

D.C. AND N.C.,

Appellant

v.

CARROLL COUNTY  
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 24-08

## OPINION

### INTRODUCTION

Appellants appeal the decision of the Carroll County Board of Education (“local board”) denying their request for transportation for their son to attend a voluntary out-of-district school placement, which is a Carroll County public school outside of the geographic attendance area where the Appellants currently reside. The local board filed a response to the appeal.<sup>1</sup> The Appellants responded, and the local board replied.

### FACTUAL BACKGROUND

The Appellants are the parents of Student X, and they reside in the [REDACTED] area. Student X was slated to start middle school at the beginning of the 2023-2024 school year at his assigned school, [REDACTED] Middle School (“SMS”). The Appellants, however, were in the process of building a home in Mount Airy and wanted Student X to start the 6<sup>th</sup> grade at the school he would eventually be attending once construction of their new home was done and the family moved to the Mount Airy attendance area.<sup>2</sup> Thus, on April 3, 2023, the Appellants requested an out-of-district transfer for Student X to attend Mount Airy Middle School (“MAMS”) in Carroll County. The out-of-district application contains a statement signed by the parent that states “I am aware that, if approved ... transportation to and from school is the sole responsibility of the parent/legal guardian....” (Appeal, Ex. 4). Appellants have indicated that they were able to provide transportation at the time they submitted the request because they were both working remotely on a full-time basis. Their ability to provide transportation later changed because the family has one car, and they had a change in work circumstances. (Appeal, Ex. 5, Attach. 3).

Student X receives special education services under the Individuals with Disabilities Education Act (“IDEA”) and has an individualized education program (“IEP”). (Appeal, Ex. 2). The transfer was not considered a change in placement made by the IEP team for special

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<sup>1</sup> The local board filed a motion for summary affirmance which we will treat as the local board’s memorandum in response to the appeal under COMAR 13A.01.05.03C. The regulation that permitted the filing of a motion for summary affirmance was eliminated when the State Board amended the regulations in 2019.

<sup>2</sup> The home was scheduled for completion in late 2023 to early 2024. (Appeal, Ex. 5, Attach.1).

education purposes because SMS was able to fully implement Student X's IEP. Rather, the Appellants requested the out-of-district transfer outside of the special education process in accordance with Policy and Administrative Regulation JEA (*Students Attending School Out-of-Attendance Area*) so that their son could attend the school serving the attendance area where they were building a home and intended to move. Policy JEA stipulates that transportation to the out-of-district school is the sole responsibility of the parent/guardian.

Appellants received notification from Steven C. Shoup, Pupil Personnel Worker, that their request for the out-of-district transfer for Student X was granted. (Appeal, Ex. 1). The school system approved the request because there was space available at MAMS, which is an open school under Administrative Regulation JEA. (Appeal, Ex. 4).

On July 24, 2023, the Appellants emailed the school inquiring about "transportation for special education students residing in the county, but attending a school beyond their zone" and asked whether Carroll County Public Schools ("CCPS") would be providing transportation for Student X to attend MAMS. (Appeal, Ex. 3). The Appellants' inquiry was referred to Chip Weaver, the Special Education Transportation Supervisor. On July 25, 2023, Mr. Weaver advised the Appellants that transportation is provided only to those students attending school in-district. *Id.* He explained that transportation services can be provided for Student X to attend SMS given that the family resides within that school's attendance area, and that transportation to MAMS can be provided to Student X once the family residence changes to the Mt. Airy district. *Id.* Mr. Weaver reiterated this information on July 31 in response to a follow-up inquiry from the Appellants. *Id.*

On August 2, 2023, the Appellants appealed Mr. Weaver's decision to the local superintendent, who referred the matter to her designee, Michael J. Hardesty, Director of Transportation Services. (Appeal, Ex. 5, Attach 1). The Appellants stated that they have one vehicle and would not be able to transport Student X to MAMS due to work constraints. *Id.* The Appellants expressed their desire to have Student X attend MAMS at the start of the school year so that once they move to the new home the mid-year school change would not disrupt Student X's special education instruction and daily routine. They were concerned the disruption would have a negative and lasting impact on him due to the severity and nature of his disabilities. *Id.*

