

KRISTINE LOCKWOOD

Appellant

v.

HOWARD COUNTY
BOARD OF EDUCATION

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 17-42

OPINION

INTRODUCTION

Kristine Lockwood (Appellant) appeals the decision of the Howard County Board of Education (local board) to convene the Attendance Area Committee for the 2018-19 school year. The local board filed a Motion for Summary Decision. Appellant responded to the Motion and the local board replied.

FACTUAL BACKGROUND

The Howard County Public School System (HCPSS) has a process in place for considering adjustments to its school attendance areas, the geographic area from which a school's students are drawn.¹ Each year, HCPSS completes a feasibility study that contains projected student enrollment and potential school boundary adjustments. The local board considers attendance area adjustments when, for example, a new school is scheduled to open or school attendance area projections are outside their target utilization. HCPSS Policy 6010. The process begins with the local superintendent submitting the feasibility study and attendance area considerations to the local board for discussion. *Id.* At that point, the local board can decide whether to form the Attendance Area Committee (AAC). *Id.* The AAC is a committee comprised of community members appointed by the local superintendent and approved by the local board who "advise and comment on capacity needs and attendance area adjustments developed by staff." *Id.*

In reviewing potential attendance area adjustments, the local board, superintendent, and AAC must consider facility utilization, community stability, and demographic characteristics of the student population. *Id.* The board must hold a public hearing, or hearings, regarding the school attendance area adjustment plans submitted by the superintendent. *Id.* As part of this process, the local board may propose alternative plans. *Id.* The process ends with the local board taking final action on the recommendations, with the right to adopt or modify any alternatives proposed by the superintendent or local residents. *Id.*

The 2017 HCPSS Feasibility Study recommended adjusting school boundaries for elementary, middle, and high schools. According to the local board, HCPSS will open a new elementary school in August 2018. In addition, 33 of HCPSS's 73 schools are outside target utilization, defined as enrollment between 90 and 110 percent of the program capacity of a school facility. Based on these conditions, HCPSS staff began advertising for potential AAC

¹ <http://www.hcpss.org/school-planning/redistricting-process/>

members beginning in March 2017. (Motion).

On June 22, 2017, the local board voted to “proceed with the recommendation of the attendance area adjustment review for school year 2018-19.” That decision convened the AAC. (Motion). It is this decision that Appellant challenges.

While this appeal was pending, the AAC met eight times on various dates between June and August 2017. On August 22, 2017, the AAC developed a recommendation on possible attendance area adjustments for the superintendent. On October 3, 2017, the superintendent presented his recommendations on attendance area adjustments to the local board. The superintendent’s recommendations were designed to relieve overcrowding in the school system, account for the opening of a new elementary school, and align feeder patterns in middle schools.² Following the recommendation, the local board held public hearings and work sessions on the recommendation. On Nov. 16, 2017, the local board decided to revise elementary and middle school attendance areas for the 2018-19 school year, including populating a new elementary school and realigning middle school feeder patterns in conjunction with the elementary attendance areas.³

STANDARD OF REVIEW

We have previously ruled that a local board’s determination of geographic attendance areas and its decision to pursue a boundary study are quasi-legislative in nature. *See Residents of the Hampshire Greens Community v. Montgomery County Bd. of Educ.*, MSBE Op. No. 05-13 (2005). This Board reviews such quasi-legislative decisions for legality, but does not substitute its judgment for that of the local board. *See Hampshire Greens Community (II) v. Montgomery County Bd. of Educ.*, MSBE Op. No. 08-10 (2008) (citing *Bernstein v. Board of Education of Prince George’s County*, 245 Md. 464, 476 (1967)).

LEGAL ANALYSIS

This appeal challenges only the local board’s June 22, 2017 decision to convene the AAC, not the final decision to make changes to elementary and middle school attendance areas made by the local board at its November 16, 2017 meeting.

