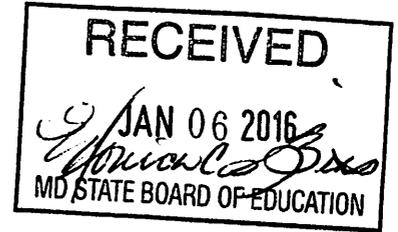


HARRISON WALSH, ET AL., * BEFORE THE
 Appellants * MARYLAND
 v. * STATE BOARD
 CARROLL COUNTY BOARD * OF EDUCATION
 OF EDUCATION, *
 Appellee *



* * * * *

APPEAL

Donald J. Walsh, Offit Kurman, P.A., and Dawn Nee, Law Office of Dawn A. Nee, L.L.C., file this Appeal on behalf of the Appellants noted below. This is an Appeal of the decision of the Carroll County Board of Education based on the recommendation of the School Superintendent dated December 9, 2015 to close North Carroll High School and relocate the students to Manchester Valley High School.¹ A copy of the decision and supporting report are attached as Exhibits A and B (hereinafter collectively referred to as the “Superintendent’s Decision”). The Appellants who are part of this Appeal are identified below. Appellants seek a finding by this Board that the decision is contrary to State law and must be reversed. The Appellants demand a hearing on all issues raised in this Appeal consistent with 13A.01.05.07.A which requires transfer of this Appeal to the Office of Administrative Hearings for review by an administrative law judge since it appeals the closing of a school.

As is explained in more detail below, not only is the decision the result of ignored procedure contrary to that required by law but the decision is arbitrary, unreasonable and illegal. The closure of schools seeks to eliminate dubious costs at the expense and ignorance of sound educational policy and the needs of students at North Carroll and Manchester Valley High Schools. Rather than rely on a specific school impact analysis of each school closing as required

¹ Other appeals are being filed by various parties similarly challenging the Board’s Decision and the Superintendent’s Decision. The arguments made in those appeals are incorporated by reference. Since the Superintendent’s Decision and plan was premised on three combined school closures, should any portion of that plan of closure be successfully challenged, the entire plan must fall and this Appeal must be affirmed as well preventing the closure of North Carroll High School. All appeals should be consolidated for further proceedings in this matter.

by law, the Superintendent's Decision ignored any substantive consideration of the unique impact to North Carroll and Manchester Valley, their student populations, communities and focuses solely on budgetary concerns.

The Superintendent's Decision offends an examination of sound educational policy. It combines students from two schools which enjoy smaller classes, more personal educational experiences and more participation per child in extracurricular opportunities and combines them into one mega school (with capacity over 100%) where the enrollment will be double the current enrollment in either school, in a smaller facility, creates less opportunities to participate in extracurricular activities and dramatically decreases the positive educational experiences which currently exist in both schools.

Appellants and Standing

Given the gravity and impact of the Superintendent's Decision, there are numerous Appellants who have consented to be a part of this Appeal and who seek to have the decision reversed. Among those currently appealing the Superintendent's Decision are the following individuals:

Harrison Walsh is a junior at North Carroll High School. Harrison is enrolled in the school's honors program and takes several AP classes as well. At the end of his sophomore year, he was 14th in his class and was also a member of the school's varsity soccer and wrestling teams and the JV lacrosse team. Harrison was one of three goalies on the Varsity Soccer team which won the State Championship in 2015. While at North Carroll, Harrison enjoyed the smaller class size of the honors program and AP classes and benefited from the relationships of the teachers of this course of study from year to year who share notes and insight with successor teachers at the school teaching at this level of education. Harrison intends to apply to various colleges in the Fall of 2016.

If the Superintendent's Decision is not reversed, Harrison will be forced to wake up earlier for school to travel the additional distance to Manchester Valley High School, will be placed in larger classes and with teachers who did not have the benefit of the notes and experiences of teachers who had Harrison and other honors and AP class participants in previous years. Harrison, and his parents, have legitimate concerns that the honors and AP classes at Manchester Valley will not provide the same focus and attention that has made it a success at North Carroll and will jeopardize his preparation for college and attractiveness to various

colleges. Because of the combined student populations and the fact that school will be above capacity, these same classes will necessarily be larger providing less individual attention and focus. The teachers will be overworked because of the greater number of students and the educational experience will be stalled and diluted as the teachers alter their syllabi to account for ample time to ensure that all students are maintaining understanding of the subject matter addressed.

In addition, Harrison and his parents share real concern that school system will have no means of normalizing his accrued GPA and class rank which impact his attractions to various universities. The combination of senior classes necessarily dilutes his class rank. Equally important, given his position as one of several goalies on the winning varsity soccer teams, Harrison has very real concerns that as North Carroll combines with Manchester Valley, he may not make the varsity soccer team further impacting his applications to various colleges and universities. More importantly, because of a change in his high school transcript and activities, Harrison's accessibility and attractiveness for scholarships and his and his family's ability to afford college is negatively impacted.

Lauren Bredenburg is also currently a junior at North Carroll and shares many of the same experiences as Harrison. In addition to the changes the Superintendent's Decision will have to her academic achievements and experience, Lauren currently has a verbal commitment to play division one lacrosse at the US Military Academy at West Point. She also is seeking an appointment from a US Senator and this appointment is contingent on her continued academic pursuits as well as her commitment and playing for her school lacrosse, soccer, and basketball teams. With the closure of North Carroll and the combination of the lacrosse teams at both schools, her ability and success in making the lacrosse team at Manchester Valley is jeopardized as is her appointment and verbal commitment from West Point. When she tries out for the team at Manchester Valley, there is the very real possibility that other seniors who have been with Manchester Valley's coach and program for several years will be considered for the team regardless of their skills compared to hers.

Students at both schools share the same concerns as Harrison, Lauren and their parents. Based on the projections outlined in the Superintendent's Decision, Manchester Valley will exceed its rating and above capacity impacting the quality of the education, the ability to make athletic teams and participate in extracurricular activities as well as push the limits of the

facilities of the school. Because students are displaced by the school closure, they will face longer days, travelling by bus or family vehicle to a school outside the community or may have to eliminate participation in extra-curricular activities because there are fewer available opportunities per student, because of the impact of these longer days and because of transportation concerns.

This Appeal is also supported by **the parents** of the named children above as well as other parents of students currently attending North Carroll or expected to attend next year. Under the Superintendent's Decision, students will attend school away from their home community or neighborhood making it more difficult for parents to volunteer at school, attend events, deal with any medical issues their child may experience, and connect with their children's teachers. Parents often choose schooling based on the accessibility that their child has to the school community at large as well as the ability to participate in extra-curricular activities. A greater number of students will limit the opportunities of children to participate in school teams and activities.

Ryan Warner, as the Mayor of Manchester, also appeals the Superintendent's Decision. As the Mayor of Manchester, Mr. Warner is the elected spokesperson for the constituents of Manchester. Among other obligations, he is tasked with ensuring that his constituents are safe, that their needs are being met, that they are being reasonably taxed for the services provided by the town and that the town continues to successfully grow socially and economically. Consistent with the concerns noted above for the students and their parents based on the Superintendent's Decision, Mr. Warner was never consulted about the possibility of incorporating the whole of North Carroll's student body into Manchester Valley.