On August 10, 2023, Mr. Hardesty, acting as the superintendent's designee, upheld Mr. Weaver's decision. (Appeal, Ex. 4). Mr. Hardesty advised the Appellants that, under the school system out-of-district policy, Student X was only entitled to transportation services to SMS, which is the regional middle school placement dictated by the family's current [REDACTED] address. *Id.* The approval for Student X to attend MAMS as an out-of-district student was based solely on the family's desire for him to attend the school serving the area of the new home. *Id.* The out-of-district transfer was not mandated through the special education process as provision of a free appropriate public education ("FAPE") was offered at SMS, Student X's home school while the family was still residing in the [REDACTED] area. *Id.* Mr. Hardesty also pointed out that even if the school system could arrange transportation for Student X, the ride times would be overly excessive making it logistically unreasonable. *Id.*

On September 8, 2023, Appellants appealed Mr. Hardesty's decision to the local board. By letter dated September 29, 2023, Jonathan D. O'Neal, Assistant Superintendent of

Operations, responded to the appeal on behalf of the superintendent. (Appeal, Ex. 5). Mr. O’Neal explained that the Appellants were conflating the issue of transportation under the out-of-district policy with transportation provided through the special education process. He stated that transportation would be provided to Student X if he attended SMS, which would eliminate the out-of-district issue. *Id.*

On November 8, 2023, the local board issued an order (with an opinion to follow) upholding the decision of the superintendent’s designee to deny transportation services to Student X while voluntarily attending an out-of-district school. (Appeal, Ex. 6). On December 13, 2024, the local board issued its written opinion memorializing that decision. (Appeal, Ex. 7). The local board explained that Student X was not entitled to transportation as a student receiving special education because his enrollment at MAMS was not a change in placement necessitated by his IEP. Rather, it was a change in schools initiated by the parents in accordance with Policy and Administrative Regulation JEA, which makes clear that transportation of students to and from a voluntary out-of-district placement is the responsibility of the parents. *Id.*

This appeal followed.

#### 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, 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. A decision may be arbitrary or unreasonable if it is contrary to sound educational policy, or if a reasoning mind could not have reasonably reached the conclusion of the local board. COMAR 13A.01.05.06B. The Appellants have the burden of proof by a preponderance of the evidence. COMAR 13A.01.05.06D.

#### LEGAL ANALYSIS

Student X attends MAMS through an out-of-district transfer requested by his parents. In CCPS, pursuant to Policy and Administrative Regulation JEA, parents are responsible for transporting their child to and from school when they voluntarily enroll their child in an out-of-district school. They are not entitled to school system transportation. That requirement is also set forth in the out-of-district application that was signed and submitted by the Appellants in this case, and there is no dispute that the Appellants were aware of this requirement. Decisions related to school system policy must be made with consistency and lack of ambiguity to avoid arbitrary decision-making. We do not find that the local board acted arbitrarily, unreasonably, or illegally in following its existing policy.

The Appellants’ arguments concerning transportation in this case confuse transportation requirements under the IDEA with the out-of-district attendance policy. These are separate and distinct processes that are not in conflict. As to the issue of transportation under IDEA, that issue is not properly before this Board. The State Board has long declined to extend its jurisdiction to resolve special education disputes because there are other existing forums available. *See Semere D. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 17-09 (citing cases). These specialized forums exist through the IDEA to resolve these complex and fact-intensive matters in a timely

fashion. To the extent that the Appellants believe their child is entitled to transportation as a related service under the IDEA, the Appellants may avail themselves of these dispute resolution options, including the State special education complaint process, mediation, and/or a due process complaint at the Office of Administrative Hearings.

CONCLUSION

For the foregoing reasons, we do not find the local board’s decision to be arbitrary, unreasonable, or illegal and we affirm the local board’s denial of Appellants’ request for the provision of transportation services.

Signatures on File:

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Clarence C. Crawford  
President

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Joshua L. Michael  
Vice-President

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Chuen-Chin Bianca Chang

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Susan J. Getty

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Nick Greer

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Irma E. Johnson

\_\_\_\_\_  
Rachel McCusker

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

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Samir Paul

Absent:  
Shawn D. Bartley  
Monica Goldson  
Holly Wilcox

April 30, 2024