

MEMORANDUM

July 8, 1991

TO: County Council

FROM: Andrew Mansinne, Jr., Director  
Office of Legislative Oversight



SUBJECT: Report of Inquiry into the Facts and Circumstances  
Relating to a Motion by the Montgomery County Branch, NAACP,  
Opposing the Appointment of Ms. Patricia Baptiste to the  
Montgomery County Planning Board

I Authority, Scope, and Organization of Report

- A. This inquiry was conducted during the period July 2 through July 7, 1991, by Mr. Andrew Mansinne, Ms. Karen Orlansky, and Ms. Joan Pedersen, with the assistance of Ken Wilcox, Public Administration Intern, all members of the County Council's Office of Legislative Oversight, acting under authority of Chapter 29A, Montgomery County Code.
- B. The specific instruction to conduct the inquiry was a County Council directive on July 2, 1991. The Council directed the Office of Legislative Oversight (OLO) to review the documents and other information presented to the County Council relating to Ms. Patricia Baptiste's activities during 1980-1983 regarding decisions by the Montgomery County Board of Education that concerned the Bethesda-Chevy Chase School Cluster and, specifically, Rosemary Hills Elementary School.
- C. This report is organized as follows:
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## **II Methodology**

- A. The inquiry was conducted by OLO through a review of relevant documents and personal interviews. A list of documents reviewed is attached as EXHIBIT A; a list of persons interviewed is attached as EXHIBIT B.
- B. Two witnesses gave their testimony under oath: Ms. Patricia Baptiste, County Executive appointee to the Montgomery County Planning Board; and Mr. Hanley J. Norment, President, Montgomery County Branch, NAACP. The remainder of the interviews were conducted over the telephone.
- C. OLO's document search and interviews were constrained by the brief period available to conduct this inquiry.

## **III Specific Motion by the Montgomery County Branch, NAACP**

Mr. Hanley Norment, in sworn testimony, stated that on Tuesday, June 25, 1991, the Montgomery County Branch of the NAACP adopted, "without dissenting votes", a motion to oppose the appointment of Patricia Baptiste to the Montgomery County Planning Board "because the appointment is viewed as inimical, particularly to the best interests of African-Americans and other minorities."

In response to questions by OLO, Mr. Norment testified that the NAACP's motion was based upon a belief that the actions of Ms. Baptiste during 1980-1982, which related to the County Board of Education (BOE) decisions regarding the Rosemary Hills/B-CC School Cluster, demonstrated a selfishness and insensitivity to the interests of African-Americans and other minorities. In particular, Mr. Norment alleges that, as President of the Chevy Chase Elementary School PTA Board, Ms. Baptiste's support for the BOE decision to close Rosemary Hills Elementary School, and her position with respect to school feeder patterns, evidence her advocacy of proposals to minimize the movement of students from Chevy Chase Elementary School at the expense of minority and other students at other schools in the Rosemary Hills/B-CC Cluster.

Mr. Norment testified that he personally felt Ms. Baptiste's actions during the 1980-82 period, at a minimum, leave doubts as to her commitment to the goals of a multi-racial, multi-ethnic society. Mr. Norment acknowledged that he does not personally know Ms. Baptiste. He also testified that he had no personal knowledge of any political connection between Ms. Baptiste and Ms. Marian Greenblatt, a former member of the County BOE.

## **IV Chronology of Events**

1. **September 30, 1975: The County Board of Education (BOE) adopts a Quality Education/Racial Balance Policy Statement.**

The Policy Statement has been described as setting forth four considerations that must be addressed in finding solutions to racial imbalance:

- learning-needs of children and educational programs in each school;
- reduction of racial and socioeconomic imbalance in the schools;
- avoidance of one-way desegregation; and
- assurance of the ethnic integrity of all students.

**2. March 1976: The County BOE implements a grade level reorganization plan among Rosemary Hills, Larchmont, and Chevy Chase Elementary Schools.**

The grade level reorganization plan is implemented to address racial imbalance in the Rosemary Hills/B-CC Cluster schools. Under the plan, students are assigned to Rosemary Hills Elementary School for grades K-2, and to Chevy Chase and Larchmont Elementary Schools for grades 3-6. Just prior to the grade level reorganization, Rosemary Hills Elementary had an approximate 87 percent minority enrollment; Chevy Chase Elementary had a three percent minority enrollment; and Larchmont Elementary also had a low minority enrollment.

**3. April 1977: Ms. Baptiste moves to Montgomery County.**

Ms. Baptiste's Grafton Street home is located in the Chevy Chase Elementary School enrollment area. In September 1977, Ms. Baptiste's daughter is enrolled in the first grade at Rosemary Hills Elementary School. Two years later, in September 1979, Ms. Baptiste's son is enrolled in kindergarten at Rosemary Hills, and her daughter is enrolled in the third grade at Chevy Chase Elementary. (Both Baptiste children attended public schools from kindergarten through the sixth grade; Rosemary Hills for K-2 and Chevy Chase for 3-6.)

**4. June 1979: As a member of the Chevy Chase Elementary School PTA, Ms. Baptiste is appointed as representative to the Rosemary Hills/B-CC Cluster Committee.**

**5. 1979: The County BOE makes a decision to close Larchmont Elementary School effective for the 1980-81 school year.**

Larchmont area students continue to participate in the grade level reorganization plan. With respect to the Larchmont closure decision, the Chevy Chase PTA Board is on record urging that the BOE continue to assign lower grade Larchmont area students to Rosemary Hills Elementary School, to assign upper-grade (3-6) Rosemary Hills area students to North Chevy Chase Elementary, and to maintain the transfer policy emphasis on racial balance and enrollment population. (In 1979, the Co-Presidents of the Chevy Chase PTA Board are Ms. Marian Long and Ms. Judy Flannery.)

6. **April 22, 1980: The Rosemary Hills Primary Assembly/PTA sends a letter to the MCPS Area Superintendent.**

The letter from the Rosemary Hills Parent Assembly/PTA expresses concerns on the increasing percentage of minority enrollment above the BOE target at Rosemary Hills, the high teacher-pupil ratio in first and second grades, the loss of aide time, and questionable teacher quality.

7. **June 1980: Ms. Baptiste is elected President of the Chevy Chase PTA Board.**

Ms. Baptiste serves as PTA Board President, June 1980 to June 1982.

8. **October 21, 1980: Parents from the Rosemary Hills area file a formal complaint with the U.S. Department of Education Office of Civil Rights.**

The complaint, backed by the Montgomery County Branch of the NAACP, charges the County BOE with deliberate resegregation of Rosemary Hills Elementary School through its inaction and continued allowance of white student transfers into other schools.

9. **February 18, 1981: As President of the Chevy Chase PTA, Ms. Baptiste testifies before the County BOE on the Draft Implementation Guidelines of the Long Range Educational Facilities Plan.**

With respect to the Rosemary Hills/B-CC Cluster, Ms. Baptiste testifies on behalf of the Chevy Chase PTA Board that the Facilities Plan must clearly state that "high minority enrollment alone is not a valid reason for closing a school." The testimony also states that the grade level reorganization plan adopted in March 1976 has not worked as intended, and advocates "either an expanded mandatory busing program or some alternative plan to address the problem of growing minority imbalance so that no school is severely impacted or carries an undue burden in this ongoing desegregation process."

10. **March 11, 1981: The County BOE adopts a Policy Statement on Long Range Educational Facilities Planning.**

The policy "envision[s] that eventually all, or a great majority of schools, except special schools, will be structured according to the following grade organization pattern: grades K-6 for elementary schools, grades 7-8 for intermediate-level schools, and grades 9-12 for senior high schools."

11. **March 30, 1981: As President of the Chevy Chase PTA Board, Ms. Baptiste testifies before the County BOE on the subject of Leland/Kensington Junior High School Facilities.**

The testimony recommends Leland Junior High School, at its present location, as the most suitable alternative because it is best situated to serve the Rosemary Hills/B-CC Cluster children and

because it can best operate as a strong feeder Junior High for B-CC High School. The testimony also notes the PTA's position that if the Junior High articulation must be split, then all Chevy Chase Elementary School children should go to the same Junior High School.

**12. April 1981: Citizens of Rosemary Hills and Chevy Chase submit Task Force Recommendations for Chevy Chase Elementary School to the County BOE. (Ms. Baptiste was not a member of the Task Force.)**

In its general statement, the Task Force document states that the shared student body between the Chevy Chase and Rosemary Hills Elementary Schools has worked well. However, three modifications are needed to maintain a stable, desirable situation:

- insure racial balance and numerical stability by closing adjacent underenrolled elementary schools which fail to meet cost effectiveness standards set by the BOE 15-Year Plan Policy Statement and redistribute the students to Rosemary Hills and Chevy Chase;
- continue to provide resources at a higher level in the economically and racially diverse schools; and
- temporarily freeze all transfers until a County BOE-appointed task force considers the future and purpose of the Rosemary Hills/B-CC Cluster.

**13. April 10, 1981: Representatives of the Chevy Chase PTA and the Rosemary Hills Primary Assembly/PTA advocate an expansion of grade level reorganization in the Rosemary Hills/B-CC Cluster.**

As President of the Chevy Chase PTA Board, Ms. Baptiste co-signs (as one of nine representatives from the Chevy Chase Elementary PTA Board and the Rosemary Hills Parent Assembly) a letter to the County BOE that advocates an expansion of grade level reorganization in the Rosemary Hills/B-CC Cluster as the fairest solution to integration and declining enrollment because:

- each neighborhood derives satisfaction from having their children attend a local school for at least part of their elementary years; and
- it reduces the undesirable need for one-way busing.

The letter specifically takes the position that "no solution should include the closure of Rosemary Hills or Chevy Chase Elementary", and recommends continuing to develop the two schools as models of quality integrated education.

- 14. June 22, 1981: The County BOE adopts a resolution concerning grade pattern organization in the schools.**

In the context of a discussion on Brookview Elementary, the BOE adopts a series of resolutions, one of which includes a directive that the Superintendent develop two County-wide alternatives that would continue, or convert, a K-6 pattern of grade organization for all elementary schools.

