

BEFORE THE MARYLAND OFFICE OF ADMINISTRATIVE HEARINGS

HARRISON W., ET AL

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Appellants

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v.

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OAH CASE NO.: MSDE-BE-16-16-02815

BOARD OF EDUCATION OF

\*

CARROLL COUNTY

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**MOTION FOR STAY  
AND/OR PRELIMINARY INJUNCTION**

Donald J. Walsh, Offit Kurman, P.A., and Dawn A. Nee, Law Office of Dawn A. Nee, L.L.C., on behalf of Appellants move to have this Court grant a stay and/or preliminary injunction against defendant, Carroll County Board of Education (CCPS), and in support of their Motion allege that:

1. As demonstrated, an appeal and review of CCPS School Closure Decision is currently under review the Maryland State Board of Education ("MSBE") and should not be considered a final decision subject to final judiciary review. As such, CCPS' decision cannot be implemented until the final review and approval of CCPS' decision has been conducted by MSBE.

2. A Scheduling Order has been set in that case which schedules any hearing on the merits to be held beginning on May 31 and reserving the first two weeks of June. Any decision issued by the Administrative Law Judge is not required until 90 days from the close of that hearing, after which either party may file exceptions before the matter is finalized by the MSBE. This may mean that the final decision does not occur until after schools are scheduled to open.

3. CCPS has continued to press forward with its closure during the pendency of the review of its decision by MSBE. Unless this Court enters a stay and/or injunction, immediate,

substantial, and irreparable harm will result and continue to result to Appellants before a full hearing can be held and a final agency decision can be rendered by MSBE.

4. The unilateral and unauthorized actions of CCPS as set forth in the Response to the Motion for Summary Affirmance and Exhibits were improper, illegal, calculating, and taken in bad faith, with the intention of rendering the Appeal moot before CCPS' decision could be reviewed and reversed. The Response and Appeal and all exhibits attached thereto are incorporated by reference.

5. CCPS' actions were taken at a particularly sensitive time for Appellants who are adolescents and wrestling with the emotional concept that the school which they attend, which has been in place for 40 years will be closing at the end of this year. Students have been told that they may not drive to school next year, have no idea what schedules or curriculum will be available to them should the decision be reversed, have no idea what athletics will be available to them in the Fall and have been attempting to find ways of graduating early if necessary to avoid relocation to another school. Notwithstanding the pendency of the appeal and review of the decision by the Maryland State Board of Education, CCPS has been accelerating the closure of North Carroll which will have a tremendous impact on Appellants if CCPS' closure decision is properly reversed.

6. Contrary to the harm to Appellants and those similarly situated, CCPS will not be damaged if restrained as prayed until a full adversary hearing can be held and a final decision can be issued by the MSBE, which is ripe for review.

7. Appellants have no adequate, comprehensive remedy at law, and, even with the issuance of the injunction as prayed, will not be able to completely repair the damage wrought by CCPS' rush to close North Carroll.

8. When considering the granting of preliminary injunctive relief, if, as here, the balancing of hardships as between the parties is in Appellants' favor, issuance of the relief is warranted where Judge Jerome Frank's famous formulation is met, "[i]t will ordinarily be enough that the plaintiff has raised questions going to the merits so serious, substantial, difficult and doubtful, as to make them fair ground for litigation and more deliberate investigation." *Antwerpen Dodge, Ltd. v. Herb Gordon Auto World, Inc.*, 117 Md. App. 290, 304 (1997).

WHEREFORE, Appellants pray that this Court:

- (a) Grant the Motion for a Stay and Preliminary Injunction;
- (b) Temporarily restrain CCPS, until a full adversary hearing can be held and decision issued by MSBE, from taking steps to close the schools as noted in its December 9 closure decision;
- (c) Order CCPS to restore and preserve the status quo as it existed on December 10, 2015; and
- (d) Enter such other and further temporary equitable relief as justice may require.