Based on the numbers projected, not only will the school be over capacity which causes safety concerns, jeopardizes the use of the school's facilities and sewer and water usage and creates the possible obligation to hire additional police, there has been no consideration given to the impact of this transfer to development in the town or to traffic which Manchester will now have to suffer through during the school year. Unlike North Carroll which sits on the Hampstead bypass, no such traffic control system or means is in place to handle the new onslaught of cars and busses coming from areas currently served by North Carroll High School.

This increase in capacity at the school also has an immediate impact on the approval of new development in and around Manchester. Per the Town's code, the capacity ratings which

the Superintendent's Decision identified for Manchester Valley may prevent the Planning and Zoning Commissioners from approving developers seeking to build new homes and developments. This directly impacts the town and its tax base and deprives the School system of needed student population growth.

Similar to Mr. Warner's concerns as Mayor of Manchester, **Christopher Nevins, the Mayor of Hampstead**, also joins in this Appeal. Mr. Nevins, on behalf of his constituents, identifies the direct impact that the school will have on Hampstead which is currently undergoing a \$20 million revitalization plan. This Superintendent's Decision has profound effects on students, parents, neighborhoods, communities, and personnel. It will negatively impact routines, relationships, traditions, and lives. North Carroll High School was originally established in 1956 by joining Hampstead and Manchester High Schools. The school was originally located in Greenmount at the current site of North Carroll Middle School and initially had 437 students and 20 faculty members. During the 1975-1976 school year, a new building was completed in Hampstead on Maryland Route 482, where the school currently resides, and on February 11, 1976, 860 students and 45 staff members moved into the building. Hampstead schools, anchored by North Carroll, have been a source of pride for the community and offered realtors a unique selling point in a town designated as "Best Place to Raise Kids in Maryland" (Bloomberg Businessweek, 2012).

North Carroll has been a focal point for many in the community and used for community meetings and events. The school also provides a labor force to local businesses in close proximity to the School and is a major source of revenue for some of those businesses as well. Local food establishments currently rely on school events and functions as a major source of revenue. Like Mayor Warner's concerns, there is a direct impact to the enticement for new homebuyers and new developers to Hampstead if the Superintendent's Decision is upheld since Hampstead will no longer boast a high school in its jurisdiction.

The **North Carroll Recreation Council (NCRC)** also appeals the Superintendent's Decision. The NCRC is in a unique position because it primarily services thousands of participants that eventually attend North Carroll. Most recreation councils in Carroll County already operate from a position of inadequacy in consideration of facility and field space and public schools play a significant role providing facility and field space in communities around Carroll County. By utilizing public school facilities, the recreation council offers a variety of

programs, hosts events to build social connections and provides a hub for many facets of community life. The loss of the public space and social connections provided by the school's closure present a significant deterrent to families staying in the community or moving to it.

The closing of North Carroll is a crushing blow to NCRC's ability to offer recreational access and services to the community. For many years the NCRC has leveraged the NCHS fields and facilities, with its two gyms, to provide recreational services to the Carroll County community for youth and adults, spanning 27 programs and camps. Of the 73,000 plus hours of volunteerism sponsored by the NCRC during the last reporting cycle (2014 - 2015), 89% of its participants and 78% of its programs will be directly and negatively impacted by the closure of the North Carroll. The significance of the closure will cause the NCRC to cut programs.

Belisimo's and **Illiano's J&P Restaurant** are businesses which are in Hampstead, within 1.5 miles from North Carroll and are directly impacted by the closing of North Carroll. Both establishments rely upon the school to supplement their labor force with qualified students. More importantly, both establishments are directly impacted by the loss of the revenue which comes from the school as they cater events, banquets and team functions. The loss of North Carroll is expected to have a direct impact as these businesses no longer derive revenue from the events, are not asked to sell to participants for school events and no longer have the traffic emerging from events after school.

Issues on Appeal

- I. Was the Superintendent's Decision issued after compliance with all procedural requirements of COMAR 13A.02.09.01?
- II. Did the Superintendent's Decision evaluate each of the factors noted in COMAR 13A.02.09.01 and was its conclusion arbitrary and unreasonable or illegal?
- III. Were there conflicts of interest presented by the County Commissioners in the budgeting process which unnecessarily influenced the Board of Education's closure analysis necessary to meet budgetary goals?

Facts for Appeal

The effective utilization of schools has been under public discussion between Carroll County's Board of Education and the County Commissioners for many years. In 2013, the Board commissioned external consultants to review the effective use of facilities. In the summer of 2012 Carroll County Public Schools (CCPS) determined a need to conduct a Comprehensive

Facility Utilization Study to identify, justify and recommend actions for the most effective and efficient use of capital resources while containing expenses. The stated project overview and purpose was:

Carroll County Public Schools is conducting a facility utilization study to identify, justify and recommend actions for the most effective and efficient use of capital resources while containing expenses. The intended result of this study is to maximize opportunities for student achievement by delivering the best instructional program possible within the available financial resources.

The Superintendent was openly dissatisfied with the composition and abilities of the initial Boundary Adjustment Committee² originally appointed by the Board and insisted that an experienced third party consultant should be selected to conduct a study and recommend options for and against school closures. See minutes attached as Exhibit C. In May of 2013, CCPS contracted with MGT of America, Inc. (MGT) to conduct a Comprehensive Facility Utilization Study. The project was initiated in July of 2013 and the results developed into what is known as the MGT Report issued in 2013. See attached Exhibit D. MGT made specific presentations and recommendations for Manchester Valley and North Carroll High Schools after concluding that both schools were underutilized. In its presentation MGT noted several possibilities for the schools.

- **Close a high school.** Given the projected five year utilization rates of these two schools (67%), the closure of one of the high schools would result in the remaining school being overcrowded. In addition, this action is counter to the data which shows that the district's projected 5-year overall high school utilization rate is 89.9%, indicating that the district does not have excess space at this level.
- **Leave as is.** While the utilization rates of these two high schools are in the "inefficient" range, the district could decide to continue using the excess space for specialty programs. This approach would be the least disruptive and have a positive effect on programs.

² A Boundary Adjustment Committee ("BAC") was initial established by the Board of Education in 2012 to look at adjusting the boundaries for the schools throughout the County. The BAC was comprised of staff from the Carroll County Public Schools' central office. At the October 2012 Board of Education meeting, the Superintendent thanked the BAC committee members for their work and stated that "he feels they are not facility closing experts and should not be creating these options." See Exhibit D. Despite these misgivings, after the MGT study concluded, another BAC committee was formed by the Board from the same pool of members and assigned the same task.

- **Redistrict.** Redrawing the attendance zones for these two high schools would increase their enrollments and provide an opportunity to align their attendance zones with the attendance zones of the feeder middle schools. North Carroll High School's attendance zone would be aligned with Shiloh Middle School's zone, and Manchester Valley High School's zone would be aligned with North Carroll Middle School's attendance zone.

