

WILLIAM AND CHIVONNE P.,

Appellant

v.

CHARLES COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 23-04

OPINION

INTRODUCTION

William and Chivonne P. (“Appellants”) are the parents of a high school student in Charles County Public Schools (“CCPS”). They appeal the decision of the Charles County Board of Education (“local board”) to uphold the denial of their request that their child remain in a Career Technical Education (“CTE”) program at North Point High School, or in the alternative, be granted a transfer request to the school for the remainder of the 2022-2023 school year. The local board filed a Memorandum in Response. Appellants responded, and the local board replied.

FACTUAL BACKGROUND

At the beginning of the 2021-2022 school year, Appellants’ child was enrolled as a ninth grader in the Academy of Health Professions program at North Point High School – a CTE program. The student attended the school for the sole purpose of participating in the CTE program, as North Point High School was not their zoned school. In order to gain entrance to the program, the student had to apply, be admitted, and sign both an Acceptance Contract and Program Contract.

On April 7, 2021, the student and mother signed the Acceptance Contract. One of the provisions of the Acceptance Contract states, “Once accepted, if I decide to drop my CTE program and/or I fail any of my CTE program courses, I will be withdrawn from the program and North Point High School at the conclusion of the school year. I will be required to enroll in my zoned high school for the next school year.” (Local Board, Ex. 4). On the same date, the student and mother also signed the Program Contract, which stated in part:

“[A]ll of the clinical settings require the student to abide by all of the facilities’ existing policies and procedures.

The following represent a sample of the policies and procedures that the facilities mandate. However, this is not an exhaustive list.

...

- Complete annual Influenza Vaccinations
- Maintain up to date vaccinations – including COVID Vaccination as it becomes approved for the student’s age...

...

By accepting the offer to enroll in the North Point Academy of Health Professions Program, the parent (or legal guardian) and student are agreeing to abide by all of the requirements set forth by the program including the policies and procedures established by the clinical settings.”

(Local Board, Ex. 5).

On August 31, 2021, North Point High School entered into an agreement with the University of Maryland Charles Regional Medical Center (“UMCRM”) to provide clinical experiences for students enrolled in the Academy of Health Professions program. North Point agreed to abide by all existing policies and procedures of the UMCRM. On September 22, 2021, the parties signed an addendum to the agreement, which provided in part that the school provide UMCRM with documentation for each student of a current COVID vaccination to be completed 14 days prior to the beginning of the scheduled clinical experience. (Local Board, Ex. 6).

The student’s clinical experiences were not scheduled to begin until their second year of high school in 2022-2023. In preparation for the clinical work and required vaccinations, the Appellants met with the principal of North Point High School in June 2022 to ask for a religious exemption for the COVID-19 vaccination, all subsequent boosters, and the influenza vaccination. While the record is scant on details, it appears that the Appellants were told that no exceptions could be made to the policy, and if they did not wish to comply with the vaccination requirements, they must withdraw their student from the CTE program and North Point High School. (Local Board, Ex. 7).

On June 24, 2022, Appellants submitted a letter to Ms. Linda Gill, Executive Director of Schools, appealing the decision of North Point High School to force the student’s withdrawal and not grant a religious exemption. Appellants also requested that if their student could not remain in the program that the student be allowed to enter a different CTE program at North Point High School. (Local Board, Ex. 7).

On July 11, 2022, Ms. Gill sent a letter to the Appellants upholding the principal’s decision to withdraw the student from the program. Ms. Gill reasoned that since UMCRM required the vaccinations, CCPS could not offer an exemption. Furthermore, without the clinical experience, the student would not meet the CTE requirements set out by the Maryland State Department of Education. Ms. Gill also denied the Appellants’ request for their student to be enrolled in another CTE program at North Point. She explained that either the programs were already fully enrolled or the student had not expressed a strong interest in the career pathway. Ms. Gill informed Appellants that their student would return to their zoned high school for the 2022-2023 school year. Ms. Gill informed Appellants they could submit a School Change Request to determine if their student could obtain an out of boundary school without a CTE placement. (Local Board, Ex. 8).

