

CAROL AND DEREK BENOIT,

Appellant

v.

CARROLL COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 04-24

REVISED

OPINION

In this appeal, Appellants dispute the decision of the local board denying their request for a bus stop in front of their home. The local board has moved for summary affirmance, maintaining that the board did not act arbitrarily, unreasonably, or illegally in this matter. Appellants have filed an opposition to the local board's motion and the local board has responded to the opposition.

FACTUAL BACKGROUND

Appellants are the parents of a 10 year old daughter who is a 5th grade student at Piney Ridge Elementary School in Carroll County. Appellants' home is located on Johnsonville Road. There are two bus stops within approximately one-quarter mile's distance from the Appellants' home. The bus stop that is used by Appellants' daughter currently is located at the intersection of Johnsonville Road and Breezy Lake Way, which is approximately 712 feet from the Benoit's home.¹ In order to get to the next stop which is in the northwesternly direction of Appellants' home, the bus must travel past Appellants' home on Johnsonville Road. (See Carroll County Bus Survey submitted by Appellants). During the 2002-2003 school year, the bus driver dropped Appellants' daughter at their home instead of at the bus stop that she currently takes. The school system had not authorized this drop off as a designated bus stop. Upon discovering that this student was being dropped off at an undesignated stop, this practice was eliminated. (See local board decision).

Citing safety concerns for their daughter, Appellants requested that the school system provide a bus stop in front of their house. Their arguments concerned the fact that their daughter has to walk on a graveled shoulder or on lawns because there are no sidewalks. In their view this poses a risk to their daughter being hit by a vehicle. Additionally, they argue that because there are known sex offenders within a five-mile radius of their home, a danger of molestation of their child exists. Moreover, Appellants argue that their daughter only rides the school bus in the

¹Under Board Policy EEA, children enrolled in public school who live less than one mile from the school they attend are not eligible for bus transportation.

afternoon and dropping her off at her door takes “only 15 seconds” every day.² Citing Code of Maryland Regulations applicable to bus stops, local school system policy and after a site evaluation, Appellants’ request was denied by Keith Shorter of the Carroll County Public Schools’ Transportation Department.

Appellants appealed Mr. Shorter’s decision to the Superintendent of the Carroll County Public School System. Stephen Guthrie, Assistant Superintendent for Administration acting as the Superintendent’s designee, upheld the denial of the bus stop in front of Appellants’ home. The Benois appealed Mr. Guthrie’s decision to the local board. Upon review of the entire record, the local board unanimously upheld the denial of a bus stop in front of Appellant’s home. The local board issued an Order dated January 14, 2004 which stated:

“By a vote of 5 to 0, the Board upholds the decision of the Superintendent or the Superintendent’s designee. A written decision will be issued setting forth the Boards findings and conclusions and advising you of further avenues of appeal.”

(See local board Order dated January 14, 2004)

On February 13, 2004, the local board issued its decision wherein it set forth its findings of fact and conclusions of law affirming the denial of the request for a change of the location of the bus stop for Appellants’ daughter. Also, by letter dated February 13, 2004, the Benois appealed the local board Order issued on January 14, 2004 to this State Board. In their appeal, Appellants request oral argument stating that they could present additional evidence to the State Board that could not be presented to the local board because the local board refused to grant a hearing.

The local board filed a Motion for Summary Affirmance dated March 12, 2004. By letter dated March 12, 2004, Appellants filed a clarifying letter stating that they are appealing “the Decision of the Board of Education of Carroll County dated February 13, 2004.” (See letter of Timothy Howie, Esq., Counsel for Appellants, dated March 12, 2004).

ANALYSIS

Due Process

Appellants request that the State Board allow oral argument, maintaining that had the local board held an oral evidentiary hearing on the appeal, additional evidence could have been provided to further their claims. However, it is well settled that there is no right to an oral evidentiary hearing before the local board on this type of issue because there is no alleged liberty

²In the Carroll County Bus Stop Survey attached to the letter of appeal, Appellants state that they take their daughter to school in the morning and that she only rides the school bus after school.

or property interest deprivation that would violate the 14th Amendment due process requirements. *See Callahan v. Howard County Board of Education*, MSBE Opinion No. 03-15; *see also, Williams v. Howard County Board of Education*, MSBE Opinion No. 99-24 (“An appeal of a walking route is not generally entitled to an oral evidentiary hearing). Based upon a review of the record, we find that the local board appropriately considered this matter in accordance with its policies and procedures governing pupil transportation.

Merits

This is an appeal involving a local policy or dispute regarding the rules and regulations of a local board; therefore, 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)(a).

Appellants are concerned about safety of their daughter in walking from the bus stop to their home both because there are no sidewalks and she has to walk approximately 712 feet on the graveled shoulders or on other people’s lawns and there are five registered sex offenders within a five-mile radius from their home. Additionally, Appellants argue that since the bus driver accommodated their daughter during the previous school year, this practice should be continued.

The transportation of students is a matter traditionally within the domain of the local school system and the State Board has been reluctant to intrude in such cases. *See Doreen Robinson v. Board of Education of Howard County*, 7 Op. MSBE 1296 (1998)(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 highway to meet the acceptable level of safety); *Lane v. Howard County Board of Education*, 6 Op. MSBE 587 (1993)(rejecting allegations of unsafe walking route); *Gary and Melissa Lucas v. Board of Education of Garrett County*, 5 Op. MSBE 421 (1989)(denial of bus transportation upheld despite claims of dangerous route with no sidewalks, barriers, or guardrails). In this regard it does not appear that the present bus stop violates the local board’s transportation policy or that there is anything inherently unsafe about it.

The local board considered various factors in reviewing the Benoit’s appeal, including the requirements of COMAR 13A.06.07.12 which sets forth the provisions for routing and scheduling of transportation; local board Policy EEA, which sets forth eligibility for school bus transportation; EEAC, which sets forth bus routes and stops; information submitted by Appellants; and information submitted by Mr. Shorter, and the Superintendent’s designee. After consideration of these factors and the entire record, the local board concluded that the record did not support the need for creating a bus stop in front of the Appellants’ home, in that:

- a) applicable regulations require the Transportation Department to design each route to maximize safety, adequacy, efficiency and economy, therefore, the existing designation of bus stops complies

- with the local board's policies and regulations;
- b) there was adequate walking area to and from the existing bus stop on gravel shoulders or lawns;
 - c) Appellants' daughter could walk safely from her existing bus stop and it is the parents' responsibility to provide supervision when a child walks to and from the bus stop; and
 - d) there were no abnormal dangers with respect to the established stop or the walk to this stop that warrant the creation of a new bus stop at Appellant's home.

CONCLUSION

Based upon our review of the record in this matter and for all of the reasons noted above, we do not find the local board's decision to be arbitrary, unreasonable or illegal. Accordingly we affirm the decision of the Board of Education of Carroll County.

Edward L. Root
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JoAnn T. Bell
Vice President

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Clarence A. Hawkins

Walter S. Levin, Esquire

Karabelle Pizzigati

Maria C. Torres-Queral

John L. Wisthoff

June 16, 2004