In its final presentation, MGT rejected the notion of closing either school and recommended keeping the schools intact and redistricting to ensure "a positive effect on programs."

By law, the County Commissioners are not to become involved in or influence how the budget is used, however, in November, 2015, the County Commissioners directed the Board to "address teacher compensation issues" by working through the "process of boundary line adjustments and school closures in order to reduce costs and improve efficiencies." See Exhibit E. The County Commissioners acknowledged that the issue was one for the Board of Education to address but "believes it appropriate to weigh-in" noting that schools needed to be closed and that they had "already voted to allow CCPS to reallocate these savings to Teacher and classroom personnel pay scale issues." Id. The County Commissioners reaffirmed this singular goal the day before the Superintendent's Decision.

The objective is to improve the quality of education and the morale of our classroom teachers. We believe significant strides can be made by reducing excess facility capacity, increasing efficiencies, and redirecting savings into salary increases for teachers and classroom personnel.

See Exhibit F. This sentiment and purpose was carried into the Superintendent's Decision which noted that the plan could achieve teacher salary increases because the Board "highlighted competitive employee salaries as a primary goal."³

In February, 2015 a committee was formed to analyze whether any boundary adjustments needed to be made to realign the costs of various facilities. From its initial report in September until October, 2015 the Boundary Adjustment Committee (BAC) provided four different options which all involved closing schools. At the October 26, 2015 work session, Superintendent Guthrie announced a fifth option he developed based upon the BAC's options presented. Two weeks later, at its November 11, 2015 Board meeting, Superintendent Guthrie presented Option

³ Ironically, the impact of the decision also appealed has the effect of eliminating numerous teaching positions as the number of classrooms shrunk.

5 as the final recommendation to the Board to present for a public hearing process premised on this newest option. See attached Exhibit G.

On November 17th and 25th notice was published by the Board of public meetings scheduled for December 1, 2 and 3 in the Carroll County Times.⁴ One other Notice was published in the Northern News on November 19th. The Northern News is a weekly publication distributed in the Hampstead and Manchester areas. Considerable public opposition to the closure of the schools was presented at these meetings by parents, students, teachers and the communities of the closed schools and the communities into which the schools were being relocated.

On December 9, 2015, the Board claims to have considered Superintendent Guthrie's final recommended plan presented in his November 11, 2015 recommendation with some non-substantive updates. The Board voted affirmatively 4 to 1 to approve Superintendent Guthrie's school closure and boundary adjustment plan and to incorporate his written report and recommendation. That recommendation included the closure of North Carroll High School.

The Superintendent concurs with the BAC recommendation that North Carroll is the only feasible option for a high school closure. High school data are the most compelling for a school closure. Current aggregate utilization is 79% and is projected to drop to 69% by the end of the projection period. In northern Carroll, this is even more pronounced. As noted above, both northern high schools are just above 60% utilization today and projected to be in the 50% range by the end of the projection window.

Nowhere in CCPS are students more disadvantaged by the inefficiencies this creates for educational and extra-curricular opportunities than at these two schools. Staffing resources are stretched at both schools, course offerings cannot be provided despite efforts to provide shuttles and other creative means, and extra-curricular programs suffer. It is critical that our school system address these deficiencies, and a school closure is the most effective solution. . . .

The Superintendent's final recommendation modifies the BAC Report's high school boundaries and creates a new boundary for Manchester Valley High that includes almost the entire current student populations from both northern high schools. Although the new school population will be over capacity initially, both

⁴ Attached as Exhibit H is an affidavit summarizing the search of local newspapers. It notes that a public notice of the public meetings was published only in the Carroll County Times on November 17 and November 25 and Northern News on November 19. There were no previous notices published and no notices were identified in any other papers of general circulation.

projected enrollments and changes to state-rated capacity will leave the school under capacity within the projection period. This change will allow the communities to retain their historic relationship and sense of community.

Appellants incorporate the Superintendent's Decision and Report which identify all areas and factual support reviewed by the Superintendent and Board for reaching the conclusion to close North Carroll. A transcript is also being prepared of the public meetings which were held and this Appeal will be supplemented once that transcript is complete. In addition, the Board has yet to respond to numerous Public Information Act requests seeking additional information used and considered by the Board. Once gathered, in Response to the request or in response to discovery requests submitted as part of the Administrative Procedures Act process, this information will be presented in support of this Appeal as well.

Standards of Review on Appeal

Although COMAR 13A.02.09.01 vests the local Carroll County School Board with establishing the procedures to be used in making decisions on school closings, these procedures shall ensure, at a minimum, that consideration is given to the impact of the proposed closing on the following factors:

- (1) Student enrollment trends;
- (2) Age or condition of school buildings;
- (3) Transportation;
- (4) Educational programs;
- (5) Racial composition of student body;
- (6) Financial considerations;
- (7) Student relocation;
- (8) Impact on community in geographic attendance area for school proposed to be closed and school, or schools, to which students will be relocating.

The State requires that any final decision by a local school board regarding closing a school "shall include the rationale for the school closing and address the impact of the proposed closing on the factors set forth" above. COMAR 13A.02.09.01.D.1. Even CCPS' Master Facilities Plan imposes a high burden on the Board before it permits a school closure. "The closing of a public school should not be considered unless the building is not essential to the system-wide provision of educational opportunity." See Carroll County Public School 2015-2024 Educational Facilities Master Plan, Section 3 - Goals, Standards, and Guidelines attached as Exhibit I.

If questioned, the decision of the Local School Board may be appealed to the State Board of Education to ensure that it is made in accordance with State law. The State Board is tasked with ensuring the Local Board's decision is not arbitrary, unreasonable, or illegal. COMAR 13A.01.05.05.

- B. A decision may be arbitrary or unreasonable if it is one or more of the following:
 - (1) It is contrary to sound educational policy; or
 - (2) A reasoning mind could not have reasonably reached the conclusion the local board or local superintendent reached.

- C. A decision may be illegal if it is one or more of the following:
 - (1) Unconstitutional;
 - (2) Exceeds the statutory authority or jurisdiction of the local board;
 - (3) Misconstrues the law;
 - (4) Results from an unlawful procedure;
 - (5) Is an abuse of discretionary powers; or
 - (6) Is affected by any other error of law.

Argument in Support

I. The Superintendent's Decision did not comply with State procedural requirements.

As COMAR makes clear, although local school jurisdictions are vested with wide discretion in setting policy and budgets, local boards seeking to close a school must follow fairly specific guidelines. Prior to making a decision on closing a school, the local school board must provide for a public hearing in which concerned citizens have an opportunity to submit their views on any proposed school closing. COMAR 13A.02.09.01.C.2. To ensure that due process is followed and that the affected citizens and taxpayers are heard and their concerns are factored into the decision, ample notice needs to be provided to all persons who are impacted by the decision of the local school board.

State law provides that in addition to specific notification to the affected students at the closed schools, "written notification of all schools that are under consideration for closing shall be advertised in at least two newspapers having general circulation in the geographic attendance area for the school or schools proposed to be closed, and the school or schools to which students will be relocating" and that "[t]he newspaper notification shall appear at least 2 weeks in

advance of any public hearings held by the local school system on a proposed school closing.”
COMAR 13A.02.09.01.

