

SUSANNE C.,

Appellant

v.

ANNE ARUNDEL COUNTY  
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 19-28

## OPINION

### INTRODUCTION

Susanne C. (Appellant) appeals the decision of the Anne Arundel County Board of Education (local board) denying her request for school bus transportation to and from her son's school. The local board filed a memorandum in response to the appeal, maintaining that its decision is not arbitrary, unreasonable, or illegal. The Appellant did not respond to the memorandum.

### FACTUAL BACKGROUND

The Appellant resides on East Maple Road in Linthicum Heights, Maryland. Her son attends sixth grade at Lindale Middle School (LMS). LMS is 0.98 miles from the Appellant's residence. (Douglas Letter, 8/16/18). Under Anne Arundel County Public Schools (AACPS) Regulation EAA-RA, middle and high school students living within one and one-half miles of their assigned school are not eligible for bus transportation. Consequently, the Appellant's son walks the distance to LMS.

By letter dated August 15, 2018, the Appellant advised the local board that her son's walking route to school had unsafe walking conditions and requested that her son and other students residing in the area be permitted to ride the bus to school instead of walking. The Appellant explained that on the walking route, her son would have to walk to the intersection at Maple and Camp Meade Road, cross it, proceed to the Royal Farms Store on Camp Meade, cross the light rail tracks, proceed down a "darkened, fenced, tree and foliage covered path," emerge on Hammonds Ferry, and then cross Andover Road to get to the school. The Appellant further explained that she had observed illegal and offensive incidents during the times her son would be walking the route, including drug use, public urination, panhandling, high and passed out drug addicts, public altercations with profanities being shouted, loitering, and rummaging through trashcans. As a remedy, the Appellant proposed that her son be allowed to ride the school bus that stops one block from her residence on East Maple Road. (Coleman Letter, 8/15/18).

The Supervisor of Transportation for Anne Arundel County denied the Appellant's request for bus transportation, maintaining that the walking route is safe. He explained that a Transportation Specialist had walked the route on several occasions and noted that there are traffic lights and crossing guards on the roads, a paved path across the light rail tracks, and a

crossing guard to help students cross the tracks. Additionally, the Specialist noted that the “darkened, fenced, tree and foliage covered path” is not a covered path and that there are “many houses along the trail.” (Douglas Letter, 8/16/18). In an August 31st correspondence, the Supervisor explained that Superintendent Dr. George Arlotto also visited the route on August 17 with Delegate Pam Beidle, a member of the police department, and Thelma Swigert, Crossing Guard Manager, and determined that it is a suitable walking route. (Douglas Letter, 8/31/18).

The Appellant then appealed the denial of her request to Superintendent Dr. Arlotto, who assigned the matter to his designee, Alex Szachnowicz, Chief Operating Officer. On October 15, 2018, Mr. Szachnowicz upheld the denial, finding that the Supervisor of Transportation followed the proper procedure under Regulation EAA-RA. He stated that the walking route does not require crossing an “active, high-speed, at-grade railroad crossing” (Section D.7) or walking “through or along an isolated wooden area.” (Section D.8). To the contrary, he stated that the walking route only requires the crossing of the light rail tracks where it is “specifically designed, engineered, constructed, and permitted by Federal and State officials as a purposeful and regulated pedestrian crossing zone.” He further stated that there is no isolated wooden area because the “walk path in question is neither isolated nor wooded in a manner as to obscure visual observations or create a tunneling effect.” (Szachnowicz Letter, 10/15/18).

The Appellant appealed to the local board. On April 23, 2019, the local board affirmed the denial of the Appellant’s request for bus transportation. The local board found that the existing “AACPS procedures are in compliance with the current requirements of both law and Board policy.” The local board further found that the Appellant resides within the one and one-half mile radius of the school and that none of the safety exceptions set forth in its regulations apply. (Local Board Decision).

This appeal followed.

### STANDARD OF REVIEW

Because this appeal involves a decision of the local board involving a local policy, the local board’s decision is considered *prima facie* correct, and the State Board may not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. COMAR 13A.01.05.06A.

### LEGAL ANALYSIS

The Appellant argues that the local board’s decision to deny her son bus transportation is arbitrary or unreasonable because AACPS could address her safety concerns at no additional cost by allowing her son to board the bus at the already existing bus stop one block away from her residence.

Maryland State regulations provide that local school systems are responsible for the safe operation of their transportation system, must comply with all State procedures and guidelines, and may adopt policies and procedures which exceed the State’s minimum requirements. COMAR 13A.06.07.03. Additionally, State law allows the use of a school bus to transport any student who lives within the mileage limit if: (1) the school bus is not filled to capacity; (2) no additional bus stop is added to the route to transport the student; and (3) the transportation officer or his designee has identified a specific existing hardship that would justify allowing the student to be transported. Md. Educ. Art. §7-805.

In accordance with State law and regulations, the local board adopted Regulation EAA-RA, which provides that middle and high school students living within one and one-half miles of their assigned school are not eligible for bus transportation. Regulation EAA-RA also sets forth specific safety-related exceptions to the one and one-half mile limit, including where:

4. ... a suitable walkway between their homes and their assigned schools is not available...
5. Students [would] be required to walk more than three tenths of a mile to or from school along a road having shoulder of less than three feet and a posted speed limit in excess of 40 miles per hour.
6. Students [would] be required to walk across a divided state highway or any divided highway involving a safety hazard as determined by the Transportation department.
7. Students [would] be required to walk across an active high-speed, at-grade railroad crossing or a bridge, tunnel, or overpass having inadequate walkways.
8. Students [would] be required to walk through or along an isolated wooded area when going to and from school.

Further, under Board Policy EA, Regulation EA-RA, Policy EAD, and Regulation EAD-RA, the Transportation Division of the local school system is responsible for implementing transportation procedures, including ensuring that students who are eligible for transportation services receive them, as well as approving services for students who meet the criteria for any exception set forth in Regulation EAA-RA.

Consistent with the law and regulations, after evaluating the walking route at issue here, the local Supervisor of Transportation determined that the Appellant's son was not eligible to ride the bus because the walking route was safe and none of the safety-related exceptions in Regulation EAA-RA applied. Thus, even though there may have been a bus with the capacity for the student at an existing bus stop, the Supervisor did not find a "specific existing hardship" that would allow Appellant's son to ride the bus. The Superintendent and the local board concurred.

The Appellant's burden on appeal is to show by a preponderance of the evidence that the local board erred in upholding the decision not to allow the Appellant's son to ride the bus. *See* COMAR 13A.01.05.06D. Appellant has not met that burden here. The local board acted consistent with State and local regulations. 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). We point out that not only the Transportation Specialist, but the Superintendent, a State Delegate, a policeman and the Crossing Guard Manager walked the route and found it to be a safe, walkable route. Absent evidence that the local board's procedures 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.*, MSBE Op. No. 14-05 (2014).

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 Appellant's request for bus transportation.

Signatures on File:

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Warner I. Sumpter  
President

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Gail H. Bates

\_\_\_\_\_  
Clarence C. Crawford

\_\_\_\_\_  
Justin M. Hartings

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

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

\_\_\_\_\_  
David Steiner

Dissent:

Jean C. Halle, Vice-President

Vermelle D. Greene

Rose Maria Li

August 27, 2019