- 15. September 1981: The County BOE directs the Superintendent of Schools to develop a number of alternative plans regarding school closures.**

Because of low enrollment in several areas of the County, the BOE must identify 28-30 schools for closure, including schools located within the Rosemary Hills/B-CC Cluster. Public hearings are to be held by the BOE on the various alternatives developed by the Superintendent of Schools.

- 16. September 6, 1981: Ms. Patricia Baptiste and Ms. Ellen Rodin submit a letter to Carol Wallace, President of the County BOE.**

On their own behalf, Ms. Baptiste and Ms. Rodin submit a joint letter to BOE President, Carol Wallace, with comments on a proposal from Joseph Barse (BOE Member). The letter states that, given the Board's wish to return all schools to a K-6 grade pattern, Ms. Baptiste and Ms. Rodin advocate establishing K-6 programs at both Rosemary Hills and Chevy Chase Elementary Schools with mandatory assignment of students. The plan includes closing North Chevy Chase Elementary and moving its students and magnet program intact to Rosemary Hills Elementary. The reasons cited for supporting the plan are:

- "1) The plan ensures the continuation of a school on the Rosemary Hills site.
- 2) Of all schools in the Cluster, North Chevy Chase has the lowest neighborhood enrollment (95), while over 90 children from Rosemary Hills currently attend North Chevy Chase. The NCC model program is a proven success which has already established its drawing power in the Cluster. A move of 2-3 miles should make no difference in the success of that program.
- 3) Rosemary Hills has a larger capacity than North Chevy Chase and would therefore allow more flexibility for transfers into the model program.
- 4) Rosemary Hills facility (gym and AP room) is superior to that of North Chevy Chase (no gym).
- 5) Of all the Cluster elementary schools, North Chevy Chase is most in need of costly renovation."

- 17. September 8, 1981: The County BOE directs the Superintendent of Schools to develop a Master Plan alternative relating to closure of North Chevy Chase and Lynbrook Elementary Schools.**

The County BOE directs the Superintendent to develop a plan for closing North Chevy Chase Elementary School and for transferring its magnet school program to the Rosemary Hills school facility. The Superintendent is also directed to include Chevy Chase Elementary in the plan as having a K-6 grade organization pattern. The Superintendent is further directed to include details on assigning the North Chevy Chase service area students to Rosemary Hills, and assigning previous Rosemary Hills service area students who had been attending North Chevy Chase as follows: some to Rosemary Hills Elementary, some to Chevy Chase, some to Rollingwood, and, if feasible, some to Bethesda Elementary. Instruction from the BOE relating to closure of Lynbrook Elementary is to develop a plan for consolidation with all of the B-CC portion of Bethesda Elementary.

- 18. October 21, 1981: As President of the Chevy Chase Elementary School PTA Board, Ms. Baptiste testifies on the Superintendent's Final Recommendations on the 15-Year Comprehensive Facilities Plan.**

Testifying on behalf of the PTA Board, Ms. Baptiste expresses concerns about the present Cluster arrangement, and cites the Chevy Chase Elementary Task Force Report (Chron. #12) calling for expansion of grade level reorganization together with a restructuring of the Rosemary Hills/B-CC Cluster. The Chevy Chase PTA Board urges the County BOE to understand that grade reorganization can succeed only under a plan which involves participation by a greater number of schools. Because of diverse opinions within the Chevy Chase school community regarding the K-6 structure, the PTA Board takes no position on the alternative.

While continuing to support grade reorganization as the fairest method of achieving racial balance, the testimony states that "the present grade reorganization plan has not proven adequate to stabilize minority percentages at Rosemary Hills," and offers four principles for the BOE to follow:

- no plan is acceptable that resegregates the schools; the children have earned the right to continue to build on their positive integration experience;
- the Rosemary Hills Elementary School facility is a necessary and integral part of its neighborhood, its closing would leave a real vacuum in the community, and the BOE should maintain a school at Rosemary Hills for optimum use by that community;
- the BOE should closely adhere to its guidelines on desired rather than minimum school size, so that whatever schools remain open will be viable educational facilities for the full term of the first five years of the plan; and
- the resources presently available at Rosemary Hills and Chevy Chase must follow the children wherever they are ultimately assigned.

- 19. October 21, 1981: As President of the Chevy Chase Elementary School PTA Board, Ms. Baptiste testifies on the subject of receiving additional students from other areas.**

Testimony is presented by Ms. Baptiste on behalf of the Chevy Chase PTA Board regarding Chevy Chase Elementary School as a potential receiver school for additional Rosemary Hills children (under the option that returns Chevy Chase Elementary to a K-6 structure), and as a potential receiver school for Rollingwood students (under both a grade reorganization alternative or one of the K-6 options). The Chevy Chase PTA position is that:

- the PTA is confident the transition of additional Rosemary Hills students to Chevy Chase would be smooth and the educational needs of all the children could be met; and
- if grade level reorganization is continued, Chevy Chase Elementary School would eagerly welcome the grades 3-6 Rollingwood Elementary service area students, but under the proposed K-6 option, enrollment at Chevy Chase Elementary would be too high to accept the Rollingwood students.

- 20. November 19, 1981: The County BOE takes action to close approximately 30 County schools, including Rosemary Hills.**

County BOE actions include decisions to close Rosemary Hills and Lynnbrook Elementary Schools, and to create four K-6 schools in the Rosemary Hills/B-CC Cluster (Chevy Chase, North Chevy Chase, Rollingwood, and Bethesda). The children proposed to be bused will be those who would have attended either Rosemary Hills or Lynnbrook. (See EXHIBIT C for excerpt from BOE Summary Minutes.)

(NOTE: With respect to the Rosemary Hills/Chevy Chase situation, the Superintendent's recommendation had been not to close Rosemary Hills Elementary, but to expand grade level reorganization in the Cluster to include students from the closed schools of Rollingwood and Lynnbrook).

- 21. December 4, 1981: Ms. Baptiste and Ms. Rodin submit a joint letter to the Editor of the Journal concerning the BOE decision to close Rosemary Hills Elementary School.**

On their own behalf, Ms. Baptiste and Ms. Rodin co-sign a letter to the Editor of the Journal concerning the County BOE decision to close Rosemary Hills Elementary School and create four K-6 schools in the Rosemary Hills/B-CC Cluster. The letter, published on January 11, 1982, expresses support for the November 19, 1981 decision of the County BOE as the only "viable remaining alternative", which has "the greatest potential for promoting stable, racially-balanced, integrated schools in the B-CC feeder area." (See EXHIBIT D for a complete copy of the letter.)



- 22. December 18, 1981: County residents file an appeal with the State BOE to reverse the County BOE decision to close Rosemary Hills Elementary School.**

The County BOE decision to close Rosemary Hills Elementary School and transfer its students to four other elementary schools (Rollingwood, North Chevy Chase, Chevy Chase, and Bethesda) is appealed to the State BOE. The appeal is filed by 39 individuals, many of whom are parents of children who are attending or would have attended Rosemary Hills Elementary.

The appeal charges that the County BOE decision to close Rosemary Hills Elementary was arbitrary, capricious, unconstitutional, and illegal. Count I of the appeal contends that: "By voting to Close Rosemary Hills, The Board is Seeking to Eliminate a Keystone of Montgomery County's Efforts to Achieve Quality Integrated Education." Count II of the appeal contends that: "By Voting to Close Rosemary Hills, the Montgomery County Board of Education Substantially Deviated from Its Rules, Policies and Guidelines."

(NOTE: This appeal was subsequently consolidated with the appeals of a number of other County BOE decisions that affected schools in the Montgomery Blair High School Cluster.)

- 23. April 21, 1982: The State BOE Hearing Examiner issues his findings related to the closure of Rosemary Hills Elementary School.**

The Findings of Facts and Conclusions of Law of the State BOE Hearing Examiner (Mitchell Cooper) are issued regarding the appeal of the BOE decision to close Rosemary Hills and decisions affecting schools in the Montgomery Blair High School Cluster. With respect to the Rosemary Hills closure decision, the Hearing Examiner concludes that there were other alternatives the County BOE should have considered, and the deviation from the BOE Quality Education/Racial Balance Policy was sufficiently substantial to render the decision to close Rosemary Hills as arbitrary and unreasonable. (See EXHIBIT E for excerpt of Hearing Examiner's Findings of Fact.)

- 24. May 20, 1982: PTA leaders of Chevy Chase and Rosemary Hills Elementary Schools submit a letter to the State BOE in support of the County BOE decision to close Rosemary Hills Elementary.**

Ms. Baptiste co-signs, along with seven other PTA leaders of Chevy Chase and Rosemary Hills Elementary Schools, a letter to the State BOE in support of the County BOE decision to close Rosemary Hills Elementary School. The letter contends that the County BOE decision is consistent with the its Quality Education/Racial Balance Policy, and expresses concern that the Hearing Examiner appears to "have given so little weight in his opinion to the great volume of specific and detailed community input which he had before him." Two attachments to the letter present an outline of the history of the Rosemary Hills/B-CC Cluster from 1975 to the present, and an analysis of the Hearing Examiner's conclusions, arguing that he overreached his authority and substituted his own judgment for that of the County's locally-elected school board. (NOTE: According to Ms. Baptiste, the letter was returned unopened.)

**25. June 1982: Ms. Baptiste completes her term as President of the PTA Board for Chevy Chase Elementary School.**

**26. June 30, 1982: The State BOE issues its official opinion regarding the appeal of the County BOE decision to close Rosemary Hills Elementary School.**

The State BOE issues its official opinion regarding appeal of the County BOE decision to close Rosemary Hills Elementary and other decisions affecting schools in the Montgomery Blair High School Cluster. The State BOE adopts the Hearing Examiner's Findings of Facts and general Conclusions of Law, but not his Conclusions of Law with respect to individual school decisions in these appeals.

