

DEBORAH DOXZON AND  
TIM WHITE,

Appellants

v.

CARROLL COUNTY  
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 99-1

OPINION

On April 16, 1998, the local board approved a redistricting of the geographic attendance area for several elementary and middle schools in Carroll County. The redistricting was necessitated by the opening of a new elementary school named Cranberry Station Elementary. As a result of that redistricting, some students residing in the Union Bridge area were now assigned to Northwest Middle School, rather than New Windsor Middle School. The Appellants, parents of students affected by the redistricting, appealed to the State Board of Education claiming that the redistricting decision was arbitrary and unreasonable.

The matter was transferred to the State Office of Administrative Hearings and a hearing was held on September 16, 1998. A proposed decision containing Findings of Fact and Conclusions of Law was issued by an administrative law judge on November 2, 1998. The State Board heard final oral argument in the matter at its meeting on December 9, 1998.

Having reviewed the record and considered the arguments of the parties, we adopt the Findings of Fact and Conclusions of Law of the administrative law judge as set forth in the proposed decision which is attached as Exhibit 1. We therefore affirm the decision of the Board of Education of Carroll County.

Walter Sondheim, Jr.  
President

Edward Andrews  
Vice President

Raymond V. Bartlett

ABSTAIN\*  
JoAnn T. Bell

Philip S. Benzil

George W. Fisher, Sr.  
Morris Jones

**ABSTAIN\***  
Marilyn D. Maulsby

Judith McHale

Adrienne L. Ottaviani

John Wisthoff

\* Ms. Bell and Ms. Maulsby are newly appointed members of the State Board of Education and did not participate in the review of this appeal.

January 26, 1999

**EXHIBIT 1**

DEBORAH DOXZON AND	*	BEFORE SUSAN OFFICER,
KIM WHITE, APPELLANTS	*	AN ADMINISTRATIVE LAW JUDGE
v.	*	OF THE MARYLAND OFFICE OF
BOARD OF EDUCATION	*	ADMINISTRATIVE HEARINGS
OF CARROLL COUNTY	*	OAH CASE NO. 98-MSDE-BE-04-234
* * * * *	*	* * * * *

**PROPOSED DECISION**

STATEMENT OF THE CASE  
ISSUE  
SUMMARY OF THE EVIDENCE  
FINDINGS OF FACT  
DISCUSSION  
CONCLUSIONS OF LAW  
PROPOSED ORDER

**STATEMENT OF THE CASE**

On April 16, 1998, the Carroll County Board of Education ("Board") approved the restructuring of the boundaries of the geographical attendance areas of several of Carroll County's elementary and middle schools. As part of the redistricting, 53 students<sup>1</sup> residing in the Union Bridge, Maryland area who, prior to redistricting would have attended the New Windsor Middle

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<sup>1</sup>Of the 53 students affected by the redistricting, 23 students are in fact attending Northwest Middle School. 23 of the remaining students received approval to attend school (New Windsor Middle) outside their attendance area, 4 students withdrew from the Carroll County school system, 2 students moved into the New Windsor attendance area, and one student moved to another part of the county and attends school in that area.

School in New Windsor and Francis Scott Key High School in Union Bridge, would now attend Northwest Middle School in Taneytown and Francis Scott Key High School. Mrs. Deborah Doxzon and Mrs. Kim White ("Appellants"), parents of students affected by the redistricting, appealed the action of the Board to the State Board of Education.

Appellants allege that the decision of the Board is arbitrary and capricious, as well as unreasonable, unfair, and inconsistent in that:

1) the decision did not solve the problem it was aimed at (overcrowding at West Middle School in Westminster and underutilization of Northwest Middle School);

2) the redistricting made it impossible for all of the students of Elmer Wolfe Elementary School to remain "with their community" and attend New Windsor Middle School;

3) an amendment that would have permitted the affected students to continue to attend New Windsor Middle School failed by a 2-3 vote;

4) the decision was made not in the best interests of the children, but in the interest of filling seats with the hope of securing future State funding;

5) historically, Union Bridge's children have had to attend the oldest elementary school, middle school, and high school in Carroll County.

In accordance with Md. Code Ann., Educ. § 4-205, a hearing was conducted by Susan Officer, Administrative Law Judge, on September 16, 1998. Edmund J. O'Mealy, Esq., Blum, Yumkas, Mailman, Gutman & Denick, P.A., 2 Hopkins Plaza, Baltimore, Maryland appeared on behalf of the Board. Mrs. Doxson and Mrs. White, the Appellants, appeared in proper person.

