

CHRISTEL KLINGENSMITH,

Appellant

v.

HOWARD COUNTY  
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 01-32

### OPINION

This is an appeal of the local board's decision to withdraw Christel Klingensmith from the Howard County Public School System ("HCPS") based on a determination that she was not a bona fide resident of Howard County. The local board has filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal. Appellant has submitted a reply opposing the local board's motion.

### FACTUAL BACKGROUND

At the time of this appeal, Christel was a tenth grade student attending Atholton High School in Howard County. Christel had attended school in Howard County for the past four years.

Based on information provided by the principal of Atholton High School, Steve Drummond, the School Security Coordinator for Howard County Public Schools, began an investigation of Christel's residency in October 2000. Mr. Drummond's investigation was conducted over a four month period during which he obtained the following information:<sup>1</sup>

- Christel's mother, Patricia Hawkins, and Christel's father, William Klingensmith, own a home in Prince George's County located at 14217 Summit Lane, Laurel, MD.<sup>2</sup>
- William Klingensmith owns a gold Cherokee automobile and a green Camry which are both registered at the Prince George's County address.
- Patricia Hawkins owns a house in Howard County located at 9422 Woodsong Court. Numerous neighbors as well as friends of Christel state that Christel's brother, Keith Suggs, resides alone at 9422 Woodsong Court.
- A credit bureau check through DBT online, an automated database, revealed that Keith Suggs is listed as a resident of 9422 Woodsong Court in 5 separate entities.

---

<sup>1</sup>This information is contained in the investigation reports dated October, 27, 2000, November 8, 2000, January 25, 2001, and February 21, 2001.

<sup>2</sup>The mother and father are not married.

There are only 3 entities containing the name Patricia Hawkins at that address. It appears that Patricia Hawkins is not using the Woodsong Court address for credit related transactions such as loans, credit cards, medical bills, etc.

- Patricia Hawkins admits that Keith Suggs pays the phone bill at the Woodsong Court address.
- Christel has had 2 county school bus drivers in the past 2 years. Both report that Christel is dropped off and picked up every day at the bus stop by the gold Cherokee registered to William Klingensmith. In the afternoon, at drop-off, the Cherokee follows the bus out of the neighborhood.
- One of those bus drivers, Darla Jordan, reported that she spoke to several students on her bus who told her that “everybody knows that Christel lives in Prince George’s County.”
- Christel was suspended from school on January 18, 2001. On January 19, 2001, the Klingensmiths reported that Christel had received threatening phone calls at the Prince George’s County address. The Klingensmiths reported the harassing phone calls to the Prince George’s County Police.
- During interviews of neighbors on Woodsong Court, six different neighbors reported that Keith Suggs lives at the Woodsong Court address, that Christel does not live there, and that Christel’s parents have been driving her back and forth from Prince George’s County to the Howard County school bus stop for 2 years. One neighbor followed Christel in the gold Cherokee one day into Prince George’s County.
- School Resource Police Officer PFC Troy Bailey provided information from a friend of Christel’s that Christel does not live in Howard County. The friend provided a written statement that Christel lives in Prince George’s County and that her brother Keith Suggs lives on Woodsong Court. The individual, who wished to remain anonymous to the Klingensmiths, indicated that he had been to Christel’s house in Prince George’s County many times.
- On the afternoon of October 26, 2000, Mr. Drummond observed Christel get off the school bus and enter the green Camry registered to William Klingensmith.
- On the morning of October 27, 2001, Mr. Drummond observed the Camry and the Cherokee in the garage at the Prince George’s County address. He further observed Christel be transported in the Cherokee to the Woodsong Court bus stop. The Cherokee did not enter the Woodsong Court address, rather it waited until the school bus arrived and left for the Prince George’s County address once Christel boarded the bus.

After his initial investigation in October 2000, Mr. Drummond concluded that Christel actually resided at a Prince George’s County address and not at the Howard County address provided to the school system, and recommended her withdrawal from Atholton High School. Christel’s parents were advised that Christel would be withdrawn from school at the close of the school day on November 3, 2000. A conference was held with Mr. Drummond; the principal of Atholton High School, Connie Lewis; a pupil personnel worker, Pat O’Brien; and Christel’s

mother. By letter dated November 8, 2000, Pat O'Brien advised Christel's mother that the decision to withdraw Christel remained unchanged.