With respect to Rosemary Hills, the State BOE concludes that the decision by the County BOE to close Rosemary Hills Elementary should be reversed. Specifically, the State BOE concludes that the County BOE acted arbitrarily and unreasonably because the primary burden of addressing the disproportionate minority enrollment in the Cluster was placed on the minority students. Although the State BOE reversed the County's decision to close Rosemary Hills Elementary, the State BOE did not recommend any specific plan or remedy. (See EXHIBIT F for excerpt from the State BOE June 30, 1982 Opinion.)

**27. July 13, 1982: The County BOE files in Circuit Court to appeal the State BOE rulings.**

Attorneys for the County BOE file an appeal in Circuit Court to overturn three State BOE rulings, including reversal of the County BOE decision to close Rosemary Hills Elementary School. (NOTE: In late summer, the Circuit Court apparently ruled against the appeal and affirmed the decision of the State BOE; the matter was not further pursued in the courts by the County BOE.)

**28. July 28, 1982: The County BOE reverses its decision to close Rosemary Hills and establishes an interim plan for the 1982-83 school year.**

The County BOE considers numerous alternatives relating to State BOE decisions. With respect to the Rosemary Hills/B-CC Cluster, the County BOE reverses its prior decision to close Rosemary Hills Elementary School. As an interim solution for the 1982-83 school year, the County BOE decides to close Rollingwood and North Chevy Chase Elementary Schools, and establish a K-6 grade organization at all schools in the Cluster. Rollingwood students are assigned to Chevy Chase for K-6; the North Chevy Chase magnet program is moved intact to Rosemary Hills; and former North Chevy Chase students, along with students from the Larchmont service area, are assigned to Rosemary Hills Elementary.

- 29. August 2, 1982: Representatives of the North Chevy Chase community appeal to the State BOE to prevent closure of North Chevy Chase Elementary School.**

Representatives of the North Chevy Chase community file an appeal of the County BOE decision to close North Chevy Chase Elementary School and relocate the North Chevy Chase magnet program intact to Rosemary Hills. The basis of the appeal is that the County BOE failed to consider the impact on existing educational programs and on the communities involved, and this "interim" solution would perpetuate racial discrimination within the Rosemary Hills/B-CC Cluster.

- 30. August 18, 1982: Parents of Chevy Chase Elementary School students submit a memorandum to the State BOE relating to the North Chevy Chase appeal.**

As an individual, Ms. Baptiste joins with approximately 20 other Chevy Chase Elementary School parents to file a memorandum with the State BOE urging the State BOE to reject the appeal of the County BOE decision to close North Chevy Chase Elementary School. The memo supports the County BOE July 28th action (to relocate the North Chevy Chase magnet program to Rosemary Hills and to return all schools including Chevy Chase Elementary to a K-6 structure) as a plan that promotes "for the first time, stable integration patterns in the B-CC area."

The memo states that the grade level reorganization plan between Chevy Chase and Rosemary Hills from 1976-81 has failed to deliver the promised quality education program, and has driven majority students from the public schools. The memo argues that the appeal of the North Chevy Chase school closure does not challenge the County BOE decision regarding returning Chevy Chase Elementary to a K-6 school, and therefore is not in question.

- 31. August 20, 1982: The State BOE upholds closure of North Chevy Chase Elementary School as part of the County BOE interim plan.**

In upholding the County BOE interim decisions regarding the 1982-83 school year, the State BOE retains jurisdiction and orders the County BOE to take the following steps:

- "1. Study alternative long range solutions for the Bethesda-Chevy Chase Cluster;
2. Provide for adequate community input on those alternatives; and
3. Report back to this Board by January 31, 1983 on its recommended long range proposal for the Bethesda-Chevy Chase Cluster."

- 32. November 1982: County BOE elections are held and composition of the BOE changes.**

Four new members of the County BOE are elected (Cronin, Praisner, Shannon, Shoenberg), and two incumbents are defeated (Barse, Wallace). The remaining three members of the BOE (Ewing, Greenblatt, Peyser) are not up for re-election in 1982.

- 33. December 14, 1982: The Chevy Chase Elementary School PTA Board sends a memorandum to the Superintendent of Schools supporting retention of the K-6 grade pattern.**

The Chevy Chase PTA Board recommends that the Superintendent retain the K-6 grade pattern in school year 1983-84 and not pursue his alternate plan to return to the K-2/3-6 grade structure in the Rosemary Hills/B-CC Cluster.

- 34. January 1983: The County BOE considers numerous alternative plans for grade reorganization and attendance patterns in the Rosemary Hills/B-CC Cluster.**

- 35. March 2, 1983: The County BOE makes a number of decisions regarding the Rosemary Hills/B-CC Cluster for the school year 1983-84.**

The County BOE decides to reinstitute a grade level reorganization plan in the Rosemary Hills/B-CC Cluster to consist of a Head Start through grade 2 school at Rosemary Hills with grades 3-6 at Chevy Chase and North Chevy Chase Elementary Schools. Specifically, the student body at Rosemary Hills will consist of students from Rosemary Hills, Chevy Chase, North Chevy Chase, and the former Rollingwood, Larchmont, and Lynnbroad service areas. The student body at Chevy Chase will consist of resident students including those from the Rollingwood area, Rosemary Hills students from Paddington Square and Summit Hills 16th street; and the student body at North Chevy Chase will consist of students phased in from the North Chevy Chase, Rosemary Hills, and former Lynnbroad areas.

- 36. March 23, 1983: Chevy Chase parents file a motion with the State BOE to intervene concerning the County BOE decision to re-establish grade reorganization in the Rosemary Hills/B-CC Cluster.**

Ms. Baptiste and her husband join approximately 200 other Chevy Chase parents to file a motion to intervene concerning the County BOE decision (March 2, 1983) to re-establish a grade reorganization structure plan in the Rosemary Hills/B-CC Cluster (including the Chevy Chase, North Chevy Chase, Rosemary Hills, and Larchmont service areas). The statement argues that reinstituting grade reorganization would not constitute a long-range solution, as mandated by the State BOE decision of June 30, 1982, and would substantially deviate from the County BOE guidelines on minority enrollment and school underutilization. The statement also contends that the plan to maintain the K-6 grade structure within the Cluster was better because it was supported by "an overwhelming majority of the affected communities and would have resulted in preferable school utilization ratios and racial balances".

Specifically, the statement argues that, at the hearings leading to the adoption of the March 2, 1983 plan, no credible evidence was submitted indicating:

- "(a) that the minority enrollment at Rosemary Hills Elementary under the plan would not exceed the thresholds of the Quality Education/Racial Balance Policy;
- (b) that the plan would not result in underutilization at North Chevy Chase Elementary and Chevy Chase Elementary;
- (c) that the underutilization at these and other schools in the B-CC Cluster would not be far below the standard for underutilization in the Long-Range Facilities Planning Policy; or
- (d) that the plan would not cause increasing instability and damage to schools throughout the B-CC Cluster."

**37. April 27, 1983: The State BOE upholds the County BOE decision to implement a grade level reorganization plan in the Rosemary Hills/B-CC Cluster.**

The State BOE upholds the March 2, 1983 action of the County BOE to implement a grade level reorganization plan among Rosemary Hills Elementary School (Head Start through grade 2), Chevy Chase Elementary (grades 3-6), and North Chevy Chase Elementary (grades 3-6). The State BOE justifies its decision as follows:

- the County BOE considered nine alternative proposals for the Cluster and the community was given more than adequate opportunity for input;
- the grade reorganization plan would accomplish the County's Quality Education/Racial Balance Policy without using one-way busing or placing a disproportionate burden on either majority or minority students;
- the County BOE made a reasonable judgment to place a greater emphasis on the goal of better racial equality in the Cluster than on the goal of better school utilization; and
- the County BOE had committed itself by way of school personnel, financial resources, monitoring, evaluation, and communication in attempting to make the educational program succeed.

## V. Summary of Findings

Based upon a review of documents and other printed material, and interviews with more than 20 persons, two of whom provided testimony under oath (Ms. Baptiste and Mr. Norment), the following summary findings of this OLO inquiry are presented. Parenthetical references are to relevant documents reviewed in Section IV, Chronology of Events.

A. During the time period 1980-83, Ms. Baptiste played a significant role in the debate surrounding decisions made by the County Board of Education (BOE) regarding the Rosemary Hills/B-CC Cluster.

Ms. Baptiste moved into the County in 1977. Her children attended Rosemary Hills for kindergarten through second grade and Chevy Chase for grades 3-6. In 1979, Ms. Baptiste was appointed to serve as the Chevy Chase Elementary School's representative to the Rosemary Hills Cluster Committee, and from June 1980 until June 1982, she served as President of the Chevy Chase Elementary School PTA Board. After her term as PTA President ended in June 1982, Ms. Baptiste remained involved in school issues as a parent member of the Chevy Chase community.

During the 1980-83 time period, records document Ms. Baptiste's activities to include:

- as Chevy Chase PTA Board President, writing and presenting testimony before the County BOE (Chron. #9, #11, #18, #19);
- as Chevy Chase PTA Board President, joining with other Rosemary Hills/Chevy Chase community leaders in a letter to the County BOE (Chron. #13);
- as an individual, submitting a written proposal to the President of the County BOE (Chron. #16);
- as an individual, writing a letter to the editor of the Montgomery Journal (Chron. #21, EXHIBIT D);
- as Chevy Chase PTA Board President, joining with other Rosemary Hills/Chevy Chase Cluster school leaders in a letter to the State BOE (Chron. #24);
- as an individual, adding her support to letters and memoranda submitted to the State BOE (Chron. #30); and
- as an individual, adding her support to a motion filed with the State BOE (Chron. #36).

B. According to Ms. Baptiste, during the 1980-83 time period, she supported changes to the 1976 Rosemary Hills/Chevy Chase/Larchmont grade level reorganization plan based upon her belief that the plan had not worked as intended, and that changes were required in order to establish stable, integrated schools in the Rosemary Hills/B-CC Cluster, and in particular, to ensure that no one school was severely impacted or carried an unfair burden in the desegregation process.

Ms. Baptiste maintains that, as an individual citizen and as President of the Chevy Chase PTA Board, she advocated and supported changes to the grade level reorganization plan for Rosemary Hills, Chevy Chase, and Larchmont elementary that had been implemented in 1976 (Chron. #2) because, in her opinion, the grade reorganization plan had not worked as intended.