Procedure in this case is governed by the contested case provisions of the Administrative Procedure Act, Md. Code Ann., State Gov't §§ 10-201 through 10-226 (1995 & Supp. 1997) and the Rules of Procedure of the Office of Administrative Hearings, COMAR 28.02.01.

### **ISSUE**

This issue on appeal is whether the Carroll County Board of Education's April 16, 1998 redistricting decision was arbitrary and capricious or unreasonable as defined in COMAR 13A.01.01.03E.

### **SUMMARY OF THE EVIDENCE**

#### A. Exhibits

The following documents were admitted into evidence as joint exhibits:

Joint ex. #1 - Cranberry Station Elementary School Boundary Adjustment - Staff Recommendations, March 11, 1998

Joint ex. #2 - Cranberry Station Elementary School Boundary

Adjustment Options, February 11, 1998

Joint ex. #3 - Minutes of BOE meeting, February 11, 1998

Joint ex. #4 - Minutes of BOE meeting, March 11, 1998

Joint ex. #5 - Minutes of BOE meeting, April 8, 1998

Joint ex. #6 - Minutes of BOE meeting, April 16, 1998

The following exhibits were admitted into evidence on behalf of the Appellants:<sup>2</sup>

App. ex. #2 (not admitted)<sup>3</sup>

App. ex. #3 - Minutes of Northwest Middle School Site and Pupil Population Committee, November 18, 1971

App. ex. #15 - School Redistricting Petition

App. ex. #23 - Summary of Middle Schools, September 2, 1998

App. ex. #27 - West Middle School Boundary Adjustments March 13, 1996

App. ex. #28 - Newspaper article, March 26, 1996

App. ex. #29 - Newspaper article, March 28, 1996

App. ex. #30 - Minutes from BOE meeting, March 27, 1996

App. ex. #31 - Minutes of New Windsor Middle School Construction Planning Committee, February 3, 1992

The following exhibits were admitted into evidence on behalf of the Board:

BOE Ex. #1 - Cranberry Station Elementary School Boundary Adjustment, Press Release, February 6, 1998

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<sup>2</sup> Exhibits were prenumbered by the parties. Some documents were subsequently not offered into evidence.

<sup>3</sup> An objection to the minutes of a Board meeting held on November 17, 1971 was sustained.

- BOE Ex. #2 - Letter from Elmer A. Wolfe Elementary School Annex to Parents, February 3, 1998
- BOE Ex. #3 - Letter from New Windsor Middle School to Parents, January 29, 1998
- BOE Ex. #6 - Cranberry Station Redistricting - Option Maps
- BOE Ex. #7 - Map of 1997-98 Middle School Attendance Areas
- BOE Ex. #8 - Map of 1997-98 High School Attendance Areas
- BOE Ex. #9 - Cranberry Station Elementary School Boundary Adjustment Presentation
- BOE Ex. #10 - Newspaper article, March 10, 1998
- BOE Ex. #14 - Map of 1998-99 Middle School Attendance Areas
- BOE Ex. #16 - Students Attending Schools Out-of-Attendance Areas Policy, Rev. February 5, 1992
- BOE Ex. #17 - Information on redistricted students, September 3, 1998

B. Testimony

The following witnesses presented testimony on behalf of the Appellants:

Mayor Perry L. Jones, Union Bridge, Maryland  
 Delegate Donald Elliott  
 Anne Ballard, Board member  
 Carolyn Scott, Board member  
 Gary W. Bauer, Board Vice President  
 Joseph Mish, Jr., Board member  
 C. Scott Stone, Board President  
 Vernon Smith, Assistant Superintendent for Administration  
 Ed Davis, Director, Pupil Services  
 Kathleen Sanner, Director, School Support Services  
 David Reeve, Assistant in Pupil Transportation

Vernon Smith, accepted as an expert in the areas of public school facilities and public school facilities planning, also testified on behalf of the Carroll County Board of Education.

### FINDINGS OF FACT

The parties stipulated to the following facts:

1. West Middle School, Westminster, was seriously overcrowded during the 1997-98 school year.
2. Northwest Middle School, Taneytown, was underutilized during the 1997-98 school year.
3. New Windsor Middle School, New Windsor, was neither overcrowded nor underutilized during the 1997-98 school year.
4. As a result of the April 16, 1998 redistricting decision, West Middle School continues to serve as a feeder school for Westminster High School and Liberty High School but no longer serves as a feeder school for South Carroll High School.
5. New Windsor Middle School continues to serve as a feeder school for both South Carroll High School and for Francis Scott Key High School.
6. Northwest Middle School continues to serve as a feeder school for Francis Scott Key High School.
7. All of the students in the previous West Middle attendance area who were redistricted to New Windsor Middle live within the South Carroll High School attendance area.
8. All of the students in the former New Windsor Middle



attendance area who were redistricted to Northwest Middle live within the Francis Scott Key High School attendance area.

