

DANIEL COON, ET AL.,

Appellant

v.

HOWARD COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 00-20

OPINION

In this appeal, a group of parents dispute a decision of the local board denying a request for a school bus route change in the Lisbon Estates subdivision so that the bus would not have to perform a back up maneuver to turn around and exit the community.¹ The parents disagree with the local board's decision, essentially arguing that the denial of the requested change was arbitrary and unreasonable because "there is a safer way to conduct this stop." The local board has moved for Summary Affirmance, maintaining that the board did not act arbitrarily, unreasonably or illegally in this matter. Appellants have submitted an opposition to the local board's motion.

BACKGROUND

Appellants are residents of the Lisbon Estates community whose children attend Lisbon Elementary School in Howard County.² The bus stop at issue is located at the intersection of Brittle Branch Way and Cattail Woods Lane. When the bus picks students up at the bus stop, it enters the community on Brittle Branch Way, stops for students to load the bus, and then performs a back up maneuver to turn around and exit the community on Brittle Branch Way.³ When the bus drops students off after school, the bus first performs the back up maneuver in order to turn around and then stops for the students to disembark at the bus stop. Appellants have requested that the school system eliminate the back up maneuver because they believe it endangers the safety of the children, parents, and pets who accompany the students to and from the bus stop. Appellants propose that instead of performing the back up maneuver, the bus turn from Brittle Branch Way onto Cattail Meadows Drive, loop around to where Cattail Meadows

¹The appeal was brought by Mr. Daniel W. Coon, a Howard County police officer, who has filed on his behalf and on behalf of other parents in the Lisbon Estates community.

²Lisbon Estates is a community of approximately 42 homes.

³Brittle Branch Way is the only road which enters and exits the community. It intersects Cattail Woods Lane and Cattail Meadows Drive at the same location with Cattail Woods Lane on one side and Cattail Meadows Drive on the other. This is where the bus stop is located. Cattail Meadows Drive loops around and intersects a second time with Brittle Branch Way. (See map attached to letter of appeal.)

Drive intersects with Brittle Branch Way for a second time, turn back onto Brittle Branch Way and exit the community.

At the beginning of the 1999-2000 school year, Colonel G. Wayne Liversay, Chief of Police for Howard County, faxed to Glenn J. Johnson, Director of Pupil Transportation for Howard County, a copy of a letter from Mr. Coon expressing Mr. Coon's concerns about the safety of the bus stop at issue. In correspondence dated September 14, 1999, Mr. Johnson advised Mr. Coon that the bus route would not be changed and explained that (1) the bus stop with the back up maneuver meets an acceptable level of safety for the students being transported by the school system; (2) the back up maneuver is a major part of the County's operation in providing adequate and equitable bus service throughout the County; (3) the bus driver follows Maryland State Department of Education Pupil Transportation Guidelines in performing the back up maneuver; (4) parents are responsible for controlling their children and pets at the bus stop; and (5) the bus stop at issue is typical of several others throughout the County where the back up maneuver is performed.

On October 11, 1999, Appellants appealed Mr. Johnson's decision to the local superintendent stating their belief that it is safer to eliminate the back up maneuver and have the bus loop around Cattail Meadows Drive back onto Brittle Branch Way to exit the neighborhood.⁴ Appellants also specified that because the driver discharges passengers by driving down Battle Branch Way, stopping at the intersection, backing onto Cattail Meadows Drive, and then discharging the passengers, the stop is dangerous because traffic is not required to stop in all directions; there are no stop signs on Battle Branch Way; and the red flashing lights of the bus only require traffic on Cattail Meadows to stop. Appellants also indicated that the backing maneuver is difficult when vehicles are parked along the side of the road and in inclement weather.

Because Mr. Johnson acts as the superintendent's designee on pupil transportation matters, the appeal was referred to the local board. All parties were provided the opportunity to submit documentation in support of their positions. Appellants reiterated their concerns about the safety of the bus stop. In response to the appeal, the local superintendent submitted a memorandum dated November 15, 1999, in which he reviewed the evidence and explained the basis for his decision:

- Howard County provides a safe, economical, equitable, and cost effective operation of school buses.
- While the transportation service is not necessarily the safest, the service provides an acceptable level of safety for all students.
- The prevailing method of routing school buses in Howard County involves the use of the backing of school buses at bus stop locations. This has a direct impact on the tiering of school buses in a cost effective manner and is an integral part of

⁴Some parents also requested that the actual bus stop location be changed.

school bus operations in Howard County.