In particular, Ms. Baptiste states that she believed the 1976 grade level reorganization plan was not working because: promises for reduced class sizes and special resources had not been fulfilled; the BOE was continuing to allow the transfer of majority students to other schools in the Cluster; and minority enrollment at Rosemary Hills was higher than projected and was continuing to increase. (Chron. #9, #13, #18) Through interviews and document reviews, OLO found that while there were differing points of view about the success of the 1976 grade reorganization plan, there were other members of the Rosemary Hills and Chevy Chase communities who agreed with Ms. Baptiste's view that the grade level reorganization plan had not worked entirely as intended. (Chron. #6, #8, #12)

According to Ms. Baptiste, her actions in support of changes to the 1976 grade level reorganization plan were not motivated by any desire to disadvantage any students in the Rosemary Hills/B-CC Cluster, or by any desire to establish a non-integrated school at Chevy Chase Elementary. While some of those interviewed by OLO opined that Ms. Baptiste's actions were motivated by a desire to maintain a K-6 neighborhood school at Chevy Chase Elementary School, and to minimize the movement of students out of Chevy Chase, OLO found no documentary evidence that contradicts Ms. Baptiste's statement of her motives.

C. Prior to the County BOE's November 19, 1981 decision to close Rosemary Hills Elementary School, Ms. Baptiste advocated a number of proposals for change in the Rosemary Hills/B-CC Cluster, all of which called for the continuation of a school at Rosemary Hills.

During the period prior to the BOE November 19, 1981 decision to close Rosemary Hills, there is evidence that Ms. Baptiste advocated a number of proposals for expanding or restructuring the grade level reorganization plan for Rosemary Hills, Chevy Chase, and Larchmont that had been implemented in 1976. During this time, the specific proposals that Ms. Baptiste advocated for changes in the Rosemary Hills/B-CC Cluster all called for the continuation of a school at Rosemary Hills.

In particular, during the year before the BOE November 19th decision to close Rosemary Hills, there is written documentation that Ms. Baptiste advocated the following proposals:

- As President of the Chevy Chase PTA Board, Ms. Baptiste supported publicly continuing grade reorganization but expanding the number of schools in the grade level reorganization plan; (Chron. #9, #13, #18); and

- As an individual citizen, Ms. Baptiste supported establishing a K-6 model program at Rosemary Hills by moving the current North Chevy Chase magnet program and student body intact to Rosemary Hills, and additionally assigning students to Rosemary Hills from single-family dwellings in the Rosemary Hills and Larchmont service areas. (Chron. #16)

In addition, as President of the Chevy Chase PTA Board, Ms. Baptiste gave testimony in October 1981 that points out the general attractiveness and educational advantages of a K-6 school. However, because of differences of opinion in the Chevy Chase community, the PTA took no official position on grade structure. (Chron. #18)

D. After the County BOE decided on November 19, 1981 to close Rosemary Hills, Ms. Baptiste supported publicly the Board's action.

OLO found no evidence that Ms. Baptiste advocated closing Rosemary Hills prior to the BOE November 19th action. However, after the BOE decided on November 19, 1981 to close Rosemary Hills (Chron. #20, EXHIBIT C), Ms. Baptiste supported publicly the Board's action. Ms. Baptiste expressed her support both as an individual citizen and in her capacity as President of the Chevy Chase PTA Board.

In a December 4, 1981 letter to the editor of the Journal, Ms. Baptiste wrote that she supported the BOE action to close Rosemary Hills because she believed the 1976 grade level reorganization plan was not working as intended, and felt the BOE November 19th action was the only "viable remaining alternative" which had the "greatest potential for promoting stable, racially balanced, integrated schools in the B-CC feeder area." (Chron. #21; EXHIBIT D)

Ms. Baptiste's support for the BOE decision to close Rosemary Hills was also evidenced by her joining with other Rosemary Hills/Chevy Chase Cluster school leaders in a letter to the State BOE, which stated their support for the County BOE November 19th, 1981 action to close the school. (Chron. #24)

E. Community reactions to the County BOE November 19, 1981 decision to close Rosemary hills were strong and divided.

Based upon interviews conducted and press clippings and other documents reviewed by OLO, it is apparent that community reactions were strong and divided in response to the County BOE decision to close Rosemary Hills and create four K-6 schools in the Rosemary Hills/B-CC Cluster.

Those who agreed with the BOE action felt that it was a viable way to provide stable, racially-balanced, integrated schools in the Rosemary Hills/B-CC Cluster. In particular, supporters of the BOE decision to close Rosemary Hills School noted that the required busing distances were not lengthy and that there were tremendous benefits of providing all children in the Cluster with



a stable K-6 term in a single school. In addition, it was felt that establishing four K-6 feeder schools would provide balanced integrated schools throughout the Cluster, and was an action consistent with the BOE stated policy preference of returning all elementary schools to a K-6 structure.

In contrast, those who disagreed with the BOE November 19, 1981 action felt that the Board's decision to close Rosemary Hills was wrong and insensitive to the needs of the Rosemary Hills community, and, in particular, insensitive to the needs of African-Americans and other minorities. In particular, the plan adopted by the BOE was seen as insensitive because: it put the onus of busing primarily on students from the Rosemary Hills community; it might result in the closure of Head Start classrooms in the Cluster; and it provided K-6 schools for most neighborhoods in the Rosemary Hills/B-CC Cluster while closing Rosemary Hills' community school and distributing Rosemary Hills' children among four different schools. Finally, the BOE action to close Rosemary Hills was perceived as an action to end a symbol of Montgomery County's long-term commitment to racial integration.

- F. After the State BOE overturned the County BOE decision to close Rosemary Hills, Ms. Baptiste supported the BOE interim plan, which included moving the North Chevy Chase magnet program intact to Rosemary Hills.

After the State BOE overturned the County BOE decision to close Rosemary Hills, the County BOE reversed its decision to close the school, and on July 28, 1982, adopted an interim plan for the 1982-83 school year. The interim plan involved closing North Chevy Chase and Rollingwood, and moving the North Chevy Chase magnet program intact to the Rosemary Hills School (Chron. #26, #28, EXHIBIT F).

When the County BOE interim plan was appealed to the State BOE, Ms. Baptiste (acting as an individual) was one of approximately 20 Chevy Chase parents who urged the State BOE to reject the appeal and to permit the interim plan to go into effect. The community members supported the interim plan because they believed it promoted "for the first time stable integration patterns in the B-CC area." The County BOE 1982-83 interim plan was upheld by the State BOE on August 20, 1982 (Chron. #29, #30, #31).

Ms. Baptiste's support for the BOE July 28, 1982 interim plan was consistent with the letter she wrote in September 1981 to Carol Wallace, President of the BOE, in which she had recommended that the BOE consider relocating the North Chevy Chase magnet school to Rosemary Hills. (Chron. #16)

- G. In March 1983, Ms. Baptiste was one of approximately 200 parents who filed a motion with the State BOE to intervene in the County BOE March 1983 decision to reinstitute a grade level reorganization plan in the Rosemary Hills/B-CC Cluster.

In March 1983, the County BOE acted to reinstitute a grade level reorganization plan in the Rosemary Hills/B-CC Cluster (this time, however, the plan was to include the Rosemary Hills, Chevy Chase, North Chevy Chase and Larchmont service areas).

Ms. Baptiste was one of approximately 200 Chevy Chase parents who filed a motion with the State BOE to intervene in the County BOE decision to reinstitute a grade level reorganization plan in the Rosemary Hills/B-CC Cluster. The arguments presented by the Chevy Chase parents included their views that reinstituting grade level reorganization did not constitute a long-range solution, as mandated by the State BOE; and would substantially deviate from the County BOE guidelines on minority enrollment and school underutilization. (Chron. #36)

On April 27, 1983, the State BOE upheld the County BOE action to reinstitute a grade level reorganization plan in the Rosemary Hills/B-CC Cluster (Chron. #37).

- H. Community Perceptions: In the 1980-83 time period, community perceptions of Ms. Baptiste's activities with respect to BOE decisions regarding the Rosemary Hills/B-CC Cluster were divided.

Based upon interviews conducted by OLO, it is apparent that during the 1980-83 time period, community members held differing perceptions of Ms. Baptiste as: an advocate for keeping Rosemary Hills open but implementing changes to the 1976 grade level reorganization plan; a supporter of the BOE November 19, 1981 decision to close Rosemary Hills; a supporter of the BOE 1982-83 interim plan to relocate North Chevy Chase to Rosemary Hills; and a participant in the effort to reverse the County BOE 1983 decision to reinstitute a grade level reorganization plan in the Rosemary Hills/B-CC Cluster.

OLO found from document reviews and interviews that, during the 1980-83 time period, the controversy surrounding the Rosemary Hills/B-CC school Cluster revolved around different plans for achieving integrated schools. Those interviewed stated that in the early 1980's, the debate surrounding Rosemary Hills was not over whether the schools in the Cluster should be integrated, but rather over what was the preferred approach to achieve an integrated school environment. Another point made by many of those interviewed was that the issue of integration in the Rosemary Hills/B-CC Cluster was one of economic integration as much as it was an issue of racial and ethnic integration.

Ms. Baptiste was perceived as knowledgeable about the issues surrounding decisions made by the County BOE regarding the Rosemary Hills/B-CC Cluster, and aware of the effects that the various alternatives considered by the BOE would have. At the community level, it appears that Ms. Baptiste was perceived as a "leader"; at the decision-making level, Ms. Baptiste was seen as one of a number of spokespersons for the Chevy Chase community.

Some of those interviewed stated that, to the extent that they felt the BOE decision to close Rosemary Hills demonstrated an insensitivity to the Rosemary Hills community and, in particular, to the needs of African-Americans and other minorities, Ms. Baptiste's open support for the BOE November 19th action demonstrated the same insensitivity. (See earlier discussion of community reactions to the closure of Rosemary Hills.) In addition, it was also stated that Ms. Baptiste's actions during this time demonstrated a selfishness in that she was perceived as supporting proposals to minimize the impact of integration on Chevy Chase Elementary School at the expense of both minority and majority students at other schools in the Rosemary Hills/B-CC Cluster.