The matter was appealed to the local superintendent. An appeal hearing was held on January 5, 2000.<sup>3</sup> The superintendent's designee reviewed the case and by letter dated February 27, 2001, advised Christel's parents of the decision to withdraw Christel from the HCPS effective March 27, 2001, based on lack of a bona fide residence within the county. The case was appealed to the local board. In response to the appeal, Betsy Fleming Rice, the Resource Pupil Personnel Worker, submitted a memorandum to the local board stating in part:

Mr. Drummond's report indicates that although Mrs. Hawkins owns a house in Howard County, there is no credible evidence that she lives there. In fact, surveillance reports and interviews with the bus drivers and neighbors indicate a preponderance of evidence that Mrs. Hawkins and her daughter reside in Prince George's County.

Thereafter, in a decision dated April 23, 2001, the local board unanimously upheld the decision to deny Christel attendance free of charge in the Howard County Public School System because she is not a bona fide resident of Howard County.<sup>4</sup>

## ANALYSIS

### Standards

A bona fide residency requirement is a condition of free attendance at Maryland's public schools. *See* Md. Code Ann., Educ. 7-101, 7-301, 8-404(a), COMAR 13A.08.01.01A. Section 7-101 includes language concerning domicile, stating in pertinent part:

(a) Admissions. – All individuals who are 5 years old or older and under 21 shall be admitted free of charge to the public schools of this State.

(b) Location. – (1) Except as provided in § 7-301 of this title and

---

<sup>3</sup>Christel and her parents were represented by legal counsel at this stage of the appeal process.

<sup>4</sup>During the appeal process within the local school system, HCPS permitted Christel to attend public school without payment of tuition pending a decision by the local board. Once the local board decision was issued, HCPS allowed Christel to remain enrolled in the school system with the payment of tuition pro-rated from the date of the local board's decision on April 23, 2001, through the end of the 2000-2001 school year.

in paragraph (2) of this subsection, each child shall attend a public school in the county where the child is domiciled with the child's parent or guardian.<sup>5</sup>

(2) Upon request and in accordance with a county board's policies concerning residency, a county superintendent may allow a child to attend school in the county even if the child is not domiciled in that county with the child's parent or guardian.

(3) If a child fraudulently attends a public school in a county where the child is not domiciled with the child's parent or guardian, the child's parent or guardian shall be subject to a penalty payable to the county for the pro rata share of tuition for the time the child fraudulently attends a public school in the county.

The Maryland Student Records System Manual incorporated by reference in COMAR 13A.08.01.01A further defines the term, bona fide resident. The bona fide residency requirement has been affirmed by the State Board on multiple occasions. *See Yeon Soon Kim v. Board of Education of Montgomery County*, MSBE Opinion No. 00-2 (February 1, 2000); *Gustafson v. Board of Education of Allegany County*, 7 Op. MSBE 308 (1996); *Armour v. Board of Education of Montgomery County*, 2 Op. MSBE 123 (1979). In essence, a student living with a legal guardian is a bona fide resident of the jurisdiction where the legal guardian resides.

Local school systems are required to establish written policies and procedures to be followed for the purpose of determining whether a student is a bona fide resident. *See* Maryland Student Records System Manual at IV-5 - IV-6 (Supp. 1). Accordingly, the Howard County Board of Education has developed Policy 3201-R - "Enrollment, Residency, and Tuition." Policy 3201-R (I.F) states that "[a]ll qualified school-age minor persons **whose parents have an established bona fide residence in Howard County** . . . shall be considered resident students and shall be admitted tuition-free to Howard County public schools." (Emphasis added). We think this provision must be read in conjunction with 3201-R (I.G) which provides as follows:

**Bona fide residence is the person's actual residence maintained in good faith and does not include a temporary or a superficial residence established for the purpose of free school attendance in the Howard County public schools.**

---

<sup>5</sup>The terms domicile and guardian are not statutorily defined in Title 7 of the Education Article.