Standing

In order to bring an appeal, an Appellant must have standing. The general rule on standing is that “for an individual to have standing, even before an administrative agency, he must show some direct interest or ‘injury in fact, economic or otherwise.’” *Adams v. Montgomery County Bd. of Educ.*, 3 Op MSBE 143, 149 (1983). *See also Harford County Arts and Culture Alliance v. Harford County Bd. of Educ.*, MSBE Op. No. 16-48 (2016) (citing cases). This showing of a direct interest or injury in fact requires the individual be personally and specifically affected in a way different from the public generally and is, therefore, aggrieved

² <http://www.hcpss.org/news-posts/2017/10/interim-superintendent-presents-proposed-recommendations-to-address-school-overcrowding/>

³ <http://www.hcpss.org/news-posts/2017/11/board-of-education-takes-action-on-attendance-area-adjustments-for-2018-2019-school-year/>

by the final decision of the administrative agency. *See Bryniarski v. Montgomery County Bd. of Appeal*, 247 Md. 137, 144 (1967).

Appellant does not state whether she is a parent of a student in the school system or otherwise has a direct interest in the local board's decision different from the public generally. The local board has not, however, challenged Appellant's standing to bring this appeal. For purposes of this decision, we shall assume that Appellant has standing to challenge the local board's decision.

The local board's decision

Appellant's appeal is sparse and contains little in the way of facts or legal argument. She primarily argues that the local board's decision to convene the AAC was unreasonable "because they based their decision on incorrect data in the feasibility study." (Appellant's Response).

As evidence, Appellant offers an August 11, 2017 letter written by two Howard County Councilmembers, Jennifer Terrasa and Dr. Calvin Ball. The letter raises concerns that proposals included in the 2017 HCPSS Feasibility Study did not "meet the community goals of inclusion and diversity" or HCPSS policies encouraging diverse and inclusive student bodies. The councilmembers argue that some schools that already have a high percentage of students receiving free and reduced price meals might see an even higher increase in the number of those students. They contend that HCPSS is not giving proper weight to the issue of diversity in deciding school attendance boundaries, and the county is in danger of being segregated both racially and economically. Additionally, the councilmembers observe that HCPSS used incorrect data to calculate the number of students who qualify for free and reduced price meals in the county, which could further lead to a lack of diversity across schools. The councilmembers acknowledge, however, that HCPSS has since provided corrected data to the AAC. (Appellant's Response, Ex. 2).

To prevail in her appeal, Appellant must show that the June 22, 2017 decision of the local board to convene the AAC was illegal. The only evidence she offers is the councilmembers' letter, which was written nearly two months after the local board made its decision to convene the AAC. The letter criticizes the school system's data (which was ultimately corrected) and questions the school system's commitment to diversity. The letter, however, does not demonstrate in any way that the local board acted illegally by convening the AAC. We have consistently held that an Appellant must support allegations of illegality with factual evidence. *See King v. Baltimore City Bd. of Sch. Comm'rs*, MSBE Op. No. 14-19 (2014). Appellant has not done so here.

In addition, Appellant argues that the local board committed fraud by misleading the public "into believing the attendance area review was a minor review for the purpose of adjusting boundaries for a new elementary school." She maintains that the local board "allowed this misinformation to remain in place until after they had completed the feasibility study." The local board has provided several advertisements, news releases, and other materials recruiting citizens for the AAC. (Motion, Ex. 2-6). Although the advertisements mention the opening of a new elementary school, there is no reference to the review being a "minor" one. Even assuming, for the sake of argument, that the school system implied that the review was "minor," we find no evidence that by such a statement the local board committed fraud or otherwise acted illegally.

Finally, Appellant argues that the “timing of the action taken on June 22 is not appropriate because the board is currently out of compliance with laws intended to create equitable situations. Before the board plans redistricting, the superintendent and board members should bring themselves into compliance with equal opportunity laws. Otherwise, the superintendent and board members are likely to create more inequitable situations.” (Appeal). Appellant does not elaborate on what laws are at issue or how the local board violated them. As we have often stated, the State Board is not required to make an Appellant’s arguments for her on appeal. *See Somers v. Prince George’s County Bd. of Educ.*, MSBE Op. No. 10-13 (2010) (quoting *Van Meter v. State*, 30 Md. App. 406, 408 (1976)). We decline to do so in this case.

CONCLUSION

For all of these reasons, we affirm the decision of the local board because it is not illegal.

Signatures on File:

Andrew R. Smarick
President

Chester E. Finn, Jr.
Vice-President

Michele Jenkins Guyton

Justin Hartings

Stephanie R. Iszard

Rose Maria Li

David Steiner

Absent:
Michael Phillips
Irene M. Zoppi Rodriguez

December 5, 2017