In contrast, others interviewed expressed a different point of view, which was that they believed Ms. Baptiste's support and disagreement with the various BOE actions taken during this time were based upon a legitimate difference of opinion about the best approach for establishing stable, integrated schools in the Rosemary Hills/B-CC Cluster. In particular, some of those interviewed by OLO (including a number of individuals who did not share Ms. Baptiste's support of the BOE decision to close Rosemary Hills) emphasized that all of the plans considered and suggested by both sides were integration plans, and that Ms. Baptiste remained, throughout the controversy, committed to an integrated school environment.

Attachments:

EXHIBIT A through EXHIBIT F

0455/1-6



## List of Documents and Other Print Materials

Date	Document
4/28/75	Letter from US Dept. of Health, Education, and Welfare stating Montgomery County is in compliance with Title VI of the Civil Rights Act of 1964.
7/25/75	Letter by Citizens for Integrated Schools voicing concerns about the County BOE's plan for racial integration in the Rosemary Hills Cluster.
11/26/79	Statement by CCPTA on the closing of Larchmont Elementary School and the transfer of students to North Chevy Chase Elementary School
4/22/80	Letter from Co-Presidents of the Rosemary Hills Parent Assembly to Area Associate Superintendent Dodd, concerning the commitment of Montgomery County Public Schools (MCPS) to quality integrated education at Rosemary Hills Elementary School.
10/23/80	"Resegregation Charged in Civil Rights Case", <u>Montgomery Sentinel</u> , pgs. A1, A3.
2/18/81	Testimony by Chevy Chase Parent-Teacher Association (CCPTA) to County Board of Education (BOE) on the draft policy/background and implementation guidelines of the Long Range Educational Facilities Plan.
3/30/81	Testimony by CCPTA on the Leland/Kensington Junior High School Facilities.
4/81	Recommendations for the Chevy Chase Elementary School Task Force.
4/10/81	Testimony by CCPTA and Rosemary Hills Primary Assembly/PTA to County BOE and Superintendent Andrews.
6/22/81	Memorandum from County BOE Board Members Barse, Greenblatt, Peyser, and Zappone to the County BOE detailing a substitute motion on the Brookview Elementary School.
9/06/81	Letter from Patricia Baptiste and Ellen Rodin to County BOE President Wallace.
9/17/81	Letter from County BOE President Wallace acknowledging receipt of the September 6, 1981 letter from Patricia Baptiste and Ellen Rodin.
10/21/81	<ul style="list-style-type: none"> <li>• Testimony of CCPTA on Superintendent's Final Recommendations on the 15-year Comprehensive Plan.</li> <li>• Testimony on Chevy Chase Elementary School as receiver for Rosemary Hills neighborhood children as set out in the Superintendent's Final Recommendations on the 15-year Comprehensive Plan.</li> <li>• Testimony on Chevy Chase Elementary School as receiver for Rollingwood neighborhood children as set out in the Superintendent's Final Recommendations on the 15-year Comprehensive Plan.</li> </ul>

**List of Documents and Other Print Materials (continued)**

<u>Date</u>	<u>Document</u>
11/19/81	Summary of County BOE minutes of November 19, 1981 meeting.
12/04/81	Letter to the Editor by Patricia Baptiste and Ellen Rodin (Letter was published in the <u>Montgomery Journal</u> January 11, 1982).
12/08/81	Memorandum from Superintendent Andrews to the County BOE on the desegregation plans for the Rosemary Hills and other clusters.
12/18/81	Appeal to the State BOE of the County BOE decision of November 19, 1981 to close Rosemary Hills Elementary School.
4/21/82	Findings and Conclusions of State Hearing Examiner on the appeal of the County BOE decision to close Rosemary Hills Elementary School.
5/20/82	Letter and attachments by Patricia Baptiste and seven other parents of students attending the Rosemary Hills Elementary School to the State BOE voicing concerns about the Hearing Examiner in the appeal of the closing of Rosemary Hills Elementary School.
6/30/82	Decision by the State BOE (No. 82-28) overturning the County BOE's decision to close Rosemary Hills Elementary School and other schools.
8/02/82	Letter from attorneys representing North Chevy Chase Elementary School community to the President of the State BOE requesting a stay of the County BOE's July 29, 1982 decision to close North Chevy Chase and Rollingwood Elementary Schools for the 1982-3 school year.
8/13/82	County BOE memorandum responding to the appeal of its decision to close North Chevy Chase and Rollingwood Elementary Schools and transfer of the magnet program at North Chevy Chase to Rosemary Hills Elementary School.
8/18/82	Memorandum from Chevy Chase parents to the State BOE in support of the County BOE's decision to close North Chevy Chase and Rollingwood Elementary Schools and transfer of the magnet program at North Chevy Chase to Rosemary Hills Elementary School.
8/20/82	Decision by the State BOE (No. 82-38) to uphold the County BOE's decision to close North Chevy Chase and Rollingwood Elementary Schools and transfer of the magnet program at North Chevy Chase to Rosemary Hills Elementary School.
12/14/82	Memorandum from CCPTA to MCPS Superintendent Andrews of its reactions to the Superintendent's Preliminary Recommendations for the Rosemary Hills/B-CC cluster.

# List of Documents and Other Print Materials (continued)

Date	Document
2/16/83	Memorandum from the Somerset PTA to the County BOE in support of legality and constitutionality of the Superintendent's proposal to retain the K-6 grade structure throughout the Rosemary Hills/B-CC Cluster.
3/21/83	<ul style="list-style-type: none"> <li>• Motion to intervene and to participate as parties by residents in the Rosemary Hills/B-CC Cluster to appeal the County BOE's decision to grade level reorganize Rosemary Hills Elementary School (Head Start-Grade 2) and Chevy Chase and North Chevy Chase (Grades 3-6).</li> <li>• Proposed Intervenor's statement of principal claims by residents in the B-CC Cluster of the appeal the County BOE's decision to grade level reorganize Rosemary Hills Elementary School (Head Start-Grade 2) and Chevy Chase and North Chevy Chase (Grades 3-6).</li> </ul>
4/27/83	Decision by the State BOE (No. 83-14) to uphold the County BOE's decision to grade level reorganize Rosemary Hills Elementary School (Head Start-Grade 2) and Chevy Chase and North Chevy Chase (Grades 3-6).
1990	Excerpts from <u>The Town of Chevy Chase, Past and Present</u> . Town of Chevy Chase.
6/18/91	Memorandum from County Executive Potter to the County Council nominating Patricia Baptiste and Davis Richardson to the Planning Board.
6/91-	Letters received by the County Council concerning the nomination of
7/91	Patricia Baptiste to the Planning Board.

## Various Newspaper Articles from:

Bethesda-Chevy Chase Almanac (June 1991); The Express (June 1991); Free Press (June 1991); The Gazette (June - July 1991); Montgomery Journal (Jan. 1982 - July 1991); Montgomery Sentinel (Oct. 1980); The Sentinel (Oct. 1982); Washington Post (Feb. 1982 - July 1991).





**PERSONS INTERVIEWED JULY 3 - JULY 6, 1991**

**A. Interviewed in OLO Office, under oath**

1. Patricia Baptiste
2. Hanley Norment

**B. Interviewed by telephone**

1. Dr. J. Edward Andrews
2. Cindy Brandt
3. Judy Bressler
4. Norman Christeller
5. Julie Davis
6. Hope Eastman
7. Blair Ewing
8. Esther Gelman
9. The Rev. Charles Gilchrist
10. Jane Lawton
11. Dr. Cornell T. Lewis
12. Sally Popper
13. Vicki Rafel
14. Ellen Rodin
15. David Scull
16. Nancy Sunniewick
17. David Tatel
18. Edie Tatel
19. Joel Teitelbaum



EXCERPTSummary Sheet, Board of Education Minutes of November 19, 1981

6

November 19, 1981

\* \* \* \* \*

Re: Closure of Rollingwood Elementary School

Mrs. Spencer moved approval of the following which was seconded by Mr. Ewing:

WHEREAS, The Board of Education has adopted a Long-Range Educational Facilities Planning policy which establishes goals, principles, and a process for addressing changing enrollment; and

WHEREAS, The primary goal of that policy is to provide those facilities and future school sites necessary to sustain high quality educational programs at reasonable cost; and

WHEREAS, The Long-Range Educational Facilities Planning policy requires the County Superintendent of Schools to submit a recommended 15-Year Comprehensive Master Plan for Educational Facilities which includes specific data and information required by the policy; and

WHEREAS, In accordance with the policy statement on Long-Range Educational Facilities Planning, timely notice of those recommendations has been provided to individuals and groups within the County, including affected communities; and

WHEREAS, Public hearings on those recommendations have been held in accordance with the policy, and interested citizens have presented their views on the recommendations, alternative proposals and supporting data; and

WHEREAS, The Board of Education of Montgomery County has considered the superintendent's recommendations, as well as alternatives to consolidations and closings, to address the concerns of steadily declining student enrollment and increasing fiscal constraints in Montgomery County; and

WHEREAS, It is the statutory responsibility of the Board of Education to consolidate schools when it considers such action practicable; and

WHEREAS, The Board of Education of Montgomery County, in light of all the information presented to it, considers it practicable and necessary to consolidate and close some schools within the County for the greater benefit of all students attending the Montgomery County Public Schools; now therefore be it

Resolved, That Rollingwood Elementary School is to be closed in June 1982; and be it further

November 19, 1981

Resolved, That the attendance area of Rollingwood Elementary School shall be consolidated with the attendance area of Chevy Chase and Rosemary Hills elementary schools as follows:

- o Send all K-2 students to Rosemary Hills Elementary School; all 3-6 students to Chevy Chase Elementary School

and be it further

Resolved, That the Rollingwood Elementary School building and site are no longer needed for school purposes; and be it further

Resolved, That the Rollingwood Elementary School building and site be conveyed to the County Government on July 1, 1982, or as soon thereafter as possible, subject to the approval of the state superintendent of schools; and be it further

Resolved, That the state superintendent of schools, State Interagency Committee for Public School Construction, and the County Council and county executive of Montgomery County be made aware of these actions.