On July 26, 2022, Appellants submitted a School Change Request from their boundary school to North Point High School. Appellants argued their student was unfairly forced to withdraw from the CTE program, and they noted the student was active in the school community and extracurricular activities. They argued that denial of their request would be punishing the student for their religious belief. (Local Board, Ex. 9).

On August 8, 2022, Ms. Kathy Kiessling, Director of Student Services, sent a letter to Appellants denying their request. Ms. Kiessling explained that all requests were subject to Board Policy 5126 and Superintendent's Rule 5126. She stated that transfers are considered only if the requested school has adequate space to accommodate students outside attendance zones, if an academic course of study is not offered at the student's zoned school, or for unusual hardship. Ms. Kiessling explained that North Point High was at capacity and did not have space for their student. She provided Appellants with their appeal rights. (Local Board, Ex. 10).

On August 9, 2022, Appellants appealed the decision to require their student to withdraw from the CTE program, and subsequently North Point High School, as well as the denial of the School Change Request. Appellants argued they had spoken with several Medstar employees, as well as Medstar Human Resources, which confirmed medical and religious exemptions to their vaccination policies.¹ (Local Board, Ex. 11).

On August 18, 2022, Mr. Marvin Jones, Chief of Schools, sent a letter to Appellants denying their appeal of the School Change Request, finding the request did not meet the local board policy requirements. He provided Appellants with their appeal rights. (Local Board, Ex. 12).

On September 13, 2022, Appellants filed an appeal to the local board. In a subsequent October 3, 2022 letter, Appellants argued that CCPS did not have the authority to mandate vaccinations, the removal from the CTE program was discriminatory, and the hospital offered religious exemptions, which would allow the student to participate. (Local Board, Addendum).

On October 11, 2022, the local board issued its decision to uphold CCPS' denial of both Appellants' request to remain in a CTE program at North Point High School and the alternative request to approve a transfer to North Point for the remainder of the 2022-2023 school year. The local board reasoned that the student chose not to comply with the requirements of the CTE program; therefore, they forfeited their right to attend North Point. The local board explained that while CCPS did not have a COVID vaccination mandate, the mandate was a religion-neutral requirement of UMCRMC. Furthermore, the local board found Appellants were unable to provide a qualifying reason to grant a transfer request, and North Point High School was overcapacity.

This appeal followed.

¹ Appellants refer throughout the record to Medstar facilities. The local board contends that Medstar is not affiliated with UMCRMC or the student's proposed clinical setting.

STANDARD OF REVIEW

Decisions of a local board involving a local policy or a controversy and dispute regarding the rules and regulations of the local board shall be considered *prima facie* correct. 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. A decision may be arbitrary or unreasonable if it is (1) contrary to sound educational policy or (2) a reasoning mind could not have reasonably reached the conclusion the local board or superintendent reached. COMAR 13A.01.05.06B.

LEGAL ANALYSIS

Appellants appeal the decision of the local board to uphold the denial of the student's continued participation in the CTE program with a religious exemption for vaccinations, as well as the denial of their request for a transfer back to North Point High School. In support of their appeal, Appellants allege that CCPS does not have the ability to mandate vaccinations, and that the decision to deny the student a religious exemption was discriminatory and unconstitutional. Appellants also argue that the hospital where the student would complete their clinical experience allows for religious and medical exemptions for students. With respect to the denial of the school transfer, Appellants allege there should be space for their student to enroll due to the space created from the student's departure from the CTE program.

The local board in response maintains that Appellants have failed to prove the local board's decision was arbitrary, unreasonable, or illegal, and that Appellants merely disagree with the conclusions of the local board. Specifically, the local board argues that the vaccination requirements of the CTE program were set by the agreement with UMCRCM, and no exemptions were allowed in the agreement. Furthermore, the local board contends that regardless of whether CCPS had the authority to provide exemptions, the vaccination mandate was religion-neutral. The local board argues that Appellants were on notice of these vaccination requirements, as well as the consequences of failing to comply with the requirements, including withdrawal from the CTE program and North Point High School.

In response to the appeal of the transfer denial, the local board reiterates that it acted properly in accordance with Board Policy 5126 and Superintendent's Rule 5126. Specifically, it maintains that North Point High School was over capacity and Appellants failed to submit an allowable justification for the transfer.

