

SHANE AND KIMBERLY  
G.,

Appellant

v.

CARROLL COUNTY  
BOARD OF EDUCATION,

Appellee.

BEFORE THE  
MARYLAND  
STATE BOARD  
OF EDUCATION

Opinion No. 19-22

## OPINION

### INTRODUCTION

Appellants challenge the decision of the Carroll County Board of Education (local board) denying their request for the creation of a bus stop at their residence. The local board filed a Memorandum in Response to Appeal maintaining that its decision is not arbitrary, unreasonable, or illegal and should be affirmed. The Appellants responded and the local board replied to the response, bringing the briefing period to a close. The parties submitted additional filings after the briefing period ended.

### FACTUAL BACKGROUND

The Appellants reside at 1900 Harvey Yingling Road in Manchester, Maryland. The bus stop serving the Appellants' residence is located along Route 30 at the intersection of Harvey Yingling Road and Route 30. It provides same side service for both the a.m. and p.m. bus routes. The bus utilizes a deceleration lane along southbound Route 30 before stopping at the intersection. The posted speed limit for that section of Route 30 is 50 mph. Site visibility approaching the bus stop from the north is 645 feet and unlimited from the south along Route 30. Appellants' 2 children have to walk .7 miles from their home along Harvey Yingling Road, which has a speed limit of 25 miles per hour, to get to the bus stop.<sup>1</sup>

Under Carroll County Public Schools (CCPS) Administrative Regulations on bus routes and stops, parents may submit requests for creation of a new bus stop. (A.R. EEAC). On August 1, 2019, the Appellants did so, asking for a bus stop at their residence which would extend the existing bus route by approximately 1.2 miles. They initiated the request asserting unsafe walking conditions along Harvey Yingling Road, which lacks sidewalks and shoulders, and the fact that Harvey Yingling Road, previously unpaved, was newly paved and maintained by the County. (O'Meally Letter, 8/8/19).

CCPS Administrative Regulation EEAC provides various criteria for the establishment of bus routes and stops in the County. The regulations are flexible, however, and allow the transportation staff to consider certain factors as exceptions to the specified criteria in order to

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<sup>1</sup> The bus stop serves a total of 5 children - the Appellants' children and their neighbor's children.

address safety concerns. Overall, transportation staff designs the bus stops and routes to maximize safety, adequacy, efficiency and economy. (See A.R. EEAC.A).

School system staff investigated Appellants' request and conducted a site-visit. By letter dated August 8, 2018, John P. O'Meally, Area Supervisor for Transportation Services, denied the request. *Id.* He based the denial on the following:

- CCPS operates buses only on paved roads that are a minimum of twenty feet wide. Harvey Yingling Road is 14 feet wide in some places, and less than 12 feet wide in others.
- CCPS extends bus routes to create new stops on paved roadways if students walk more than one mile from their home to the established bus stop. The bus stop at the intersection of Route 30 and Harvey Yingling Road is .7 miles from the Appellants' home.
- Based on a posted speed limit of 25 miles per hour and traffic volume less than 150 vehicles per day, staff did not find Harvey Yingling Road to be an unsafe walking route to the assigned bus stop. According to CCPS Policy, if parents are concerned about the safety of their children, they can provide supervision for their children while walking to, from, or waiting at the designated bus stop.

*Id.*

Appellants appealed Mr. O'Meally's decision to Michael Hardesty, Director of Transportation Services, who also conducted a site visit. By letter dated August 30, 2018, Mr. Hardesty affirmed the denial of the bus stop. He agreed with Mr. O'Meally's reasoning and found the Route 30 bus stop to be safe based on CCPS policy, site distance requirements, and travel restrictions. (Hardesty Letter, 8/30/18).

Appellants next appealed to the local Superintendent, who assigned the matter to his designee, Jonathon D. O'Neal, Assistant Superintendent of Administration. Mr. O'Neal conducted a site visit before denying the request for the bus stop. By letter dated October 1, 2018, he explained that he and staff had looked at various alternatives and explored other routing options. He noted as another basis for the denial of the bus stop that they were unable to establish an alternative that created a safe turnaround for the bus on Harvey Yingling Road. (O'Neal Letter, 10/1/18).

Thereafter, the Appellants and Mr. Hardesty exchanged several emails. The Appellants argued that the denial of their request was unfair in light of a recent extension of their bus route to create a new bus stop at Kridlers Schoolhouse Road,<sup>2</sup> as well as various other bus stops that they believed violated CCPS policy and regulation. Appellants also offered to create a bus turnaround on their property. Mr. Hardesty explained that each student situation is different and is evaluated in terms of overall routing efficiency, the impact on the student ride time, and student and bus safety. He stated that the Harvey Yingling/Route 30 area "requires a complex

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<sup>2</sup> Because the Appellant had safety concerns regarding their existing bus stop, Mr. O'Meally advised them that they could use the new bus loop at the bottom of Harvey Yingling Road and Kridlers Schoolhouse Road as a bus stop, which is also approximately .7 miles from their home.

solution to provide adequate and safe school bus transportation for all grade levels.” (Hardesty Emails, 10/17/18 & 10/18/18).