There is little doubt that the Carroll County Board of Education failed to provide this mandatory notice before deciding to close North Carroll and the other schools. At best, notice was provided in only one paper on a timely basis and was only in the two weeks leading up to the hearings held on December 1st through the 3rd. This failure is significant, taints the Board’s decision making and prejudices the community.

First, the Board cannot deny that the notices were a mandatory requirement. Given the State’s intentional use of “shall” in identifying the timing, number and substance of the notices, there can be little doubt that the State does not permit a jurisdiction to waive this precise notice requirement or simply accept an effort at notice. Too many interests are impacted and need to be given an opportunity to be heard and considered by the Board. Second, given the timing of the rushed notices by the Board in this case, they clearly were not intended to provide ample notice to all persons who may have been impacted. There was no need for the rush to decision in this case and the inadequate notices were intended to overlap with the Thanksgiving holiday as a means of escaping detection and deterring input and opposition. The entire purpose of the notice requirement was undermined by not permitting thoughtful opposition to be adequately prepared, provided and supported. Given the significant community interests at play and the fact that the Board had been wrestling with the issue on its own terms for many months, it is absurd to suggest that any adequate opposition should be prepared and presented in a brief slot of less than two weeks.

Most importantly, given the fact that the final recommendation of the Superintendent on December 9 was almost a mirror image of the recommendation made on November 15 with the exception of certain “nonsubstantive modifications,” it demonstrates beyond cavil that the public hearings and concerns were wholesale ignored by the Board. In fact, it is telling that none of the issues or concerns raised by any of the impacted parties at these public hearings were addressed in the final Superintendent’s Decision. It is absurd to suggest that none of the interests or issues raised at the public hearings were in any way relevant to the Board’s closure decision or should have been addressed in the final Superintendent’s Decision.

To the contrary, the lack of any substantive effort to address the public outcry demonstrates that the Superintendent’s decision was final on November 15, was done without

regard to the public's concerns and impact, was completed without any concern of whether the proper notices were given and is illegal under the law.

II. The Superintendent's Decision failed to evaluate each of the factors noted in COMAR 13A.02.09.01 and was arbitrary, unreasonable and illegal.

As noted above, the Board's decision to close the schools cannot withstand scrutiny and is arbitrary and unreasonable or illegal. The Superintendent's Decision demonstrates little more than a cursory recitation of the eight factors required by State law and demonstrates little thought or consideration to the substantive impact that closure would have in each of those categories. The simple fact that the reports of November and December are identical demonstrates that the findings were made with no consideration to public needs or concerns. Back-dropped by the failure to follow COMAR and the conflicts of interest of the County Commissioners noted below further solidifies the notion that the decision is illegal and in direct contradiction of the law.

At its core, the Superintendent's Decision was so solely dedicated to financial concerns that it demonstrated complete ignorance of sound educational policy which was formulated, in part, by the Carroll County Board of Education. Among the Board's professed core beliefs shaping its educational policy are the belief that it shall

- Work to ensure that every child succeeds
- Place priority on the educational needs of students
- Motivate students to learn
- Recognize the unique learning styles of each student
- Ensure learning by providing instruction that meets each student's individual needs
- Support student success

The CCPS's Master Plan supplements these principles noting that "decisions about utilization of public educational facilities should concentrate on equitable delivery of educational services and/or safety. *Minimal disruption to all established educational programs should be sought.*" See Exhibit I. These beliefs are further reinforced and emphasized by the Board's expressed commitment to *The Key Work of School Boards* developed by the National School Boards Association. Board Handbook attached as Exhibit J. Among these are goals shaping the County's educational policy are

- Establishing a clear **VISION** of student achievement as the top priority of the school board, staff, and community.
- Establishing a strong **ACCOUNTABILITY** process.
- **ALIGNMENT** of resources to focus on students meeting the standards.

- Creating a positive **CLIMATE** for student success.
- Building **COLLABORATIVE RELATIONSHIPS** with political and business leaders, with a focus on developing a consensus for student success as a top community priority.

Attempting to provide undue emphasis and rationality to the County Commissioners' and the Board of Education's "primary goal" of providing increased teacher salaries, the Superintendent's Decision failed to remain true to these stated educational policies and ignored core held beliefs concerning the educational needs of students. In fact, despite issuing two reports, each over 70 pages, and maintaining a core value of ensuring positive educational experiences, the Superintendent devoted only two brief paragraphs to the educational needs of the students; only one passage was devoted to the educational needs of North Carroll students.

A sustained decline in students places significant stressors on CCPS' ability to operate effectively as a school system. Imbalances in utilization rates across schools present staffing challenges as they inflate the need for classroom teachers and strain special areas and program teachers. Under-utilized schools limit learning opportunities for students. Course offerings at the high school level is driven by student selection. In under-utilized schools, certain courses cannot be offered to students. In limited cases, CCPS provides shuttle services to other schools to offset these lost learning opportunities, but this requires an additional operational expense.

SD at 9.

Nowhere in CCPS are students more disadvantaged by the inefficiencies this creates for educational and extra-curricular opportunities than at these two schools. Staffing resources are stretched at both schools, course offerings cannot be provided despite efforts to provide shuttles and other creative means, and extra-curricular programs suffer. It is critical that our school system address these deficiencies, and a school closure is the most effective solution.

SD at 5.

Even with these nonspecific statements, no effort was made to identify any specifics relative to his comments. No student or teacher testimony was provided identifying any particular unmet needs. There was no identification of any staffing challenges presented at North Carroll or of limited learning opportunities. In fact, North Carroll boasted considerable success in its Honors and AP classes, with its services for special needs students, its AP test takers as well as its college placement numbers. Despite these statements in the Superintendent's Decision, he failed to explain how this was not true of North Carroll which had achieved status

as a Green Ribbon School. There was also no identification made of the lost learning opportunities, of unoffered classes or of the costs of the transportation of shuttling students between North Carroll and Manchester Valley. Similarly no evidence was shown for the same impacts to students at Manchester Valley or how their educational opportunities were diminished in any fashion.

To the contrary, the decision to close North Carroll and consolidate it with Manchester Valley quite clearly departed from the Board's core beliefs and missions to provide positive and enriching educational experiences by ignoring the devastating educational impact of its closure decision.⁵ The Superintendent clearly understood that his actions in closing North Carroll and transferring the student population to Manchester Valley doubles the student population served at that location. He even recognized that the school would be above capacity for several years at his current projections.⁶ Manchester Valley is smaller than North Carroll,⁷ has fewer facilities, and maintains the same number of staff which will be overwhelmed by the increase in students. Even the Superintendent's Decision suggests that the plan inequitably overcrowds Manchester Valley above capacity with only a "probable" reduction over time. No guarantees for reduction in student overcrowding are offered should the assumptions and projections prove inaccurate and there is no effort made to address the educational impact of this overcrowding and capacity increase.

