

JOHN AND MARY MATTINGLY,

Appellant

v.

PRINCE GEORGE'S COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 04-10

OPINION

This is an appeal of the decision of the Board of Education of Prince George's County to transfer Appellants' daughter from Fort Washington Forest Elementary to Flintstone Elementary for violation of Fort Washington's mandatory school uniform policy. The local board has filed a Motion for Summary Affirmance maintaining that its decision was consistent with existing policy and procedure and was neither arbitrary, unreasonable, nor illegal. Appellants have submitted a response opposing the Motion.

FACTUAL BACKGROUND

At the beginning of the 2002-2003 school year, a mandatory school uniform policy was implemented at Fort Washington Forest Elementary School, requiring students at the school to wear an adopted system-wide school uniform. Issues arose over Appellants' refusal to have their son and daughter comply with the mandatory uniform policy at the school. As a result, on September 6, 2002, Margaret A. Stroman, Principal at Fort Washington Forest Elementary School, wrote to Mr. Mattingly noting that there had been four violations involving the Appellant's refusal to require his children to comply with the mandatory uniform policy. Dr. Stroman attached the seven-step procedure for violations and noted that the seventh step required the transfer of Appellant's children to a school that does not have a mandatory uniform policy.

When Appellants had spoken with Dr. Stroman regarding the issue on the previous day, September 5, 2002, Appellants asserted that there was an alleged religious exemption which would preclude the Appellants' children from participation in the mandatory uniform policy. Dr. Stroman explained to Appellants that the parents would need to submit a written request documenting Appellants' religious orientation and the tenets of the religion that prohibited Appellants' children from complying with the mandatory uniform policy.

Subsequently, on September 8, 2002, and September 23, 2002, Appellants responded to Dr. Stroman contending that the school system had no right to question the tenets of the Druidism religion or to question his beliefs, and further asserting that such an inquiry by the school system violated applicable federal laws and regulations. Appellants also provided documentation regarding the Druidism faith.

On November 14, 2002, Mrs. Joan D. Brown, Executive Director, Region I, responded to Appellants' request for a religious exemption from the mandatory school uniform policy. Mrs. Brown concluded that, after careful review of the information provided by Appellants, the school system could not find anything that disclosed the religion's opposition to a school uniform. Mrs. Brown further advised Appellants that students generally have no federal right to be exempted from religiously neutral and generally applicable school dress rules based upon their religious beliefs, and that a religious exemption from a mandatory school uniform policy is typically intended to ensure that students are allowed to wear religious attire, like a head covering. Mrs. Brown concluded that Appellants failed to provide sufficient information regarding the beliefs of Druidism that would justify warranting a religious exemption in this instance.

As a result, Appellants' children remained in violation of the mandatory uniform policy. However, in an effort to prevent disruption for the students' educational program for the 2002-2003 school year, the school district extended a reasonable period of time for Appellants to purchase necessary uniforms to allow the children's continued enrollment at Fort Washington Forest Elementary School. Subsequent to this date, no further administrative action was taken by the school system to transfer the students for the balance of that school year, and the children were allowed to continue enrollment at the school for that school year. However, the school system did not grant any written waiver to Appellants of its mandatory uniform policy in effect at Fort Washington Forest Elementary School.

At the beginning of the 2003-2004 school year, Appellants continued to refuse to comply with the mandatory uniform policy still in effect at Fort Washington Forest Elementary School.

On September 12, 2003, Dr. Margaret Stroman, the Principal, sent Appellants notice of their daughter Victoria's continued uniform policy violations stating that, in accordance with Administrative Procedure 0600, another violation would result in Victoria's reassignment to another school.¹ On October 16, 2003, correspondence was sent to Mr. Mattingly from the Chief Executive Officer's designee, Shirley Robinson,² informing him of the administrative transfer of Victoria from Fort Washington Forest Elementary School to Flintstone Elementary School due to mandatory uniform violations. In that letter bus routes were indicated for the transportation of Victoria to Flintstone Elementary from the closest existing bus stops.

Appellants appealed the decision of Ms. Robinson to the Office of Appeals and requested that Victoria be transferred instead to Eugene Burroughs Middle School. On October 22, 2003, Dorothy Stubbs, Administrative Assistant for Appeals, denied the appeal and the request for the transfer of Victoria to Eugene Burroughs Middle School relying upon Administrative Procedure 0600 which states that a student whose parents opt out of the mandatory school uniform program

¹Dr. Stroman's Memorandum to Appellants explained that Victoria was moving on to her 5th and 6th violations.

²Ms. Robinson's title is Supervisor, Office of Student Transfers.

will be reassigned through established procedures to another school. Ms. Stubbs further stated that available options had been reviewed and regularly scheduled transportation was available for Victoria to Flintstone Elementary, and that the requested school, Eugene Burroughs Middle School, was severely overcrowded. Appellants appealed the decision to the Board of Education of Prince George's County.

