

T.H. AND A.H.,

Appellants

v.

ANNE ARUNDEL COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 26-24

OPINION

INTRODUCTION

Appellants challenge the decision of the Anne Arundel County Board of Education (“local board”), which upheld the Superintendent’s determination that their seven school age children are ineligible for school enrollment protections under the McKinney-Vento Homeless Assistance Act (“McKinney-Vento”), 42 U.S.C. 11431 *et seq.*, for the 2025-2026 school year.¹ The local board concluded that the family’s living conditions do not constitute “substandard housing” under the law. The matter has been fully briefed by the parties.

FACTUAL BACKGROUND

Appellants are homeowners of a four-bedroom, single-family residence housing thirteen individuals, including two parents and eleven children. (R. 53). Seven of these children are school age and are currently enrolled in Anne Arundel County Public Schools (“AACPS”) in grades ranging from kindergarten to grade 12.²

Following a November 21, 2023 school redistricting decision by the local board, the middle and high schools zoned for the family’s home address changed from Northeast Middle School to Chesapeake Bay Middle School and Northeast High School to Chesapeake High School. (Local Bd. Response, p.1). Pasadena Elementary School remained the zoned elementary school.

During the 2024-2025 school year, AACPS granted the children McKinney-Vento eligibility based on substandard housing conditions, specifically a reported lack of working heat.³ (R. 53). This designation permitted the middle and high school students to remain at their schools of origin (Northeast Middle School and Northeast High School) and receive corresponding transportation services rather than transitioning to their newly zoned schools. For the 2025-2026 school year, the high school students attend

¹ See also COMAR 13A.05.09 — Programs for Homeless Children.

² The students are in kindergarten, 4th grade, 5th grade, 9th grade (two children), 11th grade, and 12th grade.

³ Appellants initially sought McKinney-Vento eligibility for one of their children claiming that the student was being harassed at their residence which required the student and one parent to stay in hotels. AACPS denied eligibility. At some point during the appeal process the parent and child returned home because the threat subsided, however during that process AACPS granted eligibility to all of the students based on Appellants’ later claim of lack of heat. (R. 38-39).

Northeast High School under the McKinney-Vento stay put provisions while the eligibility appeal remains pending.⁴

Appellants maintain that the residence is not an “adequate nighttime residence” under McKinney-Vento, alleging various physical defects and overcrowding conditions. They claim that the home has nonfunctioning heat (since January 2023) and nonfunctioning electricity in several portions of the home and has rainwater intrusion in the basement resulting in mold growth and a structurally weakened staircase. They claim that six of the children sleep in the common living and dining rooms (three on couches, two on air mattresses, and one on floor using blankets). They assert that the rest of the family sleeps in the bedrooms, and that the basement cannot be used for sleeping due to mold and the electrical issues. (R. 2-4).

To support these claims, Appellants submitted photographs they identify as mold in the basement (R. 14-16); photographs of three bedrooms (one with a crib and toddler bed, one with two twin beds, and one with a full/twin bunk bed)(R. 17-19); a Department of Housing and Community Development (“DHCD”) Deferral of Service Notification, dated July 30, 2024, stating no weatherization of home could be completed due to lack of heat (R. 20); an unsigned and undated DHCD referral form for the Maryland Energy Assistance Program (“MEAP”) with checked boxes for non-functioning heating/cooling and potential upgrades for whole house weatherization, moisture or mold remediation, and lights (R. 26-28); a January 19, 2023 estimate from Smith & Company HVAC for HVAC system replacement (Appeal Attachments at 6); and a January 23, 2023 American Home Shield partial approval notice. (*Id.* at 4-5).

AACPS reverifies McKinney-Vento eligibility annually between school years. During the day of July 16, 2025, Pupil Personnel Workers (“PPWs”) Melissa Trost and Justin Deitrick conducted an in-person home visit to evaluate the residence using an informal substandard checklist as a guide. (R. 38-42). The report of the home visit includes the following information:

There were areas of the home that [Appellant A.H.] stated did not have working electricity to include one bedroom, hallway, stairs, and basement. [The PPWs] observed these areas without lighting. [The PPWs] observed a water spot in the basement. [They] were made to assign (sic) a general liability release to enter the basement. [Appellant] stated the stairs were unsafe and there was mold in the basement. A water spot was observed in the basement and [Appellant] stated the rainwater may be entering through a crack in the driveway. The PPWs reported no noticeable moldy or musty odor in the carpeted basement.

