

KATHLEEN S.,
Appellant

v.

HOWARD COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION

Opinion No. 11-41

OPINION AND ORDER

The student at issue here has resided in Howard County for approximately 15 ½ years with her mother, the Appellant in this case. The student attended the Howard County Public School System (HCPSS) from kindergarten through the fourth grade, at which point she began attending private school. The student has been living with her mother and aunt in Howard County in the home they jointly purchased in 2008. The student is currently residing with her aunt in that house while the Appellant is working as a civilian contractor for the United States Department of Defense in Afghanistan for a temporary yet extended period of time. Appellant is stationed at the Bagram Air Force Base.

The Appellant is a single mother who was granted sole legal and physical custody of her daughter when she and the student's father divorced. The father lives in Florida. He only has supervised visitation rights. He has not been a part of the student's life in any significant way for her whole life. The aunt does not have court ordered legal guardianship of the student, but she does have a Special Power of Attorney granting her temporary custody of the student and the power to exercise all legal rights in connection to her maintenance and care during the Appellant's absence. The Appellant has no intentions to seek court ordered guardianship of the student with the aunt given concerns about Appellant's custody arrangement with the father, and given Appellant's expected return from Afghanistan in February 2012.

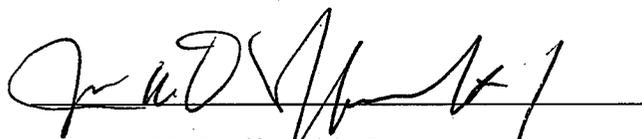
The Superintendent's Designee denied the student enrollment in HCPSS for failing to satisfy the residency requirement asserting that she is not currently residing in Howard County with a parent, legal guardian, or relative providing informal kinship care.

It is our view that the student is residing with a relative providing informal kinship care. The informal kinship care statute states that it applies when "serious family hardship" requires the child to live with a relative. Md. Educ. Code Ann. § 4-122.1. The assignment of a parent to active military duty qualifies as a "serious family hardship." Md. Educ. Code Ann. §4-122.1(c)(iv). Although the Appellant is not specifically designated as active military personnel, we interpret her service to this Country as a civilian contractor for the Department of Defense in an area of active military engagement as equivalent to active military duty for purposes of informal kinship care. Appellant is supporting our Country through the performance

of critical functions with critical importance, in similar vein as individuals on active military duty. She should not have to worry about her daughter's enrollment in school during her service in Afghanistan.

Given the specific unique and factual circumstances of this case, we find that the decision of the Superintendent's Designee denying the student enrollment was illegal. Therefore, this Board reverses the decision of the Superintendent's Designee and orders the school system to immediately enroll the student in school.

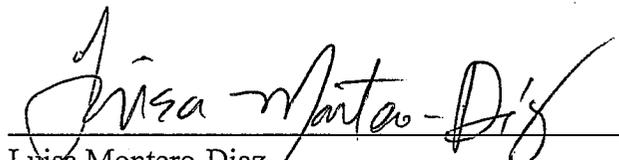
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August 30, 2011