

EDITH BEASLEY,

Appellant

v.

HOWARD COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 02-38

OPINION

This is an appeal of the denial of bus transportation to Long Reach high School for Appellant's child who lives within the 1.5 mile walking zone of the school. The local board has filed a Motion for Summary Affirmance maintaining that the local board's decision is not arbitrary, unreasonable, or illegal. Appellant has filed an opposition to the local board's motion.

BACKGROUND

Appellant lives on Short Wheel Way in Columbia and her child attends Long Reach High School. Because students in Appellant's neighborhood who attend Long Reach High School live within the walking zone, the Howard County School System does not currently provide bus transportation for them. Appellant, however, wants to have bus transportation provided by the Howard County Public Schools ("HCPS") due to health and safety concerns about the walking route. Appellant argues that bus transportation should be provided because the 1.5 mile route is too long a distance for children carrying school books and supplies, lunches, and other gear for after-school activities in all conditions including inclement weather and darkness. Appellant also believes bus transportation should be provided because of the danger involved in crossing the Snowden River Parkway/Tamar Drive intersection and a concern for children walking by wooded portions of the route.¹

In response to Appellant's concerns, the Howard County Student Walking Route Committee evaluated the route in accordance with established guidelines. The Committee found that the route meets the established standards, that it is within the 1.5 mile walking zone, and that the entire route follows sidewalks. The Committee further noted that students do not cross any busy intersection and they are highly visible to nearby residences as they walk. *See* November 13, 2001 Student Walking Route Committee Report.

¹This same walking route was challenged in April, 1998. At that time, the Walking Route Committee found that the route met established standards. The local board issued an opinion upholding the staff decision not to establish a bus stop in the neighborhood. The matter was appealed to the State Board, which upheld the local board decision in *Williams v. Board of Education of Howard County*, MSBE Opinion No. 99-24.

The supervisor of the Traffic Enforcement Section of the Howard County Police Department also evaluated the walking route. Sergeant Frederick Von Briesen reported:

I reviewed the Walking Route taken by students from Short Wheel Way to the Long Reach High School and found that there are no obvious safety hazards to this route. The route using the major roadways crosses one major intersection, Tamar Drive @ Snowden River Parkway. This intersection is controlled by automatic signals, has a marked crosswalk and an "on demand" Pedestrian Crossing Signal.

Sergeant Von Briesen found no reason to change the 1998 Walking Route Committee Recommendation.

Additionally, Mr. George Frangos, a Howard County Traffic Engineer, reported on the current status of the Snowden River Parkway/Tamar Drive intersection. He stated, in part:

To summarize, in the absence of significant numbers of students actually using this designated school crossing and the absence of observable conflicts with traffic flow, the crossing continues to remain an acceptable location for high school students to utilize. The increase in traffic flow which appears to be spreading the extent of the peak period close to the AM Walking Period will require continuing monitoring. If the AM Peak traffic low were to intrude into the AM Walking Period, the intersection may require further enhancement to make it acceptable for pedestrian usage. Given the existing levels of vehicular traffic flow and pedestrians using the school crossing, the existing configuration is acceptable.

Based on the Walking Route Committee's findings, the findings of Sgt. Von Briesen, Mr. Frangos' review, and the fact that Appellant's residence is situated within 1.5 miles from the school using the designated walking route, Glenn J. Johnson, Director of Pupil Transportation, advised Appellant that the superintendent denied her request for transportation services. *See* Letter to Beasley from Johnson dated 11/28/01.

Appellant appealed the Superintendent's decision to the local board reiterating her concerns about the walking route. The superintendent responded by memorandum to the local board. Among other things the superintendent relied on the traffic engineer's extensive review of the walking route and his determination that the crossing continued to remain an acceptable location for high school students to use. The superintendent also noted that the cost to transport students residing east of Snowden River parkway to Long Reach would be approximately \$172,000 annually. As to Appellant's concerns about students carrying heavy backpacks, the superintendent indicated that students of all ages have always had to carry books to and from school and the manner in which this was done was a matter of personal choice left to the discretion of parents and students. *See* Memorandum from O'Rourke to Local Board dated

2/21/02.