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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 1<sup>st</sup> day of March, 2016, a copy of the foregoing Motion to

Stay and Memoranda was sent by first-class mail, postage prepaid to:

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**MEMORANDUM IN SUPPORT  
OF MOTION FOR STAY AND/OR PRELIMINARY INJUNCTION**

Donald J. Walsh, Offit Kurman, P.A., and Dawn A. Nee, Law Office of Dawn A. Nee, L.L.C., on behalf of Appellants, submit this Memorandum in support of their Motion for a Stay and/or preliminary injunction against defendant, Carroll County Board of Education (CCPS). As is explained below, the balance of hardships in this case are extreme and easily tip in favor of granting the injunction pending the outcome of the final decision by the Maryland State Board of Education (MSBE) which is reviewing CCPS' decision to close several schools in Carroll County. Appellants have raised serious issues raising doubt as to the legality of the decision and whether it will be upheld by the MSBE which has the final authority over decisions of local school jurisdictions like CCPS. If an injunction is not issued and the status quo preserved pending the outcome of the decision, Appellants as well as CCPS will suffer severe hardships which may be irreversible.

**Introduction**

As this Court is aware, on December 9, 2015, CCPS issued a decision to close three schools in its jurisdiction among them North Carroll High School. These closures were the first phase of closures which CCPS is considering as it wrestles with budget issues and a declining enrollment in the County. Consistent with the rights of the parties, this decision by CCPS as a

local school board has been challenged and referred to the MSBE by Appellants. That decision is under review MSBE which has referred the matter to an Administrative Law Judge who has scheduled a hearing to conduct fact finding and make recommendations of law to MSBE.

One of the few things agreed to by the parties in the Appeal and this litigation is that deciding to close schools is not a popular decision and one which cannot and should not be taken lightly. The students who are impacted by this decision clearly feel tremendous pain and angst over this decision and will be directly impacted if the decision withstands review by the MSBE, which is assessing whether CCPS' decision to close the schools was performed consistent with MSBE standards in COMAR 13A.02.09.01.D.1, CCPS' own regulations found in its Master Facilities Plan and whether it was arbitrary, unreasonable or illegal.

Appellants have raised serious charges that CCPS embarked on a flawed and contrived process in reaching the decision to close North Carroll, and have thus far, presented arguments and documents supporting a compelling demonstration of the manner in which CCPS manipulated data or used flawed data, hid its agendas and failed to adhere to its own educational policies as well as those of the MSBE. All of these arguments are made and supported via exhibits in the Response to Motion for Summary Affirmance which is incorporated herein by reference.

The MSBE has long held that violation of state regulations rendered a decision illegal and unenforceable. *Concerned Citizens of Seven Oaks v. Bd. Of Educ. Of Anne Arundel Co.*, 7 Op. MSBE 654, n.8 (1997). "Although these cases talked of compliance with rules in terms of meeting the arbitrary and unreasonable standard, failure to comply with rules, regulations or policies is now identified in the State Board regulations as a basis for finding of illegality." *Id.*

Likewise, MSBE has held that a local school board's violation of its own policies renders its decision illegal and reversible by the MSBE.

A decision of the local Board will not be deemed arbitrary, unreasonable, or illegal as long as the general public, especially those affected by the Board's proposal, has ample opportunity to provide input and the Board complies with its own rules, regulations, and bylaws. Maryland case law has firmly established that an agency must follow the rules and regulations that it has adopted. The evidence in this case established that the Board did not follow its own rules during the redistricting process, failed to inform relevant parties about the existence of applicable rules which had been ignored as a result of the Board's silence. As a result its decision must be found illegal under COMAR 13A.01.01.03E.(1)(c).

*Id.*<sup>1</sup>

Following these precedents here, the failure of CCPS to follow its own rules and procedures renders the decision illegal and unable to be pursued. Construing all inferences in favor of Appellants, these admissions are conclusive that CCPS has not done its review correctly and consistent with State law requiring that its decision and this Appeal must pursue a full fact finding hearing in support of the Appeal.

The internal documentation of CCPS and the Boundary Adjustment Committee (BAC), which was reviewing the closure issue on behalf of CCPS, provides compelling examples that a fair consideration of State's and County's factors was never undertaken when reviewing the proposed closures. One week before the CCPS Superintendent released his recommendations on November 15, CCPS Board member Jennifer Seidel wrote to the CCPS Superintendent and the other members of the closure committee an email titled "Permanently closing a school regs."