Upon entering the basement, [the PPWs] observed three beds with sheets and pillows and dressers with clothing. [Appellant] stated that no children sleep in the basement due to mold and no electricity. The washer and dryer were in an area of the basement. [Appellant] indicated that the washer and dryer did work even though the remainder of the basement did not have electricity. [Appellant] did not show the PPWs all areas of the basement.

[Appellant] shared that there were four bedrooms in the home, and all four bedrooms were seen by the PPWs. [Appellant] stated that one of the rooms was used as a guest room for visiting nieces and six of the children slept in the living room on the couch and air mattresses. There were four air mattresses observed. One air mattress in the niece’s room (guest room) and three other air mattresses was (sic) in the garage with no blanket or pillows. No clothing, blankets or air mattresses were observed in the living room during the home visit. The house was

⁴ The schools of attendance for the other children are not at issue here.

reported to be clean and tidy with no clutter or shoes around the front door or living room area.

PPWs observed a note stuck on the thermostat indicating it was not to be used or touched. The PPWs conducted a home visit on a day that was 90 degrees outside and reported the interior of the house was temperate if not cool. There were fans running but the PPWs could not say if they witnessed air conditioning being used.

(R. 38-42). It is also noteworthy that during the 2024-2025 school year, one of Appellant's high school age children told the school counselor that the home had heat. (R. 35, 63). Following the home visit, Ms. Trost notified Appellants that the housing conditions were not considered substandard under McKinney-Vento and denied eligibility. (R. 40, 44).

Appellants appealed the ineligibility decision arguing that the conclusions from the home visit assessment were incorrect. (R. 45-46). Appellants included their own completed Mc-Kinney Vento Substandard Housing Assessment Checklist in which they noted broken stairs, mold, water intrusion, electrical and heating issues, and overcrowding. (R. 49).

On August 6, 2025, Jennifer Laque, Coordinator of McKinney-Vento Education, upheld the denial. (R. 53-54). Ms. Laque determined that while the home had maintenance issues, it remained an adequate nighttime residence. *Id.* She stated as follows:

You indicated the home has not had heat since January of 2023, there is no documentation or confirmation that the home will remain unheated or lacks alternative sources of heat during the colder months. You indicated that students sleep in the living room due to overcrowding. The home visit confirmed the sleeping arrangements were both age appropriate and gender appropriate. As the homeowner, choosing to consolidate sleeping arrangements does not demonstrate the entire home is unfit or unavailable for use. You reported faulty basement stairs and mold in the basement. No formal documentation was provided to confirm the mold in the basement makes the home as a whole unsafe. Additionally, you reported the basement is no longer being utilized as a sleeping space. You reported areas of the home lacking electricity to be one bedroom, hallway, stairs, and basement due to a failed insulation installment in October of 2024, however, the washer and dryer in the basement are functioning, indicating electricity in this area. Lack of electricity in these areas does not make the entire home substandard.

Id.

Appellants appealed Ms. Laque's decision. (R. 55-56). On August 19, 2025, Ryan D. Voegtlin, Assistant Superintendent of Student Services, acting as the Superintendent's designee, advised Appellant that the appeal of McKinney Vento eligibility for her children was denied. (R. 1). Mr. Voegtlin stated:

Your family resides in a privately owned, four-bedroom home. While certain portions of the home, including the basement, have maintenance concerns and limited electrical access, no formal documentation was provided to indicate that the mold in the basement makes the space unsafe for occupancy. Although you stated the home currently lacks working heat, there is no evidence that safe alternative heating will not be used during cold months. You indicated that some children sleep in shared bedrooms and others in common living areas. As the legal owner of your home, you have full authority over how household space is utilized. Choosing to have multiple children sleep in the living room, rather than arranging other available areas or furnishings, reflects a personal decision. These

arrangements are within your control to address and do not meet the McKinney-Vento definition of substandard housing.

Id.

Appellants appealed the decision to the local board. (R. 59-61). On January 15, 2026, the local board upheld the superintendent's ineligibility determination, finding that Appellants did not show by a preponderance of the evidence that the students qualified for enrollment under McKinney-Vento.

This appeal to the State Board followed.