For the record, Mr. Ewing stated that if the Board of Education voted to dismantle the Rosemary Hills cluster the Board will have taken steps which contribute to a pattern which will lead to a conclusion that the Board is engaged in de jure segregation. He said there were many court cases which showed that to be the case, and the Board is on notice and it is in the minutes of this meeting that that warning is made.

Resolution No. 988-81

Re: Substitute Motion by Mr. Barse on the Closure of Rosemary Hills Elementary School

On motion of Mr. Barse seconded by Dr. Greenblatt the following resolution was adopted with Mr. Barse, Dr. Greenblatt, Mrs. Peyser, Mrs. Wallace, and Mrs. Zappone voting in the affirmative; Mr. Ewing and Mrs. Spencer voting in the negative (Mr. Lipson voting in the negative):

Resolved, That Rosemary Hills Elementary School is to be closed in June 1982.

Resolution No. 989-81

Re: Second Resolved Clause - Rosemary Hills Elementary School Closure

On motion of Mr. Barse seconded by Dr. Greenblatt, the following resolution was adopted with Mr. Barse, Dr. Greenblatt, Mrs. Peyser, Mrs. Wallace, and Mrs. Zappone voting in the affirmative; Mr. Ewing and Mrs. Spencer voting in the negative (Mr. Lipson voting in the negative):

Resolved, That the Board of Education approve the second Resolved clause of the proposed resolution on Rosemary Hills Elementary School:

Resolved, That the attendance area of Rosemary Hills Elementary School shall be consolidated with the attendance areas of Bethesda, Chevy Chase, North Chevy Chase and Rollingwood elementary schools as follows:

November 19, 1981

- o Send to Bethesda Elementary School all K-6 students living in Paddington Square Apartments (who are now assigned to Parkwood Elementary School for Grades 3-6)
- o Send to Chevy Chase Elementary School all K-6 students living in the Summit Hills-16th Street apartments along with all K-6 students living in private dwellings (who are now assigned to Chevy Chase Elementary School for Grades 3-6)
- o Send to North Chevy Chase Elementary School all K-6 students living in the Summit Hills/East-West Highway apartments (who are now assigned to North Chevy Chase Elementary School for Grades 3-6)
- o Send to Rollingwood Elementary School all K-6 students living in the Rosemary Village Apartments (who are now assigned to Chevy Chase Elementary School for Grades 3-6)
- o Relocate the Head Start program to North Chevy Chase Elementary School

and be it further

Re: A Motion by Mr. Barse on a New Third  
Resolved Clause - Rosemary Hills Elementary  
School Closure

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Mr. Barse moved the following which was seconded by Mrs. Zappone:

Resolved, That all students from the former Larchmont Elementary School area are assigned to Rollingwood Elementary School with the provision that transfers with transportation provided will be granted in accord with the transfer policy between Rollingwood and North Chevy Chase Elementary School for all students assigned to either school except that the Larchmont area students now attending Parkwood Elementary School may continue at that school through Grade 6 with transportation provided.

Resolution No. 990-81

Re: An Amendment by Dr. Greenblatt to Mr.  
Barse's Motion

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On motion of Dr. Greenblatt seconded by Mrs. Zappone, the following resolution was adopted with Mr. Ewing, Dr. Greenblatt, Mrs. Peyser, Mrs. Wallace, and Mrs. Zappone voting in the affirmative; Mr. Barse voting in the negative; Mrs. Spencer abstaining (Mr. Lipson abstaining):

Resolved, That Mr. Barse's motion be amended to add "that all former Larchmont area students east of Connecticut Avenue would be assigned..."

November 19, 1981

Re: A Substitute Motion by Mr. Ewing (FAILED)

A substitute motion by Mr. Ewing that all the students from the former Larchmont school area east of Connecticut Avenue be assigned to North Chevy Chase Elementary school failed with Mr. Ewing and Dr. Greenblatt voting in the affirmative; Mr. Barse, Mrs. Peyser, Mrs. Wallace, and Mrs. Zappone voting in the negative; Mrs. Spencer abstaining (Mr. Lipson abstaining).

Resolution No. 991-81

Re: An Amendment to Mr. Barse's Motion on the Former Larchmont Area Students

On motion of Mr. Barse seconded by Dr. Greenblatt, the following resolution was adopted with Mr. Barse, Dr. Greenblatt, Mrs. Peyser, Mrs. Wallace, and Mrs. Zappone voting in the affirmative; Mr. Ewing and Mrs. Spencer abstaining (Mr. Lipson abstaining):

Resolved, That Mr. Barse's motion be amended to add "the Larchmont area students now attending North Chevy Chase Elementary School may continue at that school with transportation provided."

Resolution No. 992-81

Re: An Amendment to Mr. Barse's Motion on the Former Larchmont Area Students

On motion of Mr. Barse seconded by Mrs. Peyser, the following resolution was adopted with Mr. Barse, Mr. Ewing, Dr. Greenblatt, Mrs. Peyser, Mrs. Wallace, and Mrs. Zappone voting in the affirmative; Mrs. Spencer abstaining (Mr. Lipson abstaining):

Resolved, That Mr. Barse's motion be amended to add a bullet: "It is the intent of the Board that transportation will be provided for transfers between North Chevy Chase and Rollingwood."

Resolution No. 993-81

Re: An Amendment to the Proposed Resolution on Rosemary Hills Elementary School

On motion of Mr. Barse seconded by Mrs. Zappone, the following resolution was adopted with Mr. Barse, Mr. Ewing, Dr. Greenblatt, Mrs. Peyser, Mrs. Wallace, and Mrs. Zappone voting in the affirmative; Mrs. Spencer abstaining (Mr. Lipson abstaining):

Resolved, That the proposed resolution on Rosemary Hills Elementary School be amended to add another Resolved clause:

Resolved, That all students from the former Larchmont Elementary School area east of Connecticut Avenue be assigned to Rollingwood Elementary School with the provision that transfers would be granted in accord with the transfer policy between Rollingwood and North Chevy Chase for all students assigned to either school except that:

- o Larchmont area students now attending Parkwood Elementary School may continue at that school through Grade 6

November 19, 1981

- o Larchmont area students now attending North Chevy Chase Elementary School may continue at that school with transportation provided
- o It is the intent of the Board that transportation would be provided for transfers between North Chevy Chase and Rollingwood

Resolution No. 994-81Re: An Amendment to the Proposed Resolution  
on Rosemary Hills Elementary School

On motion of Dr. Greenblatt seconded by Mrs. Zappone, the following resolution was adopted with Mr. Barse, Mr. Ewing, Dr. Greenblatt, Mrs. Peyser, Mrs. Wallace, and Mrs. Zappone voting in the affirmative; Mrs. Spencer abstaining (Mr. Lipson abstaining):

Resolved, That the proposed resolution on Rosemary Hills Elementary School be amended to add a Resolved clause:

Resolved, That the attendance area for the former Larchmont students who reside west of Connecticut Avenue be assigned to Parkwood Elementary School K-6 and continue to Tilden Intermediate School and Walter Johnson High School except that:

- o Larchmont Elementary students now attending North Chevy Chase Elementary School may continue at that school through Grade 6
- o It is the intent of the Board that transportation will be provided for transfers between Parkwood and North Chevy Chase

Resolution No. 995-81Re: Fifth Resolved Clause - Rosemary Hills  
Elementary School Closure

On motion of Mr. Barse seconded by Mrs. Zappone, the following resolution was adopted with Mr. Barse, Dr. Greenblatt, Mrs. Peyser, and Mrs. Zappone voting in the affirmative; Mr. Ewing voting in the negative; Mrs. Spencer and Mrs. Wallace abstaining (Mr. Lipson abstaining):

Resolved, That the Board of Education approve the fifth Resolved clause of the proposed resolution on Rosemary Hills Elementary School:

Resolved, That it is the intent of the Board that for all students residing in the present Rosemary Hills Elementary School service area, transfers with transportation provided will be granted in accord with the transfer policy from and to any of the following schools: Bethesda, Chevy Chase, North Chevy Chase, and Rollingwood Elementary Schools; and be it further

November 19, 1981

Resolution No. 996-81Re: Sixth, Seventh, Eighth, and Ninth Resolved  
Clauses - Rosemary Hills Elementary School  
Closure

On motion of Mr. Barse seconded by Mrs. Peyser, the following resolution was adopted with Mr. Barse, Dr. Greenblatt, Mrs. Peyser, Mrs. Wallace, and Mrs. Zappone voting in the affirmative; Mr. Ewing and Mrs. Spencer voting in the negative (Mr. Lipson abstaining):

Resolved, That the Board of Education approve the sixth, seventh, eighth, and ninth Resolved clauses on Rosemary Hills Elementary School:

Resolved, That the Rosemary Hills Elementary School building and site are no longer needed for school purposes; and be it further

Resolved, That the Rosemary Hills Elementary School building and site be conveyed to the County Government on July 1, 1982, or as soon thereafter after as possible, subject to the approval of the state superintendent of schools; and be it further

Resolved, That the superintendent and his staff shall begin to communicate as soon as possible with the County Government and other agencies with the intention to identify and consult on finding an alternative use for the Rosemary Hills Elementary School building and the site which will preserve them for community use and which will continue to provide community services; and be it further

Resolved, That the superintendent is directed to report periodically to the Board on the progress of the above communications with the County Government and other agencies; and be it further

Resolution No. 997-81Re: Final Resolved Clause - Rosemary Hills  
Elementary School Closure

On motion of Mr. Barse seconded by Mrs. Zappone, the following resolution was adopted unanimously:

Resolved, That the Board of Education approve the final Resolved clause on Rosemary Hills Elementary School:

Resolved, That the state superintendent of schools, State Interagency Committee for Public School Construction, and the County Council and county executive of Montgomery County be made aware of these actions.