Vaccination Requirements of the CTE Program

This Board must determine whether the local board's decision to uphold the student's withdrawal from the CTE program, by not granting a religious exemption to the vaccination requirement, is arbitrary, unreasonable, or illegal. A decision may be arbitrary or unreasonable if it is (1) contrary to sound educational policy or (2) a reasoning mind could not have reasonably reached the conclusion the local board or superintendent reached. COMAR 13A.01.05.06B. As held by the Maryland Court of Special Appeals, "Decisions contrary to law or unsupported by substantial evidence are not within the exercise of sound administrative discretion, but are arbitrary and illegal acts." *Hurl v. Bd. of Educ. of Howard Cnty.*, 107 Md. App. 286, 306 (1995) (quoting *Department of Health v. Walker*, 238 Md. 512, 523 (1965)).

In the case at hand, North Point High School entered into an agreement and addendum with UMCRMC requiring proof of student vaccinations, including influenza and COVID-19. The agreement and addendum were silent as to whether UMCRMC would grant exemptions for the vaccination mandate either for religious or other reasons. The local board would have us believe that the failure to include language outlining an exemption process is dispositive that no exemption was available to students. We disagree. The failure to include language about an exemption process could just as easily indicate that the parties did not discuss the issue. This seems likely given that the University of Maryland Medical System (UMMS) in June 2021 adopted a COVID-19 vaccination policy that allowed “team members and partners, including contractors, volunteers, and students who remain unvaccinated...to participate in weekly COVID-19 testing.” (Appellants’ Response, Press Release).

The local board merely includes a cursory statement that “CCPS was not provided any exceptions to this requirement.” (Local Board Reply, 2). The local board argues, without legal support, that while UMCRMC may have considered religious exemptions for its own employees, it was not obligated to do so for the North Point students. It does not automatically follow that since the parties did not proactively include language in the agreement about exemptions, neither UMCRMC nor CCPS were required to do so. While we decline to determine at this time whether CCPS or UMCRMC was required to make religious exemptions for the CTE program, we note that both the Education Article and Health - General Article bar compulsory immunization requirements for individuals with “bona fide religious beliefs and practices” in certain circumstances. *See* MD Code, Education, § 7-403(b) and MD Code, Health - General, § 18-403(a)(2).

To our dismay, it does not appear that CCPS staff attempted to contact UMCRMC to determine if there was an exemption process available for the student. The record is devoid of any evidence that CCPS took the minimal steps to investigate this matter, which may have been resolved by simply placing a phone call or sending an email to the program contact at UMCRMC. There was ample opportunity for such a communication, given the Appellants raised the issue at the end of the student’s first year of study. The fact that the student was removed from their program of study and school setting without any evidence of solution-finding is unconscionable.

A determination is arbitrary when it is made without consideration of or regard for facts or circumstances. *See* “Arbitrary”, Black’s Law Dictionary (11th ed. 2019). Given the totality of the facts, we find the local board’s decision to uphold the denial of the student’s continued participation in the CTE program to be unreasonable and arbitrary. In our view, the most reasonable and rational response to the Appellants’ request for an exemption would have been for CCPS to investigate the matter and determine UMCRMC’s full policies. Without any evidence of a discussion between CCPS and UMCRMC on the matter, one can reasonably infer that the actions of CCPS staff were borne out of expediency rather than a focus on the student’s educational interests. Given the impact on the student’s course of study and the disruption to the student’s educational placement, the local board’s decision is contrary to sound educational policy.

Transfer Request

Given our finding that the actions of CCPS staff were unreasonable and arbitrary, we need not address the denial of the Appellants' transfer request.

CONCLUSION

For the aforementioned reasons, we find the local board's decision to uphold the decision to remove the student from the CTE program without exploring a possible vaccination exemption was arbitrary and unreasonable. We reverse the local board's decision and remand for timely action consistent with this opinion.

Signatures on File:

Clarence C. Crawford
President

Susan J. Getty
Vice-President

Chuen-Chin Bianca Chang

Charles R. Dashiell, Jr.

Vermelle D. Greene

Jean Halle

Rachel McCusker

Lori Morrow

Warner I. Sumpter

Holly Wilcox

Abstained:
Shawn D. Bartley

Absent:
Gail H. Bates
Joan Mele-McCarthy

February 28, 2023