Appellants appealed the denial of their bus stop request to the local board, arguing that the school system discriminated against them by granting the bus stop on Kridlers Schoolhouse Road for another family after denying their request. Appellants again cited various other examples of bus stops they believed violated CCPS policy and regulation. (Appeal Letter, 10/23/18).

On November 19, 2018, Mr. O’Neal responded to the appeal. He highlighted the following parts of Administrative Regulation EEAC:

- The transportation area supervisor shall design each route to maximize safety, adequacy, efficiency and economy.
- Routes shall be planned to minimize or eliminate the need for backing-up the school bus.
- A turnaround may be established if a student resides greater than 1 mile from the nearest bus stop and on a paved road that is maintained by the state, county or municipality.
- A bus route may be extended to create a new bus stop if a student resides greater than a 1/2 mile from an existing stop and the bus does not have to use a backing-up procedure.
- Pupils shall be expected to walk up to 1 mile to the established school vehicle stop.

(O’Neal Letter, 11/19/18).

Mr. O’Neal explained that the Kridlers Schoolhouse Road bus stop was appropriately created under the regulations because the existing 2 bus stops were more than a ½ mile away from the family’s residence, and the bus could turn around at a new location without performing a backing-up maneuver. In contrast, the Appellants’ request required a backing-up maneuver for the bus to turn around on Harvey Yingling Road. Mr. O’Neal also explained why the bus stops cited by the Appellants were appropriately created, indicating that the decisions balanced student safety and transportation efficiencies. *Id.*

In a decision issued January 19, 2019, the local board upheld the denial of Appellants’ request for a bus stop at their residence finding that the decision to deny Appellants’ request for a bus stop complied with CCPS policies and administrative regulations. At the time of the decision, the Appellants had offered to create a bus loop on their property. The local board stated that should the Appellants develop one, the Transportation Department would need to consider the existence of the loop in deciding whether to grant a new stop.

This appeal to the State Board followed. While this appeal was pending, the Appellants installed a bus turnaround on their property.

### STANDARD OF REVIEW

With regard to appeals involving a decision of the local board involving a local policy, the local board’s decision is considered *prima facie* correct. The State Board will not substitute

its judgment for that of the local board unless the decision was arbitrary, unreasonable, or illegal. COMAR 13A.01.05.06A.

## LEGAL ANALYSIS

The Appellants argue that the local board's decision denying a bus stop at their residence is discriminatory and arbitrary because CCPS created a new bus stop on the route for another family and because CCPS has created other bus stops that do not follow the same criterion given to deny their request.

### *Discrimination Allegations*

Appellants have not alleged discrimination based on a protected class. To the extent that they attempt to make an equal protection argument, they are unable to show that their situation is similar to the conditions and circumstances of the other bus stops and routes that they have cited. Each of the bus stops that Appellants reference has issues unique to the stop that must be analyzed individually under the policy and regulations. The local board has explained how the cited bus stops differ from the Appellants' scenario. We find no basis for the discrimination claim.

### *Allegations of Arbitrariness*

In a related but slightly different argument, the Appellants maintain that the school system applied its policy and regulations arbitrarily. The school system evaluates each bus stop request on its own merit, independently of other bus stop requests. There are a variety of criteria that guide the decision making process and various exceptions to those criteria that can affect the decision. Exceptions include factors such as sight distance, traffic volume, traffic speed, road width, road composition, walkways, and more. (*See* A.R. EEAC). Thus, for each bus stop, there are specific reasons why certain criteria or exceptions may apply, consistent with the flexibility of the administrative regulation. For example, the local board explained that CCPS routing practice attempts to avoid bus backing-up maneuvers whenever practical and possible, but there are times when backing-up must be utilized for efficiency and student ride time.

In our view, engaging in decision making in this manner does not result in arbitrary decisions, rather it results in individualized decisions made within the confines of the policy and regulation. Here, the local board has provided reasonable explanations for the denial of the Appellants' request. We do not find that the local board engaged in arbitrary application of the policy and regulation.

### *Newly Created Bus Turnaround*

After the briefing in the State Board appeal concluded, the Appellants filed information stating that they installed a bus turnaround on their property to resolve CCPS's concerns about backing-up. We agree with the local board's statement in its decision that the CCPS Transportation Department will have to evaluate any such change because no turnaround existed when the local board rendered its decision. If the Appellants so choose, they may submit a new bus stop request to CCPS.

CONCLUSION

For the reasons stated above, we do not find the local board's decision to be arbitrary, unreasonable or illegal. We affirm the local board's decision to deny the Appellants' request to create a new bus stop at their residence.

Signatures on File:

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Justin M. Hartings  
President

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Stephanie R. Iszard  
Vice-President

\_\_\_\_\_  
Gail H. Bates

\_\_\_\_\_  
Vermelle D. Greene

\_\_\_\_\_  
Jean C. Halle

\_\_\_\_\_  
Rose Maria Li

\_\_\_\_\_  
Joan Mele-McCarthy

\_\_\_\_\_  
Michael Phillips

\_\_\_\_\_  
Warner I. Sumpter

Absent:  
Clarence C. Crawford  
David Steiner

May 21, 2019