Re: Closure of Rosemary Hills Elementary School

WHEREAS, The Board of Education has adopted a Long-Range Educational Facilities Planning policy which establishes goals, principles, and a process for addressing changing enrollment; and



WHEREAS, The primary goal of that policy is to provide those facilities and future school sites necessary to sustain high quality educational programs at reasonable cost; and

WHEREAS, The Long-Range Educational Facilities Planning policy requires the County Superintendent of Schools to submit a recommended 15-Year Comprehensive Master Plan for Educational Facilities which includes specific data and information required by the policy; and

WHEREAS, In accordance with the policy statement on Long-Range Educational Facilities Planning, timely notice of those recommendations has been provided to individuals and groups within the County, including affected communities; and

WHEREAS, Public hearings on those recommendations have been held in accordance with the policy, and interested citizens have presented their views on the recommendations, alternative proposals and supporting data; and

WHEREAS, The Board of Education of Montgomery County has considered the superintendent's recommendations, as well as alternatives to consolidations and closings, to address the concerns of steadily declining student enrollment and increasing fiscal constraints in Montgomery County; and

WHEREAS, It is the statutory responsibility of the Board of Education to consolidate schools when it considers such action practicable; and

WHEREAS, The Board of Education of Montgomery County, in light of all the information presented to it, considers it practicable and necessary to consolidate and close some schools within the County for the greater benefit of all students attending the Montgomery County Public Schools; now therefore be it

Resolved, That Rosemary Hills Elementary School is to be closed in June 1982; and be it further

Resolved, That the attendance area of Rosemary Hills Elementary School shall be consolidated with the attendance areas of Bethesda, Chevy Chase, North Chevy Chase and Rollingwood elementary schools as follows:

- o Send to Bethesda Elementary School all K-6 students living in Paddington Square Apartments (who are now assigned to Parkwood Elementary School for Grades 3-6)
- o Send to Chevy Chase Elementary School all K-6 students living in the Summit Hills-16th Street apartments along with all K-6 students living in private dwellings (who are now assigned to Chevy Chase Elementary School for Grades 3-6)

- o Send to North Chevy Chase Elementary School all K-6 students living in the Summit Hills/East-West Highway apartments (who are now assigned to North Chevy Chase Elementary School for Grades 3-6)
- o Send to Rollingwood Elementary School all K-6 students living in the Rosemary Village Apartments (who are now assigned to Chevy Chase Elementary School for Grades 3-6)
- o Relocate the Head Start program to North Chevy Chase Elementary School

and be it further

Resolved, That all students from the former Larchmont Elementary School area east of Connecticut Avenue be assigned to Rollingwood Elementary School with the provision that transfers would be granted in accord with the transfer policy between Rollingwood and North Chevy Chase for all students assigned to either school except that:

- o Larchmont area students now attending Parkwood Elementary School may continue at that school through Grade 6
- o Larchmont area students now attending North Chevy Chase Elementary may continue at that school with transportation provided
- o It is the intent of the Board that transportation would be provided for transfers between North Chevy Chase and Rollingwood

and be it further

Resolved, That the attendance area for the former Larchmont students who reside west of Connecticut Avenue be assigned to Parkwood Elementary School K-6 and continue to Tilden Intermediate School and Walter Johnson High School except that:

- o Larchmont Elementary students now attending North Chevy Chase Elementary School may continue at that school through Grade 6
- o It is the intent of the Board that transportation will be provided for transfers between Parkwood and North Chevy Chase

and be it further

Resolved, That it is the intent of the Board that for all students residing in the present Rosemary Hills Elementary School service area, transfers with transportation provided will be granted in accord with the transfer policy from and to any of the following schools: Bethesda, Chevy Chase, North Chevy Chase, and Rollingwood Elementary Schools; and be it further

Resolved, That the Rosemary Hills Elementary School building and site are no longer needed for school purposes; and be it further

Resolved, That the Rosemary Hills Elementary School building and site be conveyed to the County Government on July 1, 1982, or as soon thereafter after as possible, subject to the approval of the state superintendent of schools; and be it further

Resolved, That the superintendent and his staff shall begin to communicate as soon as possible with the County Government and other agencies with the intention to identify and consult on finding an alternative use for the Rosemary Hills Elementary School building and the site which will preserve them for community use and which will continue to provide community services; and be it further

Resolved, That the superintendent is directed to report periodically to the Board on the progress of the above communications with the County Government and other agencies; and be it further

Resolved, That the state superintendent of schools, State Interagency Committee for Public School Construction, and the County Council and county executive of Montgomery County be made aware of these actions.



DEC 9 1981

December 4, 1981

## BOARD OFFICE

To the Editor:

During the past several weeks, Montgomery County Board of Education decisions on school closures and consolidations have generated a great deal of publicity, much of it negative. In that regard, we are concerned lest the public be left with the misconceptions which surround one closing in particular, that of Rosemary Hills Primary School -- a school which all five of our children have attended and where each of our youngest children is currently enrolled.

Rosemary Hills has been characterized by some as Montgomery County's "symbol of voluntary integration." But how successful has it really been? Let us not lose sight of the reason for which Rosemary Hills was created as a primary school in 1975: At that time, the minority percentage at Rosemary Hills approached 90%. In order to alleviate the growing minority imbalance at the school, the then-Board of Education created the present grade level reorganized plan, whereby the minority percentage at Rosemary Hills was to have been reduced to 40.3% by 1981. It is now 1981 and the minority percentage at Rosemary Hills is 58%. In fact, the minority percentage at Rosemary Hills -- contrary to 1975 Board of Education staff projections -- has increased yearly since the inception of the program. The Superintendent made no effort to correct the situation. All evidence indicated that within the next three or four years, Rosemary Hills would have become one of the highest minority schools in the county -- precisely what it was pre-1975. In fact, the addition of Rollingwood and Lynnbrook to Rosemary Hills/Chevy Chase schools, as recommended by the Superintendent, would have reduced the minority percentage at Rosemary Hills by only a few points -- even assuming the unlikely event that there would be no white flight from the Rollingwood and Lynnbrook school communities. The Superintendent's recommended solution, then, would not have prevented Rosemary Hills from once again becoming an almost totally minority school. In fact, testimony before the Board of Education showed that all of the schools affected had substantial reservations regarding the Superintendent's recommendation.

The several alternative plans offered by the Board and by the Superintendent in lieu of the Superintendent's recommended proposal placed all B-CC schools in the K-6 grade structure -- a decision based on educational objectives and well within the province of a Board of Education -- and variously suggested closing Lynnbrook or Rollingwood and either North Chevy Chase or Rosemary Hills. It is important to note here that never at any time during the Board's hearings or deliberations was there a choice to be made between closure of Rosemary Hills or closure of Rollingwood. Because of student body size, capacities, and adaptability of program, the choice was always, in fact, between Rosemary Hills and North Chevy Chase. The decision as to whether Rollingwood should be closed in addition to one of the other two schools, was a separate consideration. Important here, then, is the fact that there was no direct relationship between the closure of Rosemary Hills and the survival of Rollingwood.

In listening to testimony concerning whether to close North Chevy Chase and move its model program to Rosemary Hills -- an option which would have maintained a facility in the Rosemary Hills neighborhood and which would have

moved the magnet school out of a white neighborhood and into a minority neighborhood -- the Board of Education heard North Chevy Chase testify that its teachers and principal would refuse to teach at Rosemary Hills, and that very few of the parents of North Chevy Chase children would want to send their children to a school located at the Rosemary Hills site. For its part, Rosemary Hills refused in testimony to discuss a change in grade structure, expressing support for its continuing existence only as a primary school -- a grade structure the Board of Education had already indicated it would not support. Moreover, Rosemary Hills further testified that the North Chevy Chase program should not be moved to Rosemary Hills. Indeed, the lack of support for Rosemary Hills within its own neighborhood is evidenced annually by the numbers from that neighborhood who request transfers to other county schools.

The Board opted then for the only viable remaining alternative -- closing Rosemary Hills (high minority) and Lynnbrook (high majority) -- thereby created four B-CC feeder schools integrated in the 30 to 40% minority range: Chevy Chase, North Chevy Chase, Rollingwood and Bethesda. In fact, the Board's plan alone, among all plans considered, has the greatest potential for promoting stable, racially balanced, integrated schools in the B-CC feeder area. The longest bus ride -- that from Rosemary Hills to Bethesda Elementary -- will last from between 12 and 15 minutes, a ride shorter by far than that taken by many children under the current arrangement, which buses children into Rosemary Hills for the primary grades, and which buses children out of Rosemary Hills to three other schools for the remaining elementary years.

We are concerned about the future of Montgomery County public schools. Press coverage has not reflected the complexity of issues surrounding the Rosemary Hills school closure. It is all too easy for an uninformed public to be convinced by those who place their own political aspirations ahead of educational concerns, that county schools are being resegregated. The popularly accepted viewpoint seems to be that the closure of Rosemary Hills, which has become a symbol of integration, spells the end of the integration effort. In this case, however, that viewpoint is not based on fact, for integration is in reality being promoted and expanded in the B-CC group.

We feel it is important to realize that there is not any perfect way to achieve integration. Some children will have longer bus rides than others, some children indeed will have longer walks than others. What is certain is that the solution for the B-CC area will put Lynnbrook children on buses, it will put Larchmont children on buses, and it will put Rosemary Hills children on buses; and that all of those buses will transport children to racially balanced schools. Such could not have been said of the present Rosemary Hills cluster arrangement, and it could not be said of the Superintendent's recommended solution.

In the B-CC feeder area, the Board of Education has approved a facilities plan which provides quality education in racially balanced schools for all of our children. We support their effort in that regard. It is time to stop playing politics with our children and get on with the business of education.