To suggest that there is no educational impact by this overcrowded and overburdened school is disingenuous and pure folly. There is simply no way to defend the notion that this closure meets the Board's desire "to ensure that every child succeeds," that there is a "priority on the educational needs of students," which permits the school to service "the unique learning styles of each student" or "[e]nsure learning by providing instruction that meets each student's

⁵ Given the ignorance of public concern and comment, a valid argument can be made that the Board and Superintendent also ignored its belief in "Establishing a strong ACCOUNTABILITY process."

⁶ The Superintendent attempts to assuage some of the concerns of overcapacity by simply reassessing the capacity of Manchester Valley. Although this sterile number provides the Board comfort, I am certain that the students and teachers crammed into the overcrowded school and large class sizes will derive no real benefit from this reassessment of a number.

⁷ Appendix I to the Superintendent's Decision notes the smaller physical size of Manchester Valley and its fewer classrooms. Unlike Manchester Valley, North Carroll also has two gyms, more fields and parking and a larger auditorium.

individual needs.” The expressed desire to “[s]upport student success” has been cast aside with little forethought, an overwhelming emphasis on providing teacher salary increases and in clear contradiction to sound educational policy.

Under this plan, the number of teachers at Manchester Valley are not likely to increase given the fact that there is no corresponding increase in classrooms at the school. Class size will obviously be impacted and increase. The undeniable educational benefits of smaller classes, including a more personal and focused teaching experience, will be lost. Teachers will be overwhelmed and overworked by the surge of new students. This will have a direct impact on the school’s Honors and AP offerings and any special needs classes where smaller classes are necessary and mandatory (according to Individualized Education Plans). The fact that North Carroll was a “Green Ribbon School” demonstrated the clear benefits of this style of education which will be lost in the overcrowded Manchester Valley. More importantly, this effort is a direct affront to one of the Board’s acknowledged tenets.

Research indicates that smaller schools (1200 or less) provide more personal educational experiences for students. Students in smaller high schools tend to participate in more school activities and are better known by their teachers.

Lower student participation in school activities results in a higher percentage of detached students who are less invested in their school. This alienation also has a negative effect on academic achievement and attendance thus directly affecting the number of potentially unsuccessful students.

See Carroll County Public School 2015-2024 Educational Facilities Master Plan, Section 3 - Goals, Standards, and Guidelines.

Transferring the students to Manchester Valley would also result in the loss of other intangible educational benefits of being at North Carroll. Outside of the school, there is a bluebird trail, running waterfall, no-mow zone, songbird habitat, and American chestnut orchard. These areas are used to educate students– including those from a neighboring elementary school– about the need for native habitat restoration, the importance of biodiversity, and the interconnection among native plants and animal life cycles. The chestnut orchard was planted and is maintained through a collaborative research effort to restore the American chestnut. Partners include Carroll County Public Schools, the American Chestnut Foundation, and Thorpewood, a nonprofit organization dedicated to environmental education.

Outdoor exercise opportunities are included in physical education courses, nature-based experiences continue to increase, and ecology, biology, and agriscience courses make use of North Carroll's outdoor classroom near a wooded area. Lessons on topics such as water conservation, hydrofracking, nature, and agriculture are woven neatly into subjects as diverse as English, art, and technology to create authentic and engaging lessons. Furthermore, students in animal and plant biotechnology classes investigate hot-button topics like the genetic engineering done to plants to make them disease- and pest-resistant, reduce the need for chemical pesticides, and make them more productive. Students also investigate water quality, alternate fuels, and oil-eating bacteria through oil-spill simulations. North Carroll fosters a community of caring, responsible, and environmentally conscious students, preparing them for graduation and the green jobs of tomorrow.

The Superintendent's Decision also ignores the impact of closure on the school staff such as guidance counselors⁸ who will now be inundated with twice as many students and will no longer be able to provide the valuable personal counseling experience and commitment to each of the students under their tutelage.⁹ Of equal importance, the Superintendent's unsupported proclamation that "extra-curricular programs suffer" at these schools is false. Both schools have a healthy abundance of extra-curricular programs desired by their student populations. Contrary to the Superintendent's unsupported assertions, the students engaging in these current extra-curricular activities will be detrimentally harmed by having fewer opportunities for participants. Both schools currently have full sports programs boasting a complimentary and competitive slate of varsity teams. It takes little effort to appreciate that at least half of those students will not be playing that sport if the Superintendent's Decision is not reversed. There is little doubt that the impact of this lack of extra-curricular activities will impact student participation, morale,

⁸ This is not to ignore the impact of the loss of core school staff who will be out of a job. The Superintendent's Decision also did not account for any costs associated with obligations to the union workforce and ignored the negative impact to the County by the unemployment of the core staff as well as the loss of capital projects at the school. A report commissioned by the Board recently noted that every dollar spent at its schools resulted in a \$1.44 being spent in the County. *See The Economic Value of the Carroll County, Maryland, Public School System: Dollars & Cents and Beyond*, March 2015 attached as Exhibit K.

⁹ Given the Superintendent's personal history as a guidance counselor, it would be expected that he would have appreciated the dilution of the services a counselor could provide with twice the workload.

motivation and college opportunities. It will also reaffirm the Board's belief that "[l]ower student participation in school activities results in a higher percentage of detached students who are less invested in their school. This alienation also has a negative effect on academic achievement and attendance thus directly affecting the number of potentially unsuccessful students."

These aspects of the Board's core values and sound educational policy are ignored by the Superintendent's Decision. Instead, the decision's sole focus is budgetary with no consideration to these undeniably valuable aspects of a sound educational experience. This ignorance renders the Superintendent's Decision clearly arbitrary and unreasonable. Not only are these policies ignored but a close examination of the Superintendent's Decision and the efforts here demonstrate that there was no real consideration of all of the factors required to be reviewed by COMAR13A.02.09.01 prior to closing North Carroll High School. Importantly, the State requires that these factors be considered separately for each school sought to be closed. COMAR specifically refers to the evaluation of the factors for the "*school* closing." The Board cannot merely lump a series of schools together and ignore an analysis of each of the factors as they impact the individual schools which are part of the proposed closure plan.

Among other problems, the Superintendent's Decision seeks justification by lumping the impact of the three proposed school closures together. This is done without any consideration of the diverse geographic and demographic populations of each of the schools. North Carroll is a high school which has extremely different educational needs and community impacts than those presented by a middle and elementary school. In addition to the needs of college bound young men and women, there are important and established extra-curricular activities and transportation needs which are distinct from middle and elementary schools. The Board should not ignore these distinctions when evaluating whether to close a particular school yet it undeniably did in rendering the decision here.

Despite being required to evaluate each factor for each school, the Superintendent's Decision to close North Carroll does not address transportation impacts, impacts to educational programs, and the impact of student relocation on over 700 teenagers nor does he make any effort to meaningfully address the impact to either community based on the closing of North Carroll and relocating over 700 teenagers to Manchester Valley. The absence of consideration of these factors and the sheer ignorance of the Board in not giving these factors any weight is easily

demonstrated by the Superintendent's identical recommendations made before and after the rushed public hearings. Had the Superintendent intended to truly listen to the communities and assess their impact as required by law, there would have been commentary addressing the devastating impacts identified by students, parents, business owners, Recreation Councils and the Mayors of both towns which are directly impacted by the Superintendent's Decision.