I think what concerns me about the way we've done it is adopted in a blanket fashion with the Ed Fac Master Plan. Because we've never had to worry about

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<sup>1</sup> Although there were past decisions of MSBE which suggested that demonstration of consideration of at least one factor meant the decision was not considered arbitrary or unreasonable, the MSBE now considers the failure to consider the other factors an illegal decision. See *Concerned Citizens of Seven Oaks* 7 Op. MSBE 654, n.8.

this in the past, that may have been ok. But in light of potential future closings, we may want to pull it out at some pt [sic] for review and discussion, as we do with other regs/policies.

The CCPS Superintendent responded by noting “I just wanted everyone to know that the regs do exist.”

The BAC’s internal notes provide similar evidence demonstrating an ignorance of the MSBE required review where financial considerations trumped all review.

There are many factors to consider when selecting schools for possible closure. These include student enrollment trends, age/condition, transportation, education programs, racial composition, student relocation, and impact to communities. ***However, this analysis will only consider four factors due to the fact that CCPS is considering school closures mainly for financial reasons.*** One of the most obvious factors, low utilization, is not being sued. The reason for this is that closing schools will raise the utilization of the remaining schools, including those with low utilization. Transportation was also not considered for this analysis due to the fact that the impact of school closure on ride times is dependent on future BOE decisions.

Discovery has revealed other disturbing revelations of the true intentions of the Board in creating its closure decision. Rather than a careful analysis of various factors, the decision was structured to support a hidden public agenda for the schools’ property.<sup>2</sup> In an email exchange on November 13, 2015, between CCPS’ Superintendent Guthrie and County Commissioner Richard Rothschild, after the recommendation to close schools had been made public, Messrs. Guthrie and Rothschild noted their “vindication”<sup>3</sup> and Superintendent Guthrie explained, “Not for release, but out [sic] plan is to move Central office to New Windsor. We take over a building at [sic] you get the Winchester building.”

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<sup>2</sup> This is also confirmed in the latest proposed budget of CCPS provided to Commissioners of Carroll County, which claims savings solely through personnel cuts at the closed schools. Not surprisingly, no savings are shown for any other facility or building operation costs.

<sup>3</sup> This “vindication” is presumably based on previous oppositions by Messrs. Rothschild and Guthrie to Manchester Valley being built.

Beyond these compelling admissions, numerous simple and undeniable facts demonstrate that CCPS has continued its obligations in its rush to decision. First, CCPS cannot escape acknowledging the errors of its past enrollment projections which led to Manchester Valley being built. CCPS admits in its Motion that it was seeing a “historic decrease in enrollment since 2005.” Memorandum in Support at 3, (“County Board has expressed concerns about declining enrollment trends for nearly ten years”). Notwithstanding this admission, CCPS ignores the fact that it built and opened Manchester Valley High School in 2010. Building that school five years before the decision on Appeal here was clearly based on grossly inaccurate enrollment figures. As is shown below, the current projections of CCPS rely on similar faulty or manipulated data. Even CCPS concedes that its own consultants projected different enrollment and advised against merging the two schools only two years ago.

Further, compounding these errors in enrollment figures is the fact that the CCPS has readily admitted that the closure of North Carroll is only the first step in a process which it will undertake over the next year before closing other schools to further meet budgetary needs. Rather than develop a vision which realigns CCPS’ resources, as was suggested to CCPS in 2013 by the private consultant it retained, CCPS is continuing to undertake an ad hoc review of its problems and assessments of corrections which need to be made. Not only may this approach result in some of the students being crammed into Manchester Valley being sent to a third high school, each change taken by CCPS is done with no forethought to the possible chaos it will create to a system already beleaguered by dissatisfied parents and students.<sup>4</sup> This lack of long

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<sup>4</sup> This Motion also represents little more than the Board’s effort to refuse to respond to specific failures in its process, blaming budgetary issues, previous superintendents and ignoring its obligations under the law. The onerous task faced by CCPS cannot be slightly by simply pointing fingers at actions which took place before the Board undertook their oaths of office and some petty effort at “vindication” over previous opposition to those decisions.

term vision and approach were the basis for one CCPS' Board Member's dissent to the decision here:

I have concerns about this peacemeal [sic] approach to solving a comprehensive problem. Without seeing the entire plan for comprehensive school closures and redistricting, I am concerned that our hands become tied in addressing other facility concerns in the near future. It is for this reason that I am voting no to the [Superintendent's Recommendation].