Following a review of the record, the local board, by letter dated October 27, 2003, upheld the decision by Ms. Stubbs, noting that the reason for the administrative transfer of Victoria was because of the refusal to comply with the mandatory school uniform policy and citing Administrative Procedure 0600 reassignment policy for students whose parents opt out of the mandatory school uniform program.

Appellants appealed the local board's decision, asserting that they opted out of the mandatory school uniform policy based upon religious reasons as outlined in Board Policy 0600 which was adopted June 19, 1997, amended January 24, 2002, and in effect until March of 2003; and that they received a waiver from the mandatory uniform policy for the prior 2002-2003 school year.

ANALYSIS

The standard of review in a case that involves a local policy or dispute regarding the rules and regulations of a local board is that the decision of the local board shall be 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.01.01.03E(1).

Education Article, §4-411 provides that the Board of Education of Prince George's County "may implement the use of school uniforms by all students in the public schools in the county." Consistent with this statutory authorization, PGCPs Policy No. 0114 sets forth the basic commitments regarding school uniforms:

Many communities and school officials believe that school uniforms offer a positive and creative method for increasing school safety, reducing discipline problems, and enhancing the learning environment. The potential benefits of school uniforms include decreasing theft, instilling discipline, helping students resist peer pressure, and helping school officials recognize intruders who come to the school. The Board of Education encourages schools and communities to consider the adoption of voluntary or mandatory uniform policies. The Chief Executive Officer shall adopt and implement procedures to assist schools and communities

in their efforts to transition to school uniforms.³

The Administrative Procedure 0600 implementing the policy sets forth specific requirements for opting out of a mandatory school uniform requirement. Section IV.C states:

1. Parent(s) or guardian(s) who disagree with the adopted mandatory school uniform may opt out of participation in this new requirement for the duration of this program at that school.
2. Parent(s) or guardian(s) shall complete Attachment II, APPLICATION FOR EXEMPTION FROM MANDATORY SCHOOL UNIFORM PROGRAM FORM (PGIN 7540-3500) within forty-five (45) days after their child has been assigned to the school after the school year has commenced.
3. A student, whose parents have exercised their right to opt out of the mandatory school uniform program at the school, will be reassigned through established procedures to another school. Transportation will **not** be provided.⁴

Administrative Procedure 0600 further sets forth steps for a school to take for consistent violations which include for a sixth violation, a parent/student conference and final warning. For a seventh violation within the school year, the student will be reassigned to a non-mandatory school uniform program school. (See Section IV.D.2(f) and (g)).

The record discloses that notice of the policy and procedures relative to the mandatory school uniform policy was provided to the Appellants and that Appellants were given notice of the violations including the 5th, 6th, and final violation that led to the administrative transfer of Victoria to Flintstone Elementary School.

Appellants argue that because of their religion, Druidism, Victoria should be exempted from the mandatory uniform policy and rely upon the former Board Policy 0600 which provided a religious exemption. However, the current policy and procedures that became effective March 15, 2003, do not allow such an exemption but provide that when a parent opts out of the mandatory school uniform policy, the student will be transferred to another school according to established procedures. Those procedures were followed in this case.

³See Board of Education Policy No. 0114 (Policy Adopted as 0600 on 6/19/97; Amended 1/24/02; Amended 8/22/02; Amended and Renumbered 0114 on 3/4/03).

⁴See Administrative Procedure 0600, Effective March 15, 2003 (emphasis in original).

Appellants' argument that an alleged waiver from the uniform policy for the 2002-2003 school year is relevant to the current school year has no merit. Moreover, there is nothing in the record to suggest that such a waiver was granted. Fort Washington did allow time for the Mattinglys to get the proper uniforms for their children during that school year, but no written waiver was granted.

Finally, Appellants argue that since Victoria is being transferred, she would be better served at Eugene Burroughs Middle School and not Flintstone Elementary because of transportation difficulties. As previously noted, although the procedure does not provide for transportation for students who opt out of mandatory uniform schools, in this instance, the school system listed the bus routes and bus stops for transporting Victoria to Flintstone Elementary. In addition, Eugene Burroughs Middle School was severely overcrowded and unable to accommodate Victoria.

The Court of Appeals has held that there is no right to attend a particular school. *See Bernstein v. Board of Education of Prince George's County*, 245 Md. 464, 472 (1967); *cf. Dennis v. Board of Education of Montgomery County*, 7 Op. MSBE 953 (1998)(desire to participate in particular courses does not constitute unique hardship sufficient to override utilization concerns). Courts have upheld mandatory school uniform policies and have found that these types of policies do not violate constitutional freedoms of speech or religion. *See, e.g., Levon v. Board of Education of Calumet City Sch. Dist.*, 1996 U.S. Dist. Levis 19378 (Dec. 12, 1996), *Littlefield v. Forney Independent School District*, 268 F.3d 275 (5th Cir. 2001).

CONCLUSION

Based upon our review of the record and relevant legal principles, we find that Appellants have presented no evidence that the local board's decision is arbitrary, unreasonable, illegal or a deviation from existing policy and procedures. We therefore affirm the decision of the Prince George's County Board of Education.

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February 25, 2004