Having considered all of the evidence and testimony presented, I make the following additional Findings of Fact by a preponderance of the evidence:

9. At least since 1995, the Board has been aware of rapid growth at West Middle School in Westminster and the likelihood that the school would soon reach its capacity.
10. As a result of a Board review of a December 13, 1995 staff report, the Board on January 28, 1996 directed that a proposal to adjust the boundary of West Middle School be developed and returned to the Board for consideration.
11. At a March 13, 1996 Board meeting, two adjoining middle schools, New Windsor Middle and Northwest Middle, were identified as being under capacity and potential sources of relief for the overcrowded West Middle School. However, since New Windsor Middle School was expected to grow to its functional capacity by the year 2000, the Board suggested that New Windsor Middle not be considered as part of the proposed relief for West Middle School at that time.
12. Two years later, four preliminary options for redistricting were developed, based on factors such as geographical

location of eligible students in relation to affected schools; school bus riding time; existing road conditions - safety and efficiency; school capabilities and enrollment trends; subdivision location and potential for growth; maintenance and improvement of the feeder system; balancing enrollments and, where possible, establishing districts that allowed room for growth in each affected school.

13. In addition to the impact of the opening of a new elementary school, Cranberry Station Elementary School, several other boundary adjustments were evaluated by staff and were presented for consideration by the Board in February, 1998. Overcrowding at West Middle School and underutilization of Northwest Middle School were factors that weighed heavily in the finalization of the staff recommendations. New Windsor Middle School students were included for consideration to attend Northwest Middle School.
14. On February 17 and 18, 1998, public meetings were held to consider options for boundary adjustments. Four options had been presented to the Board a week earlier.
15. On March 11, 1998, the Board convened in regular session. The options for redistricting were discussed, with "Option 2" receiving substantial criticism from concerned parents and citizens because it moved New Windsor Middle School students to Northwest Middle. The President of the Board

announced that a special session would convene on April 16, 1998.

16. At the Board meeting on April 16, 1998, Board member Scott moved to amend Option 2 in such a way as to address the concerns of the parents opposed to it. However, the amendment failed, and Option 2, without the amendment, was unanimously approved by the Board.
17. On or about August 3, 1998, the Appellants appealed the decision of the Board.

#### **DISCUSSION**

In order to prevail on their appeal, the Appellants must prove by a preponderance of the evidence that the decision of the County Board is arbitrary, unreasonable or illegal. COMAR 13A.01.01.03E

Section 4-108(c) of the Education Article, Maryland Code Annotated provides that:

With the advice of the County Superintendent, the County Board shall determine the geographic attendance areas for each school established under this Section.

In establishing the standard of review of decisions of the County Board involving local policy, COMAR 13A.01.01.03E provides that the decision of the County Board is considered prima facie correct and defines arbitrary, unreasonable or illegal as follows:

- E. Standard of Review.

(1) Decisions.

(a) Decisions of a county board involving a local policy or a controversy and dispute regarding the rules and regulations of the county board shall be considered prima facie correct, and the State Board may not substitute its judgment for that of the county board unless the decision is arbitrary, unreasonable, or illegal.

(c) A decision may be illegal if it is one or more of the following:

- (i) unconstitutional;
- (ii) Exceeds the statutory authority or jurisdiction of the county board;
- (iii) Misconstrues the law;
- (iv) Results from an unlawful procedure;
- (v) Is an abuse of discretionary powers;
- (vi) Is affected by any other error of law.

The Appellants acknowledge that they were given a full and fair opportunity to speak out in opposition to the redistricting plan that was ultimately adopted by the Carroll County Board; however, at the same time they assert that they "were not given a full and fair opportunity to be heard."

What the Appellants have presented in this case is an eloquent articulation of their disagreement with the Board's decision. In their effort to be "heard," they do little more than continue their argument against the redistricting that resulted in their children being assigned to another middle school. They have presented no evidence at all that the Board's decision was arbitrary or unreasonable, as defined by law. The Appellants do not allege any illegality on the part of the Board.