CCPS' efforts here are little more than a repeat of the same haphazard decision making which created this mess.

Despite having an obligation to do so, CCPS has undeniably undertaken no reasonable effort to study the differences in facilities of the two impacted high schools and has utterly failed to provide any consideration of the impact of the consolidation to the surrounding communities of both North Carroll and Manchester Valley. Again, CCPS' own documents demonstrate its ignorance of its responsibility to consider the impact to the schools' communities. Jonathan O'Neil, Assistant Superintendent of Administration of CCPS, explained to a concerned citizen "[t]here are many emails being received about the impact on business in Hampstead and Manchester. I have no way to assess the economic impact scientifically. All I can say is that prior to 2009 for decades there was only one high school that served both areas and there is no measurable impact on business before and after."

Consistent with its arrogance in not examining the impacts on these communities as required by law, CCPS never examined the current and proposed housing development in either community or even the communities' respective traffic patterns and it failed to take into basic consideration the size of the school into which it was consolidating students. Manchester Valley has less room, is a smaller facility than North Carroll, has limited parking, has the same number

of classrooms as North Carroll which must now accommodate twice the student population and does not even have an auditorium into which the entire proposed student body can fit.

Despite MSBE requirements, CCPS did not even review any traffic studies or impacts to the facilities, commutes and experiences of students and drivers before, during or after school hours.<sup>5</sup> The only traffic studies which were ever completed were done in 2006 in anticipation of Manchester Valley being constructed and only projected the traffic conditions through 2009, the period when Manchester Valley was supposed to be opened. That report plainly explained its projections which are based on the number of students and square footage of the building.

“When completed, the new Manchester High school will be able to accommodate approximately 1,200 students in a 217,000 square foot building.” It did not perform any analysis for a school having well over 1400 students as will occur based on CCPS’ closure and consolidation of the schools. More importantly, the 2006 traffic study noted that

A meeting with the director of transportation for Carroll County Public Schools (CCPS) provided information on future trip distribution for the new high school. The new Manchester High School shall serve the northern area of the school district. . . .

For purposes of this report, CCPS agreed that an estimated 90% of the proposed high school traffic would be coming from and going to the north (along MD 30), 5% from/to the east (along Maple Grove Road), and the remaining 5% from/to the South (along MD 30).

Given the closure of North Carroll, which is south of Manchester Valley, this traffic study is worthless. It also demonstrates that notwithstanding CCPS’ previous forethought and ability to investigate and become involved in traffic studies, it chose to do none before deciding to close

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<sup>5</sup> CCPS does mention that the two schools are four miles apart, but never explains that Westminster and Winters Mill High Schools are only 4 miles apart as well and South Carroll, Liberty and Century also share similar mileage separations. Yet, none of these schools were considered for closing and overcrowding based on their proximity.

North Carroll and ship all students to Manchester Valley. The blind eye adopted to this very real impact clearly demonstrates an irrational and arbitrary decision by CCPS.

Of equal importance, CCPS' admission that the school will be well above capacity for years to come, ignores CCPS' educational policies as well as those adopted by and presented to MSBE. MSBE believes that better student achievement and success, especially, at the high school level, is obtained through smaller classrooms and environments. With no regard to student success, addition of no new facilities and no new allocated funds, CCPS' has decided to cram over 1400 students into an over capacity school with no concern to the students or staff.

The Appeal and this Response to CCPS' Motion presents numerous examples of how CCPS failed to fulfill its obligations of reviewing each of the factors required by COMAR and CCPS' own regulation. Rather than detail how it took comprehensive and exacting consideration of each of the factors required by law and faithfully served the very population it was formed to serve—the students of Carroll County—CCPS seeks to excuse its review based solely on the budgetary shortfalls it was facing. Just as this tribunal cannot permit CCPS to so easily escape its difficult task, it cannot impose the consequences of this decision on students who played no part in creating this problem but who now suffer the consequences of the poor planning of CCPS.

