

ANGELA BRYAN,

Appellant

v.

HOWARD COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 99-14

OPINION

In this appeal, a group of parents dispute a decision of the local board denying a request for a bus stop change from Julie Ann Drive and Hanover Road at the entrance to Hanover's Grant subdivision to another location within the development. The parents disagree with the local board's decision, essentially arguing that the denial of the requested change in location was arbitrary and unreasonable because the existing bus stop is unsafe. The local board has moved for summary affirmance, maintaining that the board did not act arbitrarily, unreasonably or illegally in this matter. The local board has also moved for dismissal of that portion of Appellants' claims concerning the bus stop for the middle school and high school because those claims were not part of the appeal reviewed by the local board. Appellants have responded to the local board's motion.

BACKGROUND

Appellants¹ are residents of Hanover's Creek subdivision whose children attend Elkridge Elementary School in Howard County. One of the Appellants, Angela Bryan, also operates day care out of her home and has several children in her day care who deboard the bus in the afternoon at the bus stop at issue. The students are picked up and dropped off at their bus stop located at the entrance to Hanover's Grant at the intersection of Julie Ann Drive and Hanover Road. Currently, when picking up and dropping off students, the bus approaches Hanover's Grant from the north with its flashing lights engaged, pulls onto the shoulder and stops at the intersection on the residents' side. Appellants, however, want to have the bus stop relocated to an area on Ryan Avenue within the development because they are concerned that the traffic on Hanover Road endangers their children as they board and exit the bus, and that the children are not within view of their homes when walking to and from the bus stop.

On November 19, 1997, Appellants sent a request to change the bus stop location to the Pupil Transportation Office. Appellants proposed that the bus stop be relocated to Ryan Avenue

¹Angela Bryan, Kathi Moore, Tracey Johnson, and Laura Sturr are parties to the appeal. Any material submitted to the State Board by these individuals has been included in the appeal file for consideration by the Board.

where there is a cul-de-sac for the bus to turn around, claiming that this would be a safer location than the intersection of Julie Ann Drive and Hanover Road, and it would permit Ms. Bryan to watch children walking to and from the bus stop. Appellants are “not comfortable with Hanover Road and its high volume of traffic and speed or with [their] children walking through a deserted neighborhood.”

By letter dated December 4, 1997, Glenn J. Johnson, the Director of Pupil Transportation, notified Ms. Bryan that he “did not see a need to change the current bus stop location.”² The letter advised Ms. Bryan that there are sidewalks on Julie Anne Drive, Ryan Avenue, and Kristin Drive for students walking to access the bus stop; that no student is required to walk more than .4 mile to gain access to the bus stop; and that the bus stop provides resident side service so that no student is required to cross Hanover Road to board or exit the bus. The letter also indicated that the configuration of Hanover Road, which is narrow, serves as a natural deterrent against speeders, and that the Traffic Engineers’ Office views narrow roadways and islands for motorists to drive around as devices to slow the speed of traffic, particularly in front of schools. It is for this reason, stated Mr. Johnson, “that the level of safety provided at this bus stop exceeds that of many elementary bus stops throughout the country.”

The letter further advised Ms. Bryan that her concerns about children not being in sight of their homes when walking to and from the bus stop fell into the category of parent responsibilities and is not a factor in establishing a bus stop location pursuant to Board policy 5111 which provides that a school system’s responsibilities begin and end when a child enters and exits a school bus. Finally, the letter indicated that Johnson was requesting an “expert” opinion from Mr. George E. Frangos, a traffic engineer in the Howard County Department of Public Works, on whether the bus stop required a “School Bus Stop Ahead” sign on Hanover Road for northbound traffic.³ The information contained in his letter is consistent with Mr. Johnson’s memorandum to the local board recommending “that the current bus stop location at Julie Ann Drive and Hanover Road be maintained and Ms. Bryan’s request for a higher level of service be denied.”

After reviewing Ms. Bryan’s letter, as well the correspondence between Ms. Bryan and Mr. Johnson, the Superintendent’s designee advised Ms. Bryan that her request for a bus stop relocation was denied.

Ms. Bryan appealed the decision to the Howard County Board of Education which met on June 10, 1998. The local board members reviewed all documents presented by the parties, and four members personally visited the site. In a written decision, issued August 28, 1998, the local board upheld the Superintendent’s decision to keep the bus stop at its current location at Julie

²A Howard County Schools transportation supervisor had initially rejected the request because the neighborhood was too small (6 elementary children live on the street) and a stop on Ryan Avenue would not meet the .4 mile requirement.

³After Mr. Frangos analyzed the bus stop, “school bus stop ahead” signs were installed in both directions along Hanover Road.