In an attempt to persuade the Administrative Law Judge that

the Board's decision should be overturned, the Appellants presented testimony by all five Board members who participated in the redistricting decision at issue. None of that testimony supports a conclusion that the Board's decision was arbitrary or unreasonable. Two of the Board members supported an amendment to Option 2. That amendment would have permitted certain students, including the Appellants' children, to remain at New Windsor Middle School rather than attending Northwest Middle.

The amendment failed by a 2-3 vote. Option 2, unamended, was subsequently approved by a unanimous vote. The fact that the amendment failed does not mean the adoption of Option 2 was arbitrary or unreasonable. To the contrary, the record establishes that the concerns of those opposed to Option 2 were heard and considered. Losing a vote does not equate to a flawed decision.

Board member Ballard testified that several years prior to the April 1998 redistricting decision, the Board directed school staff to consider redistricting to alleviate overcrowding at West Middle School. At that time the Board did not favor moving middle school students from Westminster to Taneytown. Ms. Ballard testified that when the Board addressed redistricting again in 1998, members of the community had the opportunity to voice their concerns to the Board, and that the Board took those concerns into consideration. Ms. Ballard also explained that the

redistricting involved accommodating the new Cranberry Elementary School, several middle schools, and a modification of high school attendance areas.

Board member Scott testified that the Board gave due consideration to all the issues that were presented, and she discussed the differences in opinion over the redistricting of middle schools.

Gary Bauer, Vice President of the Board, testified that the rationale behind the redistricting option that was approved was to balance the feeder system and to take students out of the overcrowded West Middle School and use some of the capacity at Northwest Middle School. Mr. Bauer emphasized the importance of a "clean feeder system," where students could continue from elementary school to middle school to high school within a reasonable distance. He acknowledged that the redistricting did not have a significant impact on the overcrowding, but contended that the steps taken by the Board provided for some improvement. He also pointed out that the education of the students who were moved would not suffer.

Board member Mish also testified that community input was considered by the Board, but that as a Board member, he had to consider the total picture, and consider what is best for the entire student population of Carroll County. He added that in his seven years as a Board member, he found that the other

members of the Board shared his belief that their job was to do what was best for all of the students of the county. Mr. Mish also stated that another goal was to keep the feeder system intact as much as possible, and he observed that reasonable people can differ as to how best to meet those goals.

Mr. Stone, President of the Carroll County Board of Education, testified that serious consideration was given to all four redistricting options, to the public input that was provided at the Board meetings, and to correspondence received from concerned citizens. The options were considered in terms of the goals of reducing overcrowding, the cost associated with transporting students, anticipated growth in the community, and the possibility of residential growth that would add more students to the schools. He emphasized that his vote was not prejudiced by staff recommendations; rather, he fully evaluated the options in light of material received from all sources.

The testimony of the other witnesses at the hearing also leads one to the inescapable conclusion that the redistricting plan approved by the Board on April 16, 1998 was fully debated and that concerned parents and other members of the public were permitted to voice their opinions and have them considered by the Board prior to any decision being made.

By its very nature, redistricting is an emotionally charged issue because it results in some children having to change

schools. The Board has the responsibility of considering numerous factors in establishing boundary lines, and it stands to reason that in the end, not everyone is going to be happy with the result. The preponderance of the evidence in this case shows that the Carroll County Board of Education made sure the redistricting options were well publicized, that a number of meetings were held to allow opportunity for community participation in the redistricting process, and that the concerns and various points of view presented to the Board were duly considered.

No one testified or presented any evidence that the decision made by the Board on April 16, 1998 was arbitrary. Even the Board members who supported the proposed amendment to Option 2 testified that the Board's procedures were fair, that everyone had a full opportunity to present his or her opinion for the Board to consider, and that the Board did consider all opinions and information presented. Although other individuals, were they members of the Board, might have voted differently on the redistricting issues presented in this case, I find no basis to conclude that the Board's decision was arbitrary, unreasonable, illegal, or contrary to sound educational policy.

#### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact and Discussion, I



conclude, as a matter of law, that the April 16, 1998 redistricting plan approved by the Carroll County Board of Education was not arbitrary, unreasonable or contrary to sound educational policy. COMAR 13A.01.01.03E.

**PROPOSED ORDER**

Based upon the foregoing Findings of Fact and Conclusions of Law, I recommend that the April 16, 1998 decision of the Carroll County Board of Education to redistrict schools be **AFFIRMED**.

Date: November 2, 1998

Susan Officer  
Administrative Law Judge