**Determination of a person's bona fide residence is a factual one and must be made on an individual basis.** Although an intent to reside indefinitely or permanently at the present place of residence is not necessarily required, the following factors are pertinent in determining one's bona fide residence: the parent/guardian must occupy an owned or rented domicile in Howard County. As proof, the parent/guardian must provide the following with his/her name on it.

1. Current lease/deed.
2. One of the following: current utility bill, current telephone bill; current cable bill.
3. Other factors as determined by the Office of Pupil Personnel.  
(Emphasis added).

Thus, the actual residence of the legal guardian and the student is the relevant issue in determining bona fide residency. That determination is made on a case by case basis. Furthermore, in *Gustafson* the State Board ruled that payment of real estate taxes to a jurisdiction does not in and of itself establish bona fide residency.

#### Discussion

In this appeal, Appellant maintains that she is a bona fide resident of Howard County. She provides in support of that assertion: a Maryland driver's license with an address change card issued July 27, 1999 containing the Howard County Woodson Court address; a Howard County State and County real property tax bill; and an affidavit of Patricia Hawkins stating that Christel "lives with me in our home in Howard County, Maryland."

In opposition, the local board claims that Appellant is not a bona fide resident of Howard County. In support, the local board has submitted documentation in the form of an affidavit from a private investigator who conducted a residency investigation over a period of several months. The affidavit incorporates all of the information contained in Mr. Drummond's investigation reports and his conclusions that Christel and her mother actually reside in Prince George's County. The totality of the facts in this case is extremely damaging to Christel's claim that she is a bona fide resident of Howard County.

While Christel's mother may own real property in Howard County, ownership alone is insufficient to establish bona fide residency under HCPS's residency policy as well as under the

State Board's decision in *Gustafson*.<sup>6</sup> Given the damaging evidence which tends to disprove actual domicile in Howard County, the affidavit which states that Christel and her mother reside in Howard County is the only serious evidence in support of this claim. We note, however, that the affidavit fails to address any of the bases relied upon by the school system in reaching its conclusion about Christel's residency. For example, the affidavit does not explain Christel's regular drop off and pick up at the school bus stop in Howard County and her regular departure and return to Prince George's County.

Thus, this case essentially becomes a credibility dispute. It is well established that determinations concerning witness credibility are within the province of the local board as trier of fact. *See, e.g., Board of Trustees v. Novik*, 87 Md. App. 308, 312 (1991), *aff'd*, 326 Md. 450 (1992) ("It is within the Examiner's province to resolve conflicting evidence. Where conflicting inferences can be drawn from the same evidence, it is for the Examiner to draw the inferences."); *Board of Education v. Paynter*, 303 Md. 22, 36 (1985)(same). Moreover, the State Board may not substitute its judgment for that of the local board unless there is independent evidence in the record to support the reversal of a credibility decision. *See Dept. of Health & Mental Hygiene v. Anderson*, 100 Md. App. 283, 302-303 (1994); *Scheper v. Baltimore County Board of Education*, 7 Op. MSBE 1122 (1998); *Williamson v. Board of Education of Anne Arundel County*, 7 Op. MSBE 649 (1997); *Warren v. Board of Education of Baltimore County*, 7 Op. MSBE 328 (1996). It is evident based on the local board's decision to uphold the superintendent's decision that it found the evidence submitted by the superintendent more credible than that submitted by Appellant. Based on our review of the record in this matter, we find that the decision of the local board is reasonable and supported by sufficient evidence.

## CONCLUSION

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

Raymond V. Bartlett  
President

Marilyn D. Maulsby  
Vice President

---

<sup>6</sup>Appellant argues that Circular No. 133, issued by the local superintendent on December 16, 1998, permits a student to be enrolled as a bona fide resident if the parent merely owns or rents property in Howard County. It appears that the referenced circular provided a summary of a policy separate and distinct from the policy at issue here and is out of date. More importantly, since 1998, the local board's policy has defined bona fide residency in the same manner as in the Enrollment, Residency, and Tuition policy (policy 3201).

JoAnn T. Bell

Philip S. Benzil

Reginald L. Dunn

Clarence A. Hawkins

Walter S. Levin, Esquire

Karabelle Pizzigati

Edward L. Root

Walter Sondheim, Jr.

John L. Wisthoff

September 26, 2001