**This Board Has Authority to Stay  
Since the Closure Decision is Not Yet Final**

Based on General Assembly's creation and organization of the School Board structure, it is clear that the decision of CCPS is not final and is subject to further review by the State Board. To be sure, the General Assembly specifically distinguished between the decision of a local and State board when granting powers to each. Md. Code Ann., Education ("ED") § 4-205 (c)(3), granting powers to the local board states:

A **decision** of a county superintendent may be appealed to the county board if taken in writing within 30 days after the **decision** of the county superintendent. The **decision** may be further appealed to the State Board if taken in writing within 30 days after the **decision** of the county board.

Ed. § 4-205(c)(3). *See also Kim v. Comptroller of Treasury*, 350 Md. 527, 534 (1998)

(“Ordinarily an agency order is not final when it is contemplated that there is more for the agency to do”). To the contrary, Ed. § 2-205 makes clear that the “decision of the [State] Board is final.”

Here, CCPS issued a decision to close North Carol High School. That decision is subject to review by the MSBE under ED § 4-205. Because the decision of CCPS is pending before MSBE, there is “more for the agency to do” and therefore, the decision of CCPS is not final. MSBE retains complete authority over all matters relating to State public schools, which places in its power the ability to prevent CCPS from taking steps to effectuate the closing of North Carroll High School. For the reasons that follow, failure to prevent CCPS from taking action, will result in irreparable harm.

### **Standards for Stay/Injunctive Relief**

Past decisions of MSBE demonstrate that the standards for a Stay of the decisions of local boards follow the standards which generally exist for injunctive relief. A stay may be granted if it appears from specific facts shown by affidavit or other statement under oath that immediate, substantial, and irreparable harm will result to the person seeking the order before a full adversary hearing can be held on the propriety of a preliminary or final injunction. Such temporary injunctive relief is “issued to maintain the status quo pending a decision as to a justiciable controversy.” Harford County Educ. Ass’n v. Board of Educ., 281 Md. 574, 585 (1977).

The factors reviewed in determining whether a temporary restraining order or preliminary injunction should be granted are “(1) the likelihood that the plaintiff will succeed on the merits; (2) the ‘balance of convenience’ determined by whether greater injury would be done to the defendant by granting the injunction than would result from its refusal; (3) whether the plaintiff will suffer irreparable injury unless the injunction is granted; and (4) the public interest.”

Fritzsche v. Md. State Bd. of Elections, 397 Md. 331, 340 (2007); see also State Comm’n on Human Rels. v. Talbot County Det. Ctr., 370 Md. 115, 136 (2002); Maryland Comm’n on Human Rels. v. Downey Communs., 110 Md. App. 493, 515 (1996).

Of the four factors, “the balance of hardships is the most important.” Antwerpen Dodge, Ltd. v. Herb Gordon Auto World, Inc., 117 Md. App. 290, 304 (1997).

The balance of convenience factor, also referred to as the balance of hardships factor, is “determined by whether greater injury would be done to the defendant by granting the injunction than would by its refusal.” Schade, 401 Md. at 36. This Court has stated that “of the four factors to be considered by the trial court, the balance of hardships is the most important.” Antwerpen Dodge, Ltd. v. Herb Gordon Auto World, Inc., 117 Md. App. 290, 304, cert. denied, 347 Md. 681 (1997). If the balance of hardship weighs in favor of the plaintiff, the likelihood of success factor becomes less important. Eastside Vend Distributors, Inc., 396 Md. at 242; see also Antwerpen Dodge, Ltd., 117 Md. App. at 304.