Those very real impacts presented and ignored by the Superintendent's Decision create an arbitrary, unreasonable, and illegal decision to close North Carroll. The Superintendent's Decision ignores consideration of the factors outlined in COMAR and does a gross injustice to the Board's stated core values seeking the "ALIGNMENT of resources to focus on students meeting the standards," "creating a positive CLIMATE for student success," and "building COLLABORATIVE RELATIONSHIPS with political and business leaders, with a focus on developing a consensus for student success as a top community priority." As was eloquently explained by one concerned citizen of Hampstead,

Schools make up the moral fabric of our towns, provide stability in a seemingly unstable world, and allow lifelong social bonds to develop from childhood into early adulthood. These experiences are as critical to their development as are the academic lessons. To think about school utilization as only a budget puzzle obscures the most fundamental value that a public education affords. Keeping schools small and decentralized, while less efficient, is the most valuable investment a government and community can make.

Terrance MacGregor, Hampstead resident. These very real concerns echoed by so many students, business owners and taxpayers were ignored in the Board's analysis.

The flawed and unreasonable analysis demonstrated by the Superintendent's Decision can be seen in his evaluation of the first State factor of "student enrollment trends." The Board recognized that it was tasked with evaluating this element, however, the Superintendent's Decision took extreme liberties in downplaying and skewing these trends attempting to justify the decision to consolidate North Carroll and Manchester Valley. For instance, the Superintendent's Decision notes that "both northern high schools are just above 60% utilization today and projected to be in the 50% range by the end of the projection window." Despite these statements, the Superintendent's Decision showed that the projected utilizations over the ten years changed very little and were to be 59% for North Carroll and 55% for Manchester Valley at the end of the period. Appendix C of Superintendent's Decision.

This flawed enrollment analysis also counted students based on where they live and not the actual school they attended. Not only were out of district students not counted but the Superintendent's Decision ignored the impact to the autism students who were served through North Carroll's program even though they lived elsewhere.

In addition, the Superintendent's Decision also ignored the impact of moving this population who is adverse to change to the more urban environment of Winters Mill High School. Even more dramatically demonstrating the unreasonable and illogical reliance on the enrollment picture painted in the Superintendent's Decision was the fact that it made no allowance for new housing development served by North Carroll and Manchester Valley. The Board failed to evaluate evidence compiled from local realtors and the Town of Hampstead demonstrating that future development between Manchester and Hampstead totaling more than 600 homes easily and directly skews the projected enrollment numbers. Among these local developments in the North Carroll school district were:

- Oakmont Overlook has 23 new homes planned for immediate construction, with a model home currently being built by Ryan Homes.
- Northside Estates is planning 17 homes between Evergreen and Fairmont on land behind Main Street, Hampstead. It has received primary approval from the Planning and Zoning Commission. Hampstead officials expected final approval for construction to be in spring 2016.
- There is a 27 single family home development by Castle Drive and Houcksville Road in the approval process.
- Florida Rock owns in excess of 100 acres which could support development of 252 homes between the bypass and Houcksville that is undergoing consideration to be rezoned residential because it is unsuitable for industrial traffic.
- The Power Brothers are in the planning process for a 275 single family home development that will be located between Upper Beckleysville and Lower Beckleysville which is expected to begin building houses within in two years.

Manchester has similar planned developments in its community including 140 homes in different stages of planning and development which will directly impact the enrollment numbers of Manchester Valley as well.

In addition to these planned developments, the housing market for current homes is up after a historic and unprecedented decline with prices for homes slowly increasing while days on the market and foreclosures are down. Given the presentation in the Superintendent's Decision noting that the Board was only evaluating State and Countywide enrollment numbers and not

specific impacts to the area actually served by North Carroll and Manchester Valley, it is painfully obvious to see that the Superintendent's Decision is arbitrary and illogical.

Even with the artificial and convenient modification of Manchester Valley's capacity by the Superintendent which he suggested would be made, Manchester Valley remains well above 100% capacity through at least 2022 while the remaining County high schools averaged only 77%. No defense was provided or could be considered reasonable for why this school and community must inequitably remain well beyond capacity. Further demonstrating the lack of careful consideration of the decision to close North Carroll, the Board noted that this "remedy" of closing the school may be considered temporary and other action would be needed in the future. Although it provided no deadlines for relief, the Superintendent's Decision did hope that this inequity is only temporary until additional redistricting takes place. "This plan closes three (3) schools and limits the redistricting to the surrounding schools. Although this focused approach to redistricting allows for the possibility of future closures and minimizes the likelihood that students will be redistricted again in the future, it does not balance utilizations across the county. As a result, several schools will remain under-utilized or over-utilized until a comprehensive redistricting process takes place."

As noted above, the Superintendent's Decision also utterly failed to address the negative educational impact to students and the impact to extracurricular activities. The North Carroll Recreation Council (NCRC) services thousands of participants that eventually attend North Carroll. By utilizing North Carroll High School, the NCRC offers a variety of programs, host events which build social connections and provide a hub for many facets of community life. The closing of North Carroll represents a crushing blow to NCRC's ability to offer recreational access and services to the community. 89% of its participants and 78% of its programs will be directly and negatively impacted by the closure of the North Carroll facility.¹⁰

As demonstrated above, the Board ignored its legal obligation to consider and evaluate the "[i]mpact on community in geographic attendance area for school proposed to be closed," at least with respect to development around North Carroll.¹¹ Failing to address the infusion of 600

¹⁰ As noted in footnote 8, the economic impact to the County as recreational services go elsewhere could be profound.

¹¹ In an email reply to a concerned citizen, Bill Caine, a member of the BAC, wrote that he (and presumably the committee for whom he was responding) was "unaware of any substantial planned growth in Manchester and Hampstead."

new homes directly serviced by North Carroll is fairly significant. The effect on other local businesses in the community was equally ignored in the Superintendent's Decision. Evidence was presented at the public hearings explaining that approximately 96% of small business owners surveyed in Hampstead estimated they could lose between 10 to 20 percent of business as a result of the closure, which would be debilitating to independently owned businesses operating on thinner margins of profitability. Several of the establishments surveyed indicated they would consider closing their operations in Hampstead as a result and relocate or focus on Westminster and Hereford instead.

Local business owners within 1.5 miles of North Carroll such as Belisimo's and Illiano's J&P Restaurant also identified a direct impact by the closing of North Carroll. Both establishments rely upon the school to supplement their labor force with qualified students. More importantly, both establishments are directly impacted by the loss of the revenue which comes from the school as they cater events, banquets and team functions.¹² The loss of North Carroll is expected to have a direct impact as these businesses are no longer in a position to derive revenue from the events, are not asked to sell to participants for school events and no longer have the traffic emerging from events after school.

