.

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