- The performance of the backing maneuver at this bus stop location is not unique. There are a minimum of 300 similar bus stop locations throughout Howard County where backing maneuvers are executed.
- The cost of granting Appellant's request at this bus stop is \$250 per year for the elementary school bus and \$750 per year for the elementary, middle and high school buses combined. Eliminating the maneuvers at all bus stop locations countywide to provide equity of service would cost \$225,000 per year. If tiering configurations are lost as a result of extending the routes, additional school buses at \$34,000 each per year would be necessary to ensure that buses arrive at school on time.
- Parents are responsible for the safety of their children and pets at the bus stops. A possibility of a tragedy exists, despite the backing maneuver, if a child or pet is not controlled.
- While the National Highway Traffic Safety Administration training materials advise against the backing maneuver, they also contain procedures for picking up and discharging students when the turnaround maneuver is used. This is consistent with information in the Maryland State Department of Education ("MSDE") training materials. The school buses execute the back up maneuver in accordance with all training procedures published by MSDE.⁵

The local board reviewed the appeal and a majority of the board visited the bus stop location and surrounding streets. On December 2, 1999, the local board issued a decision upholding the superintendent's denial of Appellant's request to eliminate the back up maneuver and reroute the school bus in Lisbon Estates.

ANALYSIS

Because this is an appeal involving 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 Transportation Policy, the following factors must

⁵Additionally, the superintendent acknowledged that the red warning lights of the school bus do not control traffic through Brittle Branch Way when students are discharged in the afternoon. He proposed that the bus either reenter Brittle Branch Way after backing onto Cattail Meadows Lane or turn into Cattail Meadows Lane and back into Brittle Branch Way before discharging students in order to ensure that traffic is stopped in all directions while students disembark the bus. He also indicated that it would be helpful if parents driving their children to the bus stop would park their vehicles 40-50 feet away from the intersection in order to provide adequate room for the bus to turn around. Additionally, he further indicated that the school system would make whatever adjustments were necessary and appropriate if conditions changed.

be considered when determining the need for and/or implementing school bus services: (1) acceptable levels of safety; (2) program efficiency; (3) economy of operations; and (4) equity of service. Safety, however, is the primary concern. The record reveals that the local board took all of these factors into consideration in making its determination regarding the safety of the bus stop, including the recommendations of school personnel and the opinion of the county traffic engineer. In particular, the superintendent's memorandum to the local board dated November 15, 1999, and Mr. Johnson's correspondence to Mr. Coon dated September 14, 1999, provide persuasive and well reasoned rationales for denying Appellants' request. Local board members also visited the neighborhood before issuing their decision. While there may be other safer alternatives to performing the back up maneuver, the school system is only required to provide a level of safety that meets acceptable standards. The record fails to demonstrate that bus service at this stop does not meet such standards.

In support of their assertion that the back up maneuver should be eliminated from the bus route, Appellants reference the National Highway Transportation Safety Administration ("NHTSA") guidelines and a handout that is part of the NHTSA School Bus Driver In-Service Safety Series. Although the training materials discourage backing a bus, the outlined procedure is for unplanned turnarounds which are not a part of the regular school bus route. Thus, the NHTSA recognizes that back up maneuvers are utilized as a regular part of school bus routes. Additionally, the MSDE instructional guidelines for bus drivers acknowledge the use of the back up and turnaround maneuver and provide procedures for its safe performance. While such maneuvers are not preferred, this factor alone does not render the decision to use them unreasonable.

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 Doreen Robinson v. Board of Education of Howard County*, 7 Op. MSBE 1296 (1998); *Judy Hanson v. Board of Education of Howard County*, 7 Op. MSBE 709 (1997); *Lane v. Howard County Board of Education*, 6 Op. MSBE 587 (1993). Based upon our review of this record, we believe that Appellants have failed to meet their burden of proving that the local board acted arbitrarily, unreasonably, or illegally in concluding that the bus route at issue provides an acceptable level of safety.

CONCLUSION

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

Edward Andrews
President

Philip S. Benzil
Vice President

Raymond V. Bartlett

George W. Fisher, Sr.

Marilyn D. Maulsby

Judith McHale

Edward Root

Walter Sondheim, Jr.

John Wisthoff

DISSENT

Because we find that the local board acted arbitrarily and unreasonably in this matter, we would reverse the decision of the Board of Education of Howard County.

JoAnn T. Bell

Reginald Dunn

April 19, 2000