Wish Properties, LLC v. Stone, 2015 WL 5968462 (Md. App. 2015)

Possibly the most critical step in interlocutory injunction analysis is to balance the likelihood of harm to the Appellants if the injunction is not issued against the likelihood of harm to the defendant if the injunction is issued. Eastside Vend Distributors, Inc. v. Pepsi Bottling Group, Inc., 396 Md. 219 (2006). If a decided imbalance in hardship appears in plaintiff’s favor, the plaintiff’s requirement to show likely success on the merits is displaced, and it will ordinarily be enough if the plaintiff has raised questions on the merits that are so serious and substantial as

to make them fair ground for litigation and more deliberate investigation. Id. As explained in Eastside Vend Distributors, while quoting guiding Fourth Circuit precedents:

the first step [in a trial court's determination as to whether to grant or deny a preliminary injunction] is for the court to balance the 'likelihood' of irreparable harm to the plaintiff against the 'likelihood' of harm to the defendant; and if a decided imbalance of hardship should appear in the plaintiff's favor, then the likelihood-of-success test is displaced by Judge Jerome Frank's famous formulation:

[I]t will ordinarily be enough that the plaintiff has raised questions going to the merits so serious, substantial, difficult and doubtful, as to make them fair ground for litigation and thus for more deliberate investigation.

Eastside Vend, 396 Md. at 242 (quoting Blackwelder Furniture Co. v. Seilig Manufacturing Co., 550 F.2d 189, 195 (4th Cir. 1977)).

Irreparable harm is a "pliant term adaptable to the unique circumstances which an individual case might present." State Comm'n on Human Rels. v. Talbot County Det. Ctr., 370 Md. 115, 140 (2002). As explained by the Maryland Court of Appeals:

[A]n injury is irreparable, within the law of injunctions, where it is of such a character that a fair and reasonable redress may not be had in a court of law, so *that to refuse the injunction would be a denial of justice*--in other words, where, from the nature of the act, or from the circumstances surrounding the person injured, or from the financial condition of the person committing it, it cannot be readily, adequately, and completely compensated for with money.

Id. (emphasis in original). Indeed, it is well settled that "'irreparable injury is suffered whenever monetary damages are difficult to ascertain or are otherwise inadequate.'" El Bay v. Moorish Temple, 362 Md. 339, 355 (2001) (quoting Maryland-Nat'l Capital Park and Planning Comm'n v. Washington Nat'l Arena, 282 Md. 588, 615 (1978) and Dudley v. Hurst, 67 Md. 44, 52 (1887) ("injury [is] irreparable when it cannot be measured by any known pecuniary standard")). So long as the seeker of injunctive relief establishes that there exists some reasonable basis for its

belief that an injunction is necessary to prevent irreparable harm, the statutory injunction should be granted. Id., at 141.

Nevertheless, “in litigation between governmental and private parties, or in cases in which injunctive relief directly impacts governmental interests, ‘the court is not bound by the strict requirements of traditional equity as developed in private litigation.’” Fogle, 337 Md. at 456, 654 A.2d 449 (quoting State Dep’t of Health & Mental Hygiene, 281 Md. at 555, 383 A.2d 51); see Maryland Comm’n on Human Relations v. Downey Communications, Inc., 110 Md. App. 493, 517, 678 A.2d 55 (1996). Rather, “‘[c]ourts of equity may, and frequently do, go much farther both to give and withhold relief in furtherance of the public interest than they are accustomed to go when only private interests are involved.’” Fogle, 337 Md. at 456, 654 A.2d 449 (quoting Space Aero Products Co., Inc. v. R.E. Darling Co., Inc., 238 Md. 93, 127, 208 A.2d 74, cert. denied, 382 U.S. 843, 86 S.Ct. 77, 15 L.Ed.2d 83 (1965)).

Maloo v. State, Dep’t of Env’t, 136 Md. App. 682, 693-94 (2001).

### **Argument**

There can be no doubt that Appellants have raised and demonstrated substantial issues which are being reviewed by the MSBE and for which a hearing has been scheduled. Those facts, if believed, raise a likelihood of success on the merits. Similarly, it cannot be denied that the harm which may result to Appellants should an injunction not be issued while the matter is pending before MSBE are tremendous and may not be reversed should the outcome be finalized in favor of Appellants.