STANDARD OF REVIEW

Decisions of a local board involving a local policy or a controversy and dispute regarding the rules and regulations of the local board shall be considered *prima facie* correct, and the State Board may not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. COMAR 13A.01.05.06A. A decision may be arbitrary or unreasonable if it is contrary to sound educational policy, or if a reasoning mind could not have reasonably reached the conclusion of the local board. COMAR 13A.01.05.06B. The Appellants have the burden of proof by a preponderance of the evidence. COMAR 13A.01.05.06D.

LEGAL ANALYSIS

The McKinney-Vento Homeless Assistance Act, 42 USA §§11431 *et seq.* defines a "homeless student" as an individual who lacks a "fixed, regular, or adequate nighttime place of residence," which includes children living in "substandard housing". 42 USC §11434a(2). *See also* COMAR 13A.05.09.02B(3). In determining whether housing is "substandard," school systems may consider whether the home lacks fundamental utilities, is infested with vermin or mold, lacks a basic functional part such as a working kitchen, or may present unreasonable dangers to adults, children, or persons with disabilities. *See Education for Homeless Children and Youths Program Non-Regulatory Guidance*, p.6 (updated August 2018).

Appellants contend that the local board's decision was arbitrary and illegal, asserting that AACPS created unlawful barriers to McKinney-Vento identification by requiring "costly formal documentation," relying on subjective opinions regarding the condition of the home and overcrowding, and improperly shifting the burden of proof to the family. We find these arguments unpersuasive.

Under McKinney-Vento, school systems must ensure that verification procedures do not create barriers to identification or immediate enrollment. *See* 42 USC §11432(g)(1)(I). However, school systems retain authority to conduct annual, good faith verifications to ensure that McKinney-Vento resources are directed exclusively to eligible students.

Based on the record, AACPS did not create unlawful barriers, but rather engaged in the standard, required reverification process for the new academic year after Appellants' children had been enrolled in and provided transportation to their schools of origin under the eligibility provisions. The reverification process included an investigation into the students' living arrangements during which PPWs visited the home and spoke directly with Appellant A.H. The local superintendent and local board based their decisions on first-hand observations by the PPWs combined with the lack of current verifying documentation.

While school systems should not require onerous and burdensome documentation for McKinney-Vento eligibility, they are also not required to blindly accept a parent's self-reported claims of a home's condition, and the law does not preclude them from seeking out some form acceptable documentation for

verification purposes. AACPS did not require onerous and burdensome documents here. Given the conflicting information, combined with difficult to verify claims based on observation alone, we cannot find that it was unreasonable for the local board to consider the lack of documentation to verify the claimed condition of the home.

The record reveals that the local board weighed the conflicting evidence and reasonably determined that the alleged issues did not render the home substandard. While Appellants claim they have lacked heat since 2023, the PPWs were unable to verify lack of functioning heat during the home visit on July 16, 2025, and noted the home was a comfortable temperature. The presence of a note on the thermostat that it was not to be used does not prove a nonfunctional system. While we acknowledge there was documentation concerning the HVAC from January 2023, the most recently dated paperwork in the record concerning the HVAC issue is dated July 2024. The record indicates there was a statement from one of Appellants' high school students to a school counselor confirming that the home did have heat. (R. 35, 63). The statement calls into question the earlier documentation and reasonably supports the need for updated documentation to substantiate continued nonfunctional heat or lack of safe alternative heating sources.

Regarding the electricity, the report indicates that the PPWs observed the one bedroom, a hallway, stairs, and the basement without light. Based on that information, it is unclear to what extent the electricity in those areas was nonfunctional and supporting documentation would have been helpful. Concerning the basement, the PPWs noted that the washer and dryer in the basement had electricity, suggesting there was at least partial electricity in the basement. We find the local board's determination was reasonable that lack of electricity in the several identified portions of the home does not render the home substandard under McKinney-Vento. These are localized electrical issues and not a case of whole house electrical failure and there is no evidence that critical space such as the kitchen lack electricity.

Despite Appellants' claims that the basement is uninhabitable due to mold and weakened stairs, this claim was not supported by observations during the home visit. Upon entering the basement, they discovered three beds with bedding and dressers filled with clothing. The basement laundry facilities were also operational. Based upon this information, AACPS concluded that the family regularly utilizes the basement. While Appellants submitted pictures of mold and the PPWs observed a water spot, they did not note any mold or musty odors in the carpeted area. Appellants failed to produce any current, objective evidence such as mold remediation quotes or medical documentation linking the children to mold-related health issues, to prove the space had a hazardous mold infestation.

