

SHANE AND KIMBERLY  
G.,

Appellants,

v.

CARROLL COUNTY  
BOARD OF EDUCATION

Appellee.

BEFORE THE  
MARYLAND  
STATE BOARD  
OF EDUCATION

Opinion No. 20-20

## OPINION

### INTRODUCTION

Shane and Kimberly G. (“Appellants”) appeal the decision of the Carroll County Board of Education (“local board”) denying their second request for the creation of a bus stop at their residence. The local board filed a Memorandum in Response to Appeal maintaining its decision is not arbitrary, unreasonable, or illegal and should be affirmed. The Appellants responded and the local board replied.

### FACTUAL BACKGROUND

The Appellants reside at [REDACTED] Harvey Yingling Road in Manchester, Maryland. When they moved to their home, their road was not paved and their only bus stop option was located at the intersection of RT30 and Harvey Yingling Road, 0.7 miles from their residence. Under Carrol County Public Schools (“CCPS”) Administrative Regulation EEAC on Bus Routes and Stops (“CCPS AR”), parents may submit requests for the creation of a new bus stop. (Response, Ex. 6). Once Appellants’ road was paved, in 2018 they submitted a bus stop survey to the CCPS Transportation Department asking for a bus stop closer to their home, and one not located on RT 30 which they claim is heavily trafficked with a 50 mph speed limit. (Appeal, p. 2). CCPS AR 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 address safety concerns. Overall, transportation staff design the bus stops and routes to maximize safety, adequacy, efficiency and economy. (Response, Ex. 6).

Appellants’ 2018 request for a bus stop eventually made its way to the local board, which denied the request on January 19, 2019. The local board upheld CCPS’s denial because the Appellants’ home was located within the allowable walking distance to the existing bus stop; the existing bus stop and the bus stop walking route were deemed safe; there were safety concerns regarding inadequate width of Harvey Yingling Road; and the new request would have required a backing-up maneuver deemed not to be safe under the circumstances. The local board found that the decision complied with CCPS policies and administrative regulations. The State Board affirmed the local board’s decision on May 21, 2019. *See Shane and Kimberly G. v. Carrroll County Bd. of Educ.*, MSBE Op. No. 19-22 (2019). The Board acknowledged that Appellants

were intending to install a bus turnaround on their property, but noted that the turnaround would need to be evaluated and submitted as a new request to CCPS. *Id.*

Appellants installed a turnaround area on their property, at their own expense, located 0.6 miles from the current bus stop located at Harvey Yingling Rd. and RT 30. (Appeal, p. 8). According to Appellants, the turnaround area was “leveled, filled with asphalt millings, and then compacted with a professional grade roller to create a solid surface” and was “made to replicate the size of current bus turnaround areas.” *Id.*, p.3. On August 10, 2019, Appellants sent an email to the members of the local board, the Superintendent, and Carroll County Commissioner Richard Weaver formally requesting another review of their request for the creation of a new bus stop at their residence. (Response, Ex. 2).

In response to Appellants’ request, the Superintendent directed the Bus Driver Trainer, Area Supervisor of Transportation, Director of Transportation, and Chief Operating Officer to review the request. All of them unanimously concluded that the proposed bus stop would be less safe than the current one. (Response, Ex. 3). Additionally, the Superintendent engaged a representative of the National Association of State Directors of Pupil Transportation to conduct an independent review of the requested bus stop. (Response, Exs. 3, 5). H. Leon Langley, Assistant Director of Montgomery County Public Schools Department of Transportation, conducted the independent review.<sup>1</sup> He visited the bus stop location, assessed the current route and the proposed route, took measurements, made observations, and considered the CCPS AR regarding Bus Stops and Routes. In his review, Mr. Langley cited concerns about the proposed bus stop, finding it to be problematic because the road is narrow and without shoulders for pullovers, and it would require the bus to make a right-hand turn onto RT 30, which is unsafe due to “limited sight distance.” (Response, Ex. 5.) Mr. Langley concluded that the current bus route was “the safest route and [met] all Carroll County Public Schools established policies, procedures and regulations.” *Id.*