Ann Drive and Hanover Road. The local board cited seven primary reasons in reaching its decision:

- The roads inside the development on which the bus would have to travel are narrow and vehicles park along the sides of those roads; there are construction vehicles, recreational vehicles and other impediments to the proposed bus route.
- The site distance at Julie Ann Drive and Hanover Road is acceptable in both directions and meets or exceeds the acceptable level of safety of many other bus stop locations.
- A sidewalk exists for walking to the bus stop location, and the students are able to wait in an area removed from the traffic on Hanover Road.
- The children assigned to the existing bus stop walk distances under the .4 mile limit designated as permissible in Policy 5111.
- Numerous similar requests have been denied for the same reason; an acceptable level of safety exists at the current bus stop.
- Due to cost and time restrictions, the Transportation Office is unable to enter developments unless student safety is seriously questionable. In this particular instance, the presence of construction vehicles would make the bus stop change problematic.
- Finally, the issues raised by Ms. Bryan also run to the operation of her day care facility, and it is not the Board's responsibility to assist a private business in the carrying out of the responsibilities that parents have entrusted them with for the care of their children.

ANALYSIS

As a threshold matter, the local board has filed a Motion to Dismiss that portion of the appeal that requests a bus stop location change for students attending Elkridge Landing Middle School and Howard High School, claiming that Appellants cannot expand the scope of their appeal now that it is before the State Board. In their reply to the Motion to Dismiss, Appellants indicate that they are no longer including the high school bus stop in their appeal but are including the middle school bus stop.

The State Board has consistently declined to address issues that have not been reviewed initially by the local board. *See Chase Craven v. Board of Education of Montgomery County*, MSDE Opinion No. 97-43 (October 29, 1997) (failure to challenge suspension before local board constituted waiver); *Theresa H. Fentress v. Howard County Board of Education*, MSBE Opinion No. 96-37 (September 25, 1996) (failure to challenge 5-day suspension before the local board constituted waiver); *Earl Hart v. Board of Education of St. Mary's County*, MSBE Opinion No. 97-37 (September 25, 1996) (failure to raise issue of age discrimination below constituted waiver of issue on appeal). Based on these precedents and Appellants' failure to raise the issue before the local board, we find that Appellants have waived their right to now assert that the bus stop location should be changed for middle school students. Accordingly, they cannot now add individuals to their appeal who were not a party to the matter before the

local board, nor can they now raise additional matters that were not before the local board.

With respect to the merits of the appeal, because this involves a local policy or dispute regarding the rules and regulations of a local board, 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).

In accordance with the Howard County Pupil Transportation Policy, the following factors must be considered when determining the need for and/or implementing school bus services: (1) acceptable level of safety; (2) program efficiency; (3) economy of operations; and (4) equity of service. See HCPS Pupil Transportation Policy 5111-R. The record reveals that the local board took all of these factors into consideration in making its determination regarding the bus stop location, and that the board's decision was reasonable. For example, Mr. Frangos stated "that under current traffic conditions, this is an acceptable school bus stop." The pupil office transportation staff also concluded that the bus stop provided an acceptable level of safety.

Appellants argue that instances in which two other neighborhoods succeeded in having their bus stops relocated to a street within the subdivision demonstrate that the board's criterion that students be expected to walk up to .4 miles to and from a bus stop is not consistently applied. The record discloses, however, that the policy is applied similarly to all requests, and that the two instances referred to by Appellants were justified due to continued development of the two neighborhoods which resulted in students walking beyond the .4 miles standard. See Affidavit of Glenn J. Johnson.

Because the transportation of students is a matter traditionally within the domain of the local school system, the State Board has been reluctant to intrude in such cases. See *Judy Hanson v. Board of Education of Howard County*, MSBE 97-23 (May 28, 1997); *Lane v. Howard County Board of Education*, 6 Op. MSBE 587, 588 (1993). The evidence in this case is uncontroverted by Appellants who make conclusory statements that the current bus stop location is unsafe. Thus, we find that, from the examination of the facts before it, the local board acted rationally in concluding that the current bus stop location is a safe place for students to enter and exit the bus. We also find no evidence of any illegality in the decision. In *Doreen Robinson v. Board of Education of Howard County*, MSBE 98-44 (July 29, 1998), the State Board recently upheld the local board's denial of a request to change a bus drop off and pick up location because the appellants failed to meet their burden of proving that the local board acted arbitrarily, unreasonably, or illegally in its decision. Based on our review of the record, we find that Appellants have likewise failed to meet their burden of proof in this case.

CONCLUSION

For these reasons, we affirm the decision of the Board of Education of Howard County.

Walter Sondheim, Jr.
President

Edward Andrews
Vice President

Raymond V. Bartlett

JoAnn T. Bell

Philip S. Benzil

George W. Fisher, Sr.

Morris Jones

Marilyn D. Maulsby

Judith McHale

Adrienne L. Ottaviani

John Wisthoff

March 30, 1999