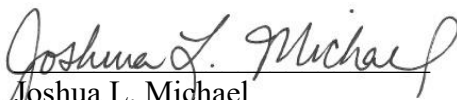
The Appellants argue that administrators relied on subjective opinions to dismiss their claims of overcrowding, pointing to Ms. Laque's statement in her report suggesting the family was utilizing McKinney-Vento eligibility to maintain enrollment in the schools impacted by the redistricting. However, the report following the home visit contains objective evidence from the PPWs observation of the entirety of the four-bedroom home, including a bedroom designated as a guest room. There is no single measure for overcrowding under McKinney-Vento, and it is case-by-case determination. Here, the PPWs determined that the home provided an adequate nighttime residence. That decision was reviewed and affirmed by administrators, the Superintendent, and the local board who reached conclusions based on evidence contained in the full case record. The fact that conclusions were based on the PPWs first-hand observations and discussions with Appellant during their home visit does not invalidate those findings.

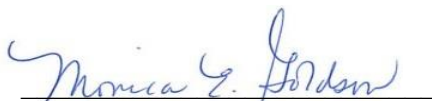
Although Appellants reference the Anne Arundel County Property Maintenance Code and Housing and Urban Development standards to support their overcrowding argument, the record demonstrates that there are sufficient habitable rooms within the home which can be allocated and furnished to accommodate sleepers. While we recognize that Appellants' living situation is not ideal, based on the record we find the decision reached by the local board was reasonable. Appellants have not carried their burden to prove that no reasoning mind could have reached the conclusion of ineligibility decided by the local board.

Finally, Appellants misunderstand the burden of proof. AACPS conducted an affirmative investigation to assess eligibility under the McKinney-Vento Act. Having been denied eligibility based on factual findings from that investigation, the burden on appeal rests squarely on the Appellants to prove by a preponderance of the evidence that the local board's decision was arbitrary, unreasonable, or illegal. *See* COMAR 13A.01.05.06. Appellants have failed to meet this burden. The local board considered all materials presented by Appellants and reasonably concluded that the Appellants' children were not McKinney-Vento eligible because the home did not qualify as substandard housing that renders the residence inadequate for a nighttime stay.

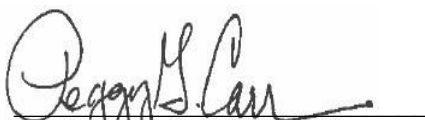
CONCLUSION

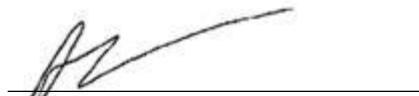
For all of the reasons stated above, we find that the local board's decision that Appellants' home provides a fixed, regular, and adequate nighttime place of residence rendering Appellants' children ineligible under McKinney-Vento is not arbitrary, unreasonable, or illegal. Accordingly, the local board's decision is affirmed.

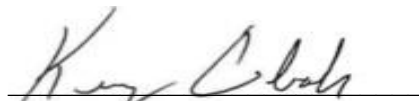

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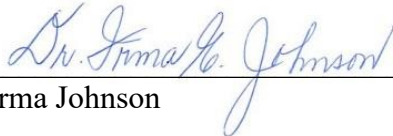

James Bell

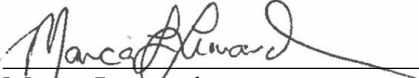

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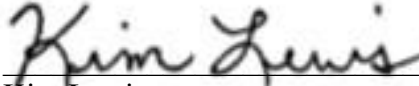

Chet Chesterfield

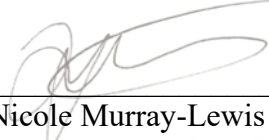

Kenny Clash

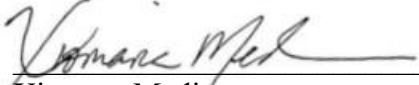

Nick Greer

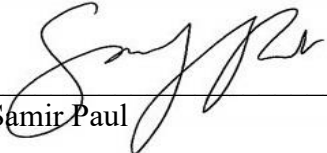

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May 28, 2026