

KARI B.,

Appellant

v.

ANNE ARUNDEL COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 23-19

OPINION

INTRODUCTION

Appellant, Kari B., challenges the decision of the Anne Arundel County Board of Education (“local board”) withdrawing her daughter, Student A, from Anne Arundel County Public Schools (“AACPS”) based on lack of *bona fide* residency in Anne Arundel County. The local board responded to the appeal maintaining that its decision was not arbitrary, unreasonable, or illegal.

FACTUAL BACKGROUND

For the 2022-2023 school year, Student A was an 11th grade student at ██████ High School (“█HS”) until she was withdrawn from AACPS and transferred to Calvert County schools following the local board decision in this matter. Prior to her transfer, Student A attended school in the ██████ attendance area for many years. On December 23, 2021, the Appellant, Student A’s mother, purchased a home in North Beach, Maryland, located in Calvert County (“Calvert County Property”). It is undisputed that Appellant and Student A reside at the Calvert County Property. Student A’s parents are divorced, and Student A’s father resides in Florida. The Appellant’s mother and Student A’s grandmother, resides with her husband on ██████ Court in Annapolis, Maryland, located in the █HS attendance area.

For the 2022-2023 school year, the Appellant completed Student A’s emergency card and indicated that she and Student A lived at ██████ Court, Arnold, Maryland, located in the █HS attendance area. The Appellant was not living at the Arnold property and does not have any recent connection. On November 9, 2022, AACPS received a Bullying, Harassment, or Intimidation Reporting Form involving Student A. The form alleges that Student A had been involved in cyberbullying another female who was being homeschooled. The victim of the alleged bullying was interviewed and advised █HS that Student A does not reside in Anne Arundel County and traveled to school from Calvert County.

█HS staff investigated this claim and the Appellant admitted that she resides in Calvert County with Student A. The Appellant stated that Student A’s grandmother, who lives in the █HS attendance area, is Student A’s unofficial guardian. The grandmother does not have legal custody or guardianship of Student A. The grandmother states that Student A is at her house

regularly and that Student A has a room at her house with clothes for “when her mother is working or away for business.” (R. 68).

On November 10, 2022, the principal of ■HS sent a withdrawal letter and residency appeal form to the Appellant. The letter advised Appellant that Student A would be withdrawn on November 21, 2022. The letter also advised that Student A should be enrolled in ■■■■■ High School in Calvert County based on the Appellant’s Calvert County residency.

On November 17, 2022, the Appellant filed a residency appeal form listing the Calvert County Residence as her address. She requested that AACPS allow Student A to remain enrolled to finish her junior and senior years at ■HS because she works long hours as a single parent to support Student A and Student A’s grandmother has always been an “unofficial guardian” for Student A by helping with homework, providing transportation to school, after school activities, and doctors’ appointments. (R. 66).

Laurie Jones, the Coordinator of Pupil Personnel (the “Coordinator”) contacted the Appellant and advised Appellant that based on her admission that she lived in Calvert County, AACPS does not permit children to establish residency separate from their parents or legal guardians. The Coordinator offered three options to the Appellant and Student A’s father: (1) pay non-resident tuition in the amount of \$9,665; (2) rescind the appeal and withdraw Student A to enroll at the new zoned home school; or (3) continue the appeal. The Coordinator prepared a Verification Findings and Disposition writeup detailing the facts of the residency investigation.

Initially the Appellant rescinded her appeal but then she reinstated the Appeal. From November 17, 2022, through December 7, 2022, the Appellant and Student A’s father, engaged in a series of email communications with the Coordinator and the Director of Student Services. Student A’s father advised that he owned property in the ■HS attendance area. The Coordinator advised him that if he moved back to the ■HS area, two unannounced home visits could be scheduled to verify Student A’s residence with him. Student A's father never provided an Anne Arundel County address.

By letter dated December 7, 2022, Sarah S. Eagan, Assistant Superintendent acting as the Superintendent’s Designee, responded to the residency appeal and denied the appeal. She stated as follows:

The Board of Education Policy JAB (900.01) follows Maryland education law, which provides that a public school student “shall attend a public school in the jurisdiction where the child is domiciled with the child’s parent or guardian.” At this time, your letter provides insufficient evidence that the family resides in the attendance area for ■■■■■ High School; therefore, I am denying your appeal.

