

DOUGLAS F. GANSLER
Attorney General



ELIZABETH M. KAMEEN
Principal Counsel

KATHERINE WINFREE
Chief Deputy Attorney General

JOHN B. HOWARD, JR.
Deputy Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
MARYLAND STATE DEPARTMENT OF EDUCATION

MEMORANDUM

September 11, 2009

TO: Dr. Jerry Dean Weast
Judith S. Bresler, Esquire
Shirley Bradman
James P. Laurenson

FROM: Elizabeth M. Kameen, Principal Counsel *EK*
Maryland State Department of Education

SUBJECT: Eastern Middle School Schedule Decision Workgroup v.
Montgomery County Board of Education

Enclosed is a copy of **Order No. 09-2** for the above named case which was rendered by the State Superintendent of Schools.

Enclosure

MARYLAND STATE DEPARTMENT OF EDUCATION

EASTERN MIDDLE SCHOOL
SCHEDULE DECISION WORKGROUP

*

ORDER OF STATE

*

SUPERINTENDENT

V.

*

OR NO. 09-2

MONTGOMERY COUNTY PUBLIC
SCHOOLS

*

*

* * * * *

ORDER

On Friday, August 28, 2009, the Eastern Middle School Schedule Decision Workgroup requested that I issue a stay of a decision made by the Montgomery County Board of Education on July 27, 2009 to reduce the number of class periods at Eastern Middle School from 8 to 7 periods beginning on August 31, 2009. They suggest in their request that "a stay would simply return [the school] to the 8 periods that it had for many years." As counsel for the local board currently points out in her September 2, 2009 response to the request for stay, "What Appellant seeks is a summary reversal of a local policy decision through the quasi-judicial appeal process." I agree that a request for stay is not the appropriate legal vehicle to seek reversal of the local board's decision.

Moreover, the Appellant's case does not meet the legal standard for granting or denying a stay. Applying the standard recently announced by the Fourth Circuit in *The Real Truth About Obama, Inc. v. Federal Election Commission*, ___ F.3rd ___, 2009 WL2408735 (4th Cir. 2000), it is my view that the Appellants nor their children will be irreparably harmed by the local board's decision. Thirty-two of the thirty-eight middle schools in Montgomery Count, serving 30,714 students, operate on a seven period schedule. That schedule is now in place in Eastern

Middle School. Eight hundred students attend the school. Their schedules are set, school has begun, teachers have been assigned on a 7 period schedule. The harm in staying the local board's decision would be to the school system in terms of budget and re-scheduling.

Therefore, for all the reasons stated here, I deny the Request for Stay.

9/11/09

Date

Nancy S. Grasmick

Nancy S. Grasmick
State Superintendent of Schools