If the status quo is not preserved and MSBE finds that the decision of the CCPS was improper, there is no way to reverse the closing of North Carroll. Students will be forced into a new school which CCPS admits will be overcrowded and beyond its current capacity; students will have fewer and limited opportunities because of fewer resources per pupil and fewer opportunities to be filled by a larger student population; sports schedules and other extracurricular activities will need to be adjusted to allow teams to be merged or formed, practice and compete in new and separate state divisions; teachers and classroom facilities and supplies

will have to be redistributed and organized; bus schedules and commutes will need to be adjusted; parents will inevitably be forced to modify and change schedules to accommodate their children's new lives; teachers will not be settled in classrooms, in curriculums or in teaching rhythms; and teachers, administrators and other core personnel who were let go based on the consolidation will have to be replaced or hired.

Further, if the decision of CCPS is reversed, the unwinding of damage will result in further chaos. Not only will students and teachers have spent a year at Manchester Valley, but CCPS, who made an initially incompetent decision will have to create and implement a plan to take action in accordance with this Court's ruling. If for example, this Court overturns the decision of CCPS, and determines that North Carroll should have remained open, then what happens when CCPS attempts to reopen North Carroll? The damage will have already resulted and can never be reversed, particularly for high school seniors. For the remaining students, their high school experience will be fractured and likely cause social ramifications.

Although it is not difficult to imagine the absolute chaos which will occur should the status quo not be maintained until the final decision is rendered by the MSBE, the intangible pain and harm to students learning opportunities, high school experiences and education are far more serious. There is no reset button or means of extending the high school further into the future to accommodate those students whose experiences suffered from the disarray which an ill-conceived and rushed decision created. Based on the admitted reality that Manchester Valley will be overcrowded, parents of high schoolers or those approaching high school will begin to look for other educational opportunities and/or to move to avoid placing their sons and daughters in overcrowded schools. Teachers are looking at early retirements or the possibility of transferring to other schools in other counties where they may bump another teacher who has

less seniority in the union system. As a result of the announced decision, home sale inventories will increase causing a corresponding drop in values, High School Seniors will be applying for colleges, taking SAT's and/or ACT's and looking for grades to supply to colleges. These students should not negatively impacted by CCPS' rush to make a poor decision, which is then compounded by its rush to implement that decision before MSBE has had a chance to fully review it and ensure that it complies with the law.

Although the harm to the students and school body could be tremendous if the decision is successfully overturned, there is little to no harm to CCPS should the decision be stayed. All efforts to plan for a transition may be wasted but, if its decision is affirmed on review, it will still be a place that it can implement the decision at the close of the next school year. Any financial costs or impacts will also be offset by the offer of funds which was made by Governor Hogan in his letter presented to the Board. Unlike CCPS, other school systems facing declining enrolments have accepted funds from the State to keep schools open either to simply offset the financial burden or until a final determination can be made in accordance with COMAR.

For all of these reasons, there is little doubt that irreparable harm will occur if the status quo is not preserved until the MSBE finalizes its review of the CCPS' decision. The balance of hardships clearly tilts in favor of entering an injunction preventing CCPS from implementing its decision until after MSBE concludes its review and issues its written decision.

Of similar import, the public interest will not be harmed or jeopardized in any fashion should the schools remain open pending the outcome of the final appeal and decision by MSBE. The public interest involved in this case are unique in light of the fact that the public has a strong interest in ensuring that there is a valid and well-reasoned decision to close the schools. Given the fact that CCPS has indicated this is the first phase of additional redistricting and closures,

there is a distinct interest in ensuring that CCPS has performed its evaluation of all required factors before it embarks on an additional phase of closures or changes.

Similarly, the public interest exists in ensuring that the decisions that its elected officials make are valid, legal, done for appropriate reasons and are performed solely with motivations to providing an equitable distribution of services and experiences to the entire County student population. Under the decision of CCPS here, the students in the area of the County served by Manchester Valley are unfairly and unreasonably bearing the burden of CCPS' decision to overcrowd their school while other high schools have remarkably lower capacities. It is fairly obvious at this juncture that CCPS never even undertook a complete review of all of the State required factors rendering the decision unlikely to be supportable.

For all of these reasons, a stay or injunction should be issued preventing CCPS from implementing its decision to close the schools until MSBE concludes its review.



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