(R. 136).

On January 4, 2023, the Appellant appealed the Designee’s decision to the local board. The Appellant argued that Student A should be permitted to remain at ■HS for the remainder of her 11th and 12th grade years because the Appellant’s work schedule makes it hard for her to care

for her daughter, Student A’s father resides in Florida, and Student A lives with her grandmother most of the time. The local board conducted a hearing on the record.

By Opinion and Order issued on March 10, 2023, the local board affirmed the decision of the Designee finding that the Appellant and Student A were not *bona fide* residents of Anne Arundel County. The local board stated:

According to all records and accounts, including the Appellant’s own admission, they reside in Calvert County. While it is alleged that the Student’s grandmother is her “guardian” there is no evidence that she is the legal guardian or even that the Appellant has initiated the court proceedings for transferring legal guardianship. Nor is there any evidence of a significant family hardship that would support a kinship care or hardship care arrangement....Simply put the Student is not a *bona fide* resident of Anne Arundel County and must either be withdrawn from AACPS promptly and enrolled in the proper school system, or the Appellant must make appropriate arrangements to pay non-resident tuition and meet any other out-of-county enrollment requirements.

(R. 167). Per the decision the Appellant was given the option to pay non-resident tuition for Student A to remain enrolled in ■HS for the remainder of the 2022-2023 school year or to transfer to the appropriate Calvert County school as soon as possible following the March 10, 2023, decision. The Appellant chose to enroll Student A in Calvert County schools for the remainder of the 2022-2023 school year.

This appeal to the State Board followed.

STANDARD OF REVIEW

Local board decisions of *bona fide* residency are decisions involving a local policy or a controversy and dispute regarding the rules and regulations of the local board. Such decisions are considered *prima facie* correct. The State Board will not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. COMAR 13A.01.05.06A. A local board decision is arbitrary or unreasonable if “it is contrary to sound educational policy” or if “a reasoning mind could not have reasonably reached the conclusion the local board or local superintendent reached.” COMAR 13A.01.05.06B.

LEGAL ANALYSIS

State law invests local boards with the authority to determine the geographical boundaries of the schools in its jurisdiction. Md. Code Ann., Educ., 4-109(c). The local board has determined its boundaries and requires students to attend the school serving the attendance area in which their parents or guardians have *bona fide* residency, unless one of the enumerated exceptions applies. Policy 900.01(C). “*Bona fide* residence” is defined as “the actual place of residence the student maintains in good faith with the student’s parent(s)/guardian(s) or care takers who intend to reside in the actual place of residency permanently.” Regulation 900.01(C)(3). The policy further requires that proof of the guardian relationship must be established by “court order, divorce decree, or other legal documentation.” Regulation

900.01(D)(1)(c). The policy places the burden of proof to establish residency on “the child’s parent(s)/guardian(s).” Regulation 900.01(C)(3).

It is undisputed that Appellant and Student A reside at the Calvert County Property. The Appellant purchased the Calvert County residence in December of 2021 during Student A’s sophomore year. The fact that Student A occasionally stays with her grandmother who has a residence in the ■HS attendance area does not alter the fact that the Appellant and Student A are Calvert County residents. The record fails to establish that Student A’s grandmother is the legal guardian of Student A within the meaning of the policy.

The record supports the conclusion that the school system followed its policy and procedures and provided the Appellant “with a fundamentally fair process to determine whether residency has been misrepresented prior to depriving that student of their right to attend school” within its jurisdiction as required by our precedent. *See Autumn S. v. Anne Arundel County Public Schools*, MSBE Op. No. 09-24 (2009). We find that the local board decision was not arbitrary, unreasonable, or illegal.

CONCLUSION

For all of the foregoing reasons, we affirm the decision of the local board.

Signatures on File:

Clarence C. Crawford
President

Susan J. Getty
Vice-President

Gail H. Bates

Chuen-Chin Bianca Chang

Charles R. Dashiell, Jr.

Rachel McCusker

Joan Mele-McCarthy

Joshua Michael

Lori Morrow

Warner I. Sumpter

Holly Wilcox

Absent:
Shawn D. Bartley
Jean Halle

June 27, 2023