Even the mayor of Hampstead in which North Carroll is located was ignored in his arguments against its closure because of the devastating impact to his community which is currently undergoing a \$20 million revitalization plan. Mayor Christopher Nevins identified the negative impact that this closure will have on routines, relationships, traditions, businesses and lives in Hampstead. North Carroll has been a fixture in the town for over 30 years and has a history with legacy partnerships built up over generations, and a traditional economic/social interplay with local businesses. It has been a focal point for many in the community and is used by many for community meetings and events. The school also provides a labor force to local businesses in close proximity to the school and a major source of revenue for some of those businesses as well. There is a direct impact to the enticement of new developers and families to Hampstead if the Superintendent's Decision goes through since the Town will no longer boast of

¹² Again, although this is consistent with the Board's study of the economic impact of schools for local businesses, the impact of these losses appear to have been lost on the Board and the County Commissioners.

a high school in its jurisdiction and students will require an even longer commute to and from school.

More mystifying is the fact that the Superintendent's Decision acted in blind ignorance of the community into which the displaced North Carroll students were relocating. This is an undeniable factor to be examined by State law. The Superintendent's only consideration of the impact on this community was singularly based on Manchester Valley's capacity. No consideration was given to revised commute times, traffic difficulties, parking at the school for the new influx of over 700 teenagers, of the water and sewer demands of the school, of whether the gym or auditorium could accommodate over 1000 students, or of Manchester Valley's surrounding community.

Even though one of the identified factors to be considered under COMAR is "transportation," conspicuously absent from the Superintendent's Decision was any effort to address this factor. Despite taking the time to document the current commutes of students and the distances to their current schools, the Superintendent intentionally omitted any demonstration of the increase in these commuting times for relocated students in his Decision. See Appendices F & G. This absence is glaring. This is especially noticeable given the increased public focus and recommendations for later start times for high school students. Under the Superintendent's Decision, many students will have to begin their days even earlier jeopardizing their success in school, extracurricular activities and after school jobs.

Similarly, in its haste to push forward the County Commissioner's agenda, there was no effort by the Superintendent to perform any simple traffic studies to determine what the impact would be of the new influx of busses and teenager drivers would have on the school or the town of Manchester. Unlike North Carroll High School which sits on the Hampstead bypass, no such traffic control system or means is in place to handle the new onslaught of cars and busses coming from the areas currently served by North Carroll High School. In fact, had the Board conducted any investigation into the traffic problems it was creating, it would have learned that the area around Manchester Valley is already subject to a variance because of the confluence of street parking issues and one lane traffic in each direction which causes severe congestion on this major thoroughfare to and from Pennsylvania.

Ryan Warner, the Mayor of Manchester, is the elected spokesperson for the constituents of Manchester and is tasked with ensuring that his constituents are safe, that their needs are being

met, that they are being reasonably taxed for the services provided by the town and that the town continues to grow socially and economically. Remarkably, the Board of Education never consulted Mayor Warner about the possibility of Manchester Valley incorporating the whole of North Carroll's student body.

Based on the numbers projected, Mr. Warner believes not only will the school be over its effective capacity jeopardizing the use of the school's sewer and water usage but he may be required to hire additional police officers per Town Ordinance. The increased capacity at the school also has an immediate impact on the approval of new developments in and around Manchester. The student population which the Superintendent's Decision identified for Manchester Valley impact the ability to approve new development which will dissuade developers from building new homes. This directly impacts the town and its tax base and was not considered by the Superintendent's Decision.

In addition to failing to perform a careful analysis of these State factors, the rush of the Superintendent's Decision and its demonstrated lack of full consideration of its impact and other available options easily leads to the conclusion that the Superintendent's Decision cannot withstand scrutiny. The simple fact that the ultimate plan for closure was presented and approved in a quick and rash method demonstrates that it was not well thought-out and that it was not considered consistent with the factors required by law to be considered. In addition, whether it is the speed from when the first proposals were suggested to the November decision, the faulty and rushed public notices or the ignored public comments, the Superintendent's Decision does not hide the fact that it is incomplete and further changes would still need to be made.

This plan closes three (3) schools and limits the redistricting to the surrounding schools. Although this focused approach to redistricting allows for the possibility of future closures and minimizes the likelihood that students will be redistricted again in the future, it does not balance utilizations across the county. As a result, several schools will remain under-utilized or over-utilized until a comprehensive redistricting process takes place.

Given its express reservations that it is only a first step, the Superintendent's Decision fails to propose a long term sustainable solution that considers the educational value and experience of all Carroll County students. An effective plan should result in a solution that works for the county's students over the next 15-20 years. Kicking the can down the road on comprehensive

boundary realignment and optimal education operations is not an acceptable option for the community or County.

Similar to the mystery to the rushed, poorly conceived and unsupported decision, the Superintendent's Decision fails to present a complete and accurate picture of the financial impact of closing North Carroll. Although the Superintendent claimed that there would be savings of \$5.2 million,¹³ even he agrees that the proposed savings may be overstated. "There will also be an overall operational savings of \$5,119,463 based on the eliminated core staff and core building costs for the three school closures (See Appendix J). This amount of savings excludes any offsets that may be required for school closure, such as increased transportation costs." Superintendent's Decision at 19. Upon closer inspection, the Superintendent's Decision considerably overstates these savings.

Examination of the identified costs claimed to be saved demonstrates that some costs would be eliminated by the closure of North Carroll but many of the identified core costs would only be shifted to Manchester Valley. The core staff costs used by the Superintendent included custodial expenses, building maintenance costs, costs associated with the Office of Principal (staff and supplies), cafeteria support and other administrative functions. Common sense dictates that these costs will not be eliminated once the student population doubles at Manchester Valley. More students means more cleaning, more use and maintenance, more meals to be served, more specialized educational and support staff and clearly more administrative support. In addition to these increases in the core costs, the increased use by a school above capacity will also require accelerated capital maintenance and improvement costs. It is disingenuous and illogical for the Superintendent to believe these savings would actually be achieved.

The Superintendent's Decision also offers no identification of the governor's offer of \$4 million in additional educational grant funds nor does it explain the basis for its rejection of the offer. At the public hearing and before the Superintendent's Decision was reached, the Board was made aware that Governor Hogan had pledged a total of \$4 million to the Board. These funds significantly close the gap to savings the Superintendent's Decision claimed would be saved by its unsupported closures which would require further review and adjustments in the future.

¹³ As calculated through the Board's study of economic impact, the corresponding loss of revenue to the County and local businesses by this lack of spending equate to \$7,280,000.

Prior to the Board's final decision being issued which mirrored the decision published in November, 2015, the Board was made aware that Governor Hogan and the State had a similar interest in assisting jurisdictions with declining enrollments which impacted the loss of State educational funding. While the State was statutorily undertaking a review of how educational funds are calculated and dispersed to the various jurisdictions, the Board was made aware that Governor Hogan's administration supports assisting those jurisdictions which have a demonstrated track records of declining enrollments, including Carroll County. To assist the County, Governor Hogan pledged \$4,000,000 in grants to the County and recognized that the County's Geographical Fund Index would be fully funded in the budget which would guaranty the County \$1.2 million.¹⁴ See attached Exhibit L. For reasons which remain unclear, the Superintendent's Decision was not amended since its November iteration to acknowledge this continuation of funding. Instead the Superintendent's Decision mistakenly (or intentionally) noted that the funds would not be available.