The local board members reviewed the entire record, and several members personally visited the neighborhood and examined the walking route and intersection. In its decision upholding the denial of transportation service, the local board cited the following reasons:

- The designated walking route meets or exceeds the acceptable level of safety of other walking routes.
- The Student Walking Route Committee reviewed the walking route and concluded that it meets established safety standards, that the entire route has sidewalks, and that students using the route are visible to houses in the neighborhood.
- The Appellant's residence is well within the local board's 1.5 mile walking radius to Long Reach High School.
- The crossing of Snowden River Parkway is controlled by a traffic light with a pedestrian crossing signal that permits safe crossing.
- The Howard County Police Department reports that the only incident since the 1998 review was a collision involving a "pedestrian" – who was actually a bicyclist and not a walker. At the time of the collision there were no pedestrian signals in operation at that intersection. Pedestrian signals have since been installed.
- Providing the relief requested by the Appellant by bussing students in the affected area would cost \$172,000.
- The Appellant's issue of heavy backpacks is one to be addressed by parents and students, who can use the article "Kids Carrying A Heavy Burden to School" submitted by the Appellant for information and guidance.
- The local board is charged with providing an equitable level of service across the county. The walking route in question is within the level of service and safety provided at numerous other locations in Howard County.

ANALYSIS

Because this case 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 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. Safety, however, is the primary concern. Our review of the record reveals that the local board took all of these

factors into consideration in making its determination regarding the request for bus transportation, and that the board's decision was reasonable. For example, the Pupil Transportation Office staff concluded that the walking route provided an acceptable level of safety, and the Student Walking Route Committee determined that the route met the standards established by the pupil transportation policy.

Appellant is concerned about the safety of the walking route because it crosses the Snowden River Parkway/Tamar Drive intersection and because children pass some wooded areas and may sometimes have to walk in darkness. With regard to the intersection, the county traffic engineer indicated that the intersection contains pedestrian crossing signals and that the student walking periods do not conflict with peak hour traffic flows. The traffic engineer noted that if the AM peak traffic hour spreads further than its present time which is 7:45-8:45 AM, it may impinge upon the AM Walking period for Long Reach students. In that event the intersection may require further enhancement. He concluded that the intersection is acceptable and meets County standards.²

With regard to the walking route, the Walking Route Committee noted that the entire route has sidewalks and is highly visible to nearby homes. Furthermore, since 1998, the Pupil Transportation Office has conducted annual reviews of the walking route and intersection and found that they continue to meet an acceptable level of safety for pedestrians. As noted by the superintendent, the Snowden River Parkway/Tamar Drive intersection will continue to be reviewed by the County Board Transportation Department and the County Traffic Engineers Office on an annual basis.

Appellant also argues that the distance of the walking route is too long, and that the heavy backpacks and other items students must transport are too burdensome for such a trip. Under the local board policy students in high school who live within 1.5 miles from school are expected to walk to and from school. *See* HCPS Pupil Transportation Policy 5111-R (II.A.1.a). Appellant lives within 1.5 miles from Long Reach High School. The denial of bus transportation for her child is thus consistent with local policy. As to Appellant's concerns about the weight of backpacks and other school related gear, students have always had to transport school books and other items to and from school when walking. The choice on the best way to transport these things is within the discretion of students and their parents who can refer to the article submitted by Appellant, entitled "Kids Carrying a Heavy Burden to School" for suggestions. For example, the article suggests using a backpack on wheels or making copies of chapters being used rather than bringing books home.

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.*

²The school system relies on the expertise of traffic engineers, the police, and the Howard County Public School System's Department of Transportation personnel to assess the level of safety for walking and bus routes. The use of these experts is specifically set forth in the pupil transportation policy. *See* section 5111-PR.B.1 and B.2.

Board of Education of Howard County, 7 Op. MSBE 709 (1997); *Lane v. Howard County Board of Education*, 6 Op. MSBE 587, 588 (1993). Based on our review of the record in this case, we find that the local board has applied its bus transportation policy in a fair, reasonable, and consistent manner.

CONCLUSION

For these reasons, we find that the local board's decision is not arbitrary, unreasonable, or illegal. We therefore affirm the decision of the Board of Education of Howard County.

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