The Superintendent shared the results of the independent review with Appellants on August 30, 2019. (Response, Exs. 5, 7). The Superintendent stated that “[b]ased on Mr. Langley’s independent assessment, unless the referenced section of Harvey Yingling Rd. were widened, or the referenced intersection of Harvey Yingling Rd. were modified to improve line of sight and an acceleration lane, I am unable to safely alter the existing bus route.” *Id.*

Appellants responded to the Superintendent that they had contacted the Maryland Department of Transportation State Highway Administration (“MDOT SHA”) to conduct its own site visit. According to Appellants, MDOT SHA determined that the proposed bus stop met and exceeded all state safety regulations.<sup>2</sup> (Response, Ex. 8). The Superintendent replied that he was maintaining his position that the current stop provided a “better site distance and road apron allowing a stopped school bus to safely merge on Md. Rt. 30.” (Response, Ex. 9).

Appellants appealed the Superintendent’s decision to the local board on October 4, 2019. (Response, Ex. 11). On December 11, 2019, the local board affirmed the decision of the Superintendent denying the proposed bus stop finding that there was no basis in the record to reverse the Superintendent. (Response, Ex. 13).

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<sup>1</sup> Mr. Langley was Director of Transportation for the Maryland State Department of Education before he was hired by Montgomery County Public Schools.

<sup>2</sup> Appellants did not submit any reports of affidavits from MDOT SHA to support these claims.

This appeal followed.

### 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

Appellants claim that the CCPS decision to deny the creation of a new bus stop was arbitrary, unreasonable or illegal. Appellants base their claim, in part, on assertions that CCPS does not consistently enforce the bus stop regulations. To support this argument, they compare their request for a new bus stop to requests for the same by others, citing neighbors who they claim were granted new bus stops by CCPS in similar situations. (Appeal, p. 5). Appellants also argue that the "safety reasons" relied on by CCPS to deny the request is contradicted by CCPS allowing the creation of other new bus stops that may have had similar issues, such as buses traveling on narrow roads and making right turns onto State roads. (*Id.* pp. 5-7).

The State Board expressly rejected this line of argument in its first opinion in this matter when it stated:

"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."

*See Shane and Kimberly G. v. Carroll County Bd. of Educ.*, MSBE Op. No. 19-22 (2019). This same analysis applies here and is controlling in this matter.

Appellants also claim that their proposed bus stop should be approved because it meets and exceeds all Maryland safety regulations per MDOT SHA. Although Appellants maintain that MDOT SHA advised them that the roadway and acceleration lane meet state safety regulations, Appellants did not submit any report or affidavit from MDOT SHA to support this claim.

The State Board gives great deference to the local boards' decisions in transportation disputes. *See Scott T. v. Anne Arundel County Bd. of Educ.*, MSBE Op. No. 14-05 (2014); *Herron, et al. v. Harford County Bd. of Educ.*, MSBE Op. No. 12-10 (2012); *Robinson v. Board of Educ. of Howard County*, 7 Ops. MSBE 1296 (1998). The record evidence relied upon by the local board reflects that five separate experts, one of whom was independent of CCPS, found the proposed bus route to be less safe than the current route. These experts, consisting of the Bus Driver Trainer, the Area Supervisor of Transportation, the Director of Transportation, the Chief Operating Officer, and Mr. Langley all unanimously agreed with this fact. Further, CCPS's review of Appellant's request demonstrates a comprehensive and objective process designed to reach a reasonable decision.

Although Appellants claim that CCPS inconsistently applies their policies and regulations by "picking and choosing" which "students are protected and which are not" and changing reasons to deny the requests for creation of a new stop in an "arbitrary way", they do not offer evidence to support their claim. Absent evidence that the local board's policies do not comply with State law and regulations or that the local board failed to follow their procedures, the State Board generally upholds the local board's decision. *Scott T. v. Anne Arundel County Bd. of Educ.*, *supra*.

## 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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Warner I. Sumpter  
President

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Jean C. Halle  
Vice-President

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Gail H. Bates

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Clarence C. Crawford

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Charles R. Dashiell, Jr.

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Vermelle D. Greene

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Justin M. Hartings

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Rose Maria Li

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Rachel McCusker

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Joan Mele-McCarthy

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Lori Morrow

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Michael Phillips

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David Steiner

May 27, 2020