The best possibility for immediate relief from the annual declines in state aid is some form of "hold-harmless" provision to the formula. The Board has advocated for several years for a hold-harmless provision, similar to those received by other systems, but that effort has been unsuccessful. This remains the Board's primary legislative priority. However, even if successful, the most likely scenario for a hold-harmless provision would be for a 50% reduction to state loss. This would amount to approximately \$1 million of reduced loss per year, which would be a minor mitigation to the Board's overall funding challenge.

Unlike the \$5.2 million which the Board claims it would save through the closures which were made with no assessment of all State required factors, the Governor's and State's offer would easily permit the Board to fully consider all options while it defers the tremendous negative impact of its decision and avoids a drastic departure from sound educational policy.

Given the failure to reasonably offer any substantive demonstration that the Board actually considered the State required factors prior to closing North Carroll, the decision was illegal and must be reversed. Even if the factors are considered, however, it is clear that a conclusion to close North Carroll and relocate the students to an overcrowded Manchester Valley is arbitrary, unreasonable and clearly violates sound educational policy.

¹⁴ This "hold harmless" provision would guaranty educational jurisdictions at least 50% of the previous years budgeted funds when they are negatively impacted by declining revenues.

III. Conflicts of interest existed in the budgeting process which needed to be resolved prior to the Board of Education closing schools to meet goals set by the County Commissioners.

As explained above, the County Commissioners intruded on the functions of the Board of Education and told the Board that it needed to close various schools and increase its operating funds for teacher salary increases and the Commissioners' decision quite obviously had the effect of holding any school funding hostage unless the Board conceded to its wishes and desires. In making this decision, not only were the County Commissioners legislating the policy of the Board of Education which they are not permitted to do but the County Commissioners clearly had an unresolved conflict of interest which should have prevented any consideration or influence in the Board's budget considerations.

Except where a county has adopted local ethics laws, approved by the State Ethics Commission (which has not occurred in Carroll County),¹⁵ it is unlawful for a county commissioner to hold, possess, purchase, or acquire any share or interest in any agreement or contract made, entered into, or concluded with any party or parties, by the county commissioners or to have, receive, enjoy, or participate, either directly or indirectly, in any of the benefits, profits, or emoluments of any such agreement or contract. Md. Local Government Ann. Code § 9-405. The purpose of such provision is to prevent persons from assuming a position where selfish motives may impel them to sacrifice the public good to private benefit. Brenneman v. Roth, 212 Md. 491, 130 A.2d 301 (1957). For a conflict to come within the prohibition of this provision, it is not necessary that any evil be in fact done by or through it. Id. These ethical requirements include obligations to disclose actual conflicts of interest as well as any potential conflicts. These include disclosure of any decisions under which the Commissioner or any close relative is likely to have a financial benefit or interest.

¹⁵ In 2010, the Maryland General Assembly passed legislation to strengthen the local ethics laws of the counties and municipalities of the state. Chapter 277, Laws of 2010 requires each county government to enact conflict of interest and disclosure requirements for local officials that shall be equivalent to or exceed the requirements of those for state officials (Md. Ann. Code, General Provisions §5-808(b) and §5-809(b)(2)). The statute also requires each jurisdiction to certify on or before October 1 of each year that "the county or municipal corporation is in compliance with the requirements for local elected officials." Md. Ann. Code, General Provisions §5-807(b). The effective date of the statute was October 1, 2010, and over the last five years, Carroll County has failed to comply with the annual certification requirement and its current ethics ordinance is in violation of the state statute.

Several County Commissioners failed to disclose their conflicts prior to making decisions affecting the school budget and excuse themselves from vote. In October, 2015, at the height of the controversy over school closings, the State Ethics Commission issued a notice to the Commissioners of the violation of state law and initiated an enforcement action against the Commissioners. This issue has not yet been resolved.

Commissioner Dennis Frasier had the most blatant conflict. Commissioner Frazier is one of the five Commissioners but is also a salaried employee of the Carroll County Public Schools and a member of the teachers' union, Carroll County Education Association. He is the leading advocate among the Commissioners for the school closing plan as a vehicle to provide cost savings and funds for high teacher salaries. In an address he provided to the Carroll County Education Association, he admitted that in his role of county commissioner that he was proposing to allocate county funds during the budget process to match the amount gained by the Board of Education in their school closure plan to for the sole purposes to enhance teacher salaries.¹⁶ As a Carroll County teacher, he stands to directly benefit from any decision to close schools permitting him to receive a salary increase. In fact, Commissioner Frazier was a signatory to the Commissioner's position statement on November 5 that threatened his employer, the Board of Education, with reduced funding unless the Board votes favorable on a school closing plan. The statement identifies that Commissioner Frazier voted on a measure directly tied to his salary under the Board of Education pay scales¹⁷-- "We have already voted to allow CCPS to reallocate these savings to teacher and classroom personnel pay scale issues."

Throughout these official actions of the Commissioners, a violation of the enhanced state ethics law and of the existing ethics ordinance of Carroll County (Section 18-8(A) of the Carroll County Ethic Ordinance) existed because Commissioner Frazier is directly involved in deciding

¹⁶ In an article published in the Carroll County Times titled "Carroll teacher's union holds rally to boost support for better teacher salaries" on November 3, 2015, Commissioner Frazier reaffirmed his desire to close schools as a means of increasing teacher's salaries.

¹⁷ The fact that the Board of Education sets the salary scales does not alleviate the conflict or insulate his actions as a county commissioner because Commissioner Frazier knows that his influence as a County Commissioner can increase the amount of funding that is appropriated to the Board. Thus, his salary will increase at a higher percentage through his influence to increase the amount of funding saved through the school closing plan and through his vote on the amount in the direct appropriation from the County Commissioners to the Board of Education.

the allocation of funds to be added to teacher salaries of which he would be a beneficiary. In fact, the Superintendent directly acknowledged the impact of the Board's decision in assisting with teacher salary increases. In his decision, he noted "[a]dditionally, the Board has highlighted competitive employee salaries as a primary goal, which requires a large infusion of revenue. The school closure savings could represent a small portion of the revenue needed for that goal." Superintendent's Decision at 19.

These violations not only confirm that the Superintendent's Decision was the result of factors not permitted to be considered by State law but the violation of ethical requirements renders the decision and the Board's influence in this process illegal under COMAR 13A.01.05.05. Given the fact that this was a "primary goal" of the actions taken by the Board in seeking to close these schools, the ethical infractions by the County Commissioners and their influence in this process are inexcusable and result in an illegal decision which must be reversed.

Conclusion

Little doubt exists that the Board's rushed decision to close schools was not the result of a thoughtful and careful assessment of all factors required under State law and was ill-informed, blind to basic community impacts, unjustified, arbitrary, unreasonable, and illegal. The final decision to close these schools, including North Carroll, was proposed, considered and resolved in less than one month's time with no effort to fully appreciate or address the educational needs of the populations that the schools served. Upon proper consideration, the decision to close cannot withstand scrutiny and must be reversed.



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