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*Ellen S. Rodin*

*Patricia S. Baptiste*

EXTRACT**Opinions of the Maryland State Board of Education, Volume II  
February 1978 through September 1982****2 Opinions of MSBE 582***Exhibit I***FINDINGS OF FACT, CONCLUSIONS OF LAW, AND  
RECOMMENDATIONS OF THE HEARING EXAMINER**

The issue in each of these cases is whether the Montgomery County Board of Education acted arbitrarily and unreasonably or illegally in ordering the transfer of seventh grade students from Takoma Park Junior High School to Eastern Intermediate School as of the beginning of the 1982-1983 school year and the closing of Takoma Park Junior High School two years later, in ordering the closing of Rosemary Hills Primary School at the end of June 1982, and in ordering certain changes in the attendance areas for Montgomery Blair High School, Eastern Intermediate School, East Silver Spring Elementary School and Piney Branch Elementary School. The Appellants in these cases alleged that Respondent had engaged in a pattern of unlawful racial discrimination and moved for consolidated hearings; the State Board granted that motion on the ground that it posed a sufficient commonality of issues.

The cases were heard by the undersigned on February 20th, 24th, 26th, 27th, 1982. On the basis of the testimony, exhibits, and briefs of the parties, this Examiner makes the following

**FINDINGS OF FACT**

\* \* \* \* \*

### *Rosemary Hills Primary School*

Here the basic issue is somewhat different than at Blair and Eastern. Under Respondent's decision, Rosemary Hills, contrary to the recommendation of the Superintendent, is to be closed, but the Rosemary Hills community did have an opportunity to react to a closure proposal prior to its adoption by the Board. The Board deviated from its requirement to give the opportunity for reaction only with respect to that part of its decision which will send the Rosemary Hills children to four receiving schools instead of the three in the option forwarded by, but not recommended by, the Superintendent. Since it was clear that the Rosemary Hills community opposed the closing of its school and the sending of its children to three other schools, the Board's addition of a fourth school cannot be considered so substantial a deviation from its policy as to be arbitrary and unreasonable.

On the other hand, the Quality Education/Racial Balance policy's stated objective of avoiding one-way desegregation is flouted by this decision. In this regard I give great credence to the testimony of the members of the Rosemary Hills community who expressed concern that the shared busing which has diminished racial imbalance at their school is being replaced by a plan which puts the entire onus of desegregation on their children.

Was there a valid reason for Board action which not only substitutes one-way desegregation for an existing pattern of two-way desegregation but also disperses the minority children to four different schools?

The Record contains two alleged reasons for this action. One was the Board's preferred K-6 pattern for elementary schools. Transcripts of Board meetings on November 19 and December 8, 1981, contain discussions of alleged educational advantages of a K-6 as against paired K-2, 3-6 schools. Board Member Barse argued



## **2 Opinions of MSBE 582**

strongly in favor of K-6 schools, although he was the mover of the resolution to continue the paired school pattern for East Silver Spring and Piney Branch. But more significant than this inconsistency is the Superintendent's testimony that there has been no study either within or outside the Montgomery County school system which deals with the question of whether K-6 or paired elementary schools is a better educational device.

The other suggested reason for the Board's decision is an allegation by Board Member Greenblatt that the grade organization plan at Rosemary Hills has not worked and that the Rosemary Hills children tested well below the average for minority children in the county (Board Transcript for November 19, 1981, Resp. Ex. 67; Board Transcript for December 8, 1981, Resp. Ex. 76). On the other hand, at a Board meeting on October 21, 1981, Board Member Greenblatt mentioned test results and said, in part, "I don't think that's really an issue" (Resp. Ex. 30). I conclude that greater credence should be given to the Superintendent's professional opinion that the grade level reorganization plan at Rosemary Hills Primary School has been educationally successful and that one cannot appropriately compare test scores from school to school without taking account of the disadvantages a given group of children bring to a given school.

Respondent has argued that because the receiving schools for the Rosemary Hills children will each experience an increased percentage of minority students, racial balance will be improved by the closing of Rosemary Hills. Acceptance of the Superintendent's recommendation, on the other hand, would have reduced racial imbalance at Rosemary Hills from 55% to below 50% without burdening that community with one-way desegregation.

Was there a satisfactory alternative available to the Board? In this case the question might better be phrased in terms of whether the Board's closing of Rosemary Hills was a satisfactory alternative to the Superintendent's recommended closing of Rollingwood. The evidence strongly suggests that Rosemary Hills is a better facility, that Rosemary Hills—but not Rollingwood—has a gymnasium, that despite the Board's decision Rollingwood is likely to remain underutilized, that the Board's decision will result in temporary overutilization of Bethesda Elementary, that the closure of Rosemary Hills will entail the busing of more children than would have been the

**2 Opinions of MSBE 582**

case had the Superintendent's recommendation been followed, and that the possibility of alternative use for Rosemary Hills is less satisfactory than alternative use for Rollingwood.

The burden on the Rosemary Hills community is not confined to one-way dispersal of its children to four different schools. Rosemary Hills is the only elementary school in the Bethesda-Chevy Chase area which has a Headstart program, and the removal of that program will place a considerable obstacle in the path of participating parents. Rosemary Hills is a low-income community largely dependent on public transportation, and it has a disproportionate number of single-parent families who are likely to find it increasingly difficult to participate in the school life of their children when that life is led two to five miles from their homes.

For all of these reasons I conclude that Respondent's deviation from its Quality Education/Racial Balance policy was sufficiently substantial as to be arbitrary and unreasonable.<sup>2</sup>

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<sup>2</sup> While I recognize that there may be valid reasons for weighting criteria differently from school to school, I find it of some interest that the decision to close Hungerford Elementary and to send the Hungerford children to West Rockville apparently was based on the facts that West Rockville is in better physical condition, has a gymnasium, and is the higher minority school. And the decision to close Saddlebrook and to send the children to Glenallen was apparently based on the facts that Glenallen has a gymnasium and a higher minority ratio (See the Record in the *Hungerford* and *Saddlebrook* Appeals being forwarded to the State Board this day). Also contrast the Board's sending the Rosemary Hills children to four receiving schools while yielding to the plea of the Northwood community that all of the Northwood High School students should go to Einstein.

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## 2 Opinions of MSBE 582

There are a few additional comments which I consider appropriate. There have been serious allegations that Respondent's actions in these cases are constitutionally impermissible. My failure to deal with these allegations is unrelated to their worthiness, but rather to my view that the State Board need not reach the issue of constitutionality. Much could be said (and indeed has been said by both parties) on the question of whether the Montgomery County Board of Education has evidenced an intent to resegregate its schools. For the reasons I have spelled out with respect to each school, I do not believe it necessary to resolve this highly charged question, an attempt to resolve which could involve the school system and the children of Montgomery County in years of litigation.

In the course of resisting Appellants' request for the testimony of Board members, Respondent's counsel said "... what you do is, you judge them on what they have done, and you judge them on what the record shows, and you judge them on what they said, and you judge them on what was before them when they did it" (R., 713). I accept that standard of review and I believe that the Conclusions I have reached meet that standard. I note that although the Montgomery County Board of Education upheld more than 75% of the recommendations of its Superintendent countywide, in the six cases before me the Board accepted his recommendation in but one, and modified it in five. In each of those five cases the Superintendent's recommendation would have resulted in adherence to the procedures in the Long-Range Facilities Planning policy and to the Quality Education/Racial Balance policy. And while I admire the loyalty the Superintendent showed in his assertions that the Board's deviations from his recommendations amounted to no more than a difference of judgment, the Record does not support that view. The Superintendent abided by the Board's stated policies; the Board did not. The deviations as to Blair, Eastern and Rosemary Hills had a sufficiently adverse impact on the affected communities as to warrant reversal on grounds of arbitrariness and unreasonableness. On the other hand, had the Superintendent's recommendations as to East Silver Spring and Piney Branch been accepted, those schools would still have had such a significant racial imbalance as to warrant a further effort. Finally, while one may question the wisdom of closing Takoma Park Junior High, the Board and the Superintendent both adhered to all the procedural requirements; the decision as to substance was theirs to make, and I find no grounds for upsetting that decision.

Mitchell J. Cooper, *Hearing Examiner*

April 21, 1982

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**EXTRACT**

**Opinions of the Maryland State Board of Education, Volume II  
February 1978 through September 1982**

***2 Opinions of MSBE 582***

**SCHOOL DISTRICTING - Consolidation and Closing**

RUTH ABBOTT, et al.  
(Takoma Park Junior High School),  
IRENE ADAMS, et al.  
(Rosemary Hills Primary School),  
TOMMY BROADWATER, et al.  
(Montgomery Blair High School),  
HUEY LONG, et al.  
(Eastern Intermediate School P.T.S.A.),  
CARL KAISER, et al.  
(East Silver Spring and Piney Branch Elementary Schools,  
*Appellants*

*v.*

MONTGOMERY COUNTY BOARD OF EDUCATION,  
*Appellee*

No. 82-28  
June 30, 1982

**OPINION**

We hereby adopt the Findings of Fact of the State Hearing Examiner in the above-named cases as well as his general Conclusions of Law contained on pages 592 through 629.<sup>1</sup> However, we do not adopt his Conclusions of Law as they pertain to the individual school decisions in these appeals.

For the reasons discussed below, we have concluded that the decisions of the Board of Education of Montgomery County with respect to Montgomery Blair High School, Eastern Intermediate School, and Rosemary Hills Primary School should be reversed. In regard to the County Board's decision with respect to East Silver Spring and Piney Branch Elementary School, we uphold that decision. We have also upheld the County Board's decision with respect to Takoma Park Junior High School.

In reviewing these school closing appeals, we have made our decisions based on what we have considered to be sound educational policy pursuant to our legislative mandate under §2-205(b) of the

<sup>1</sup> Attached hereto as Exhibit 1.

## 2 Opinions of MSBE 582

Education Article of the MD. ANN. CODE. In doing so, we have not deviated from the standard of review that was announced by this Board in *Bushey Drive Elementary School v. Board of Education of Montgomery County*, Opinions of MSBE 441 (1976) that we would not substitute our judgment for county boards of education in school closing matters and would uphold the decision of the county board unless the facts indicated to this Board that the decision had been arbitrary, unreasonable or illegal. In those cases which we have reversed today, we have done so because we have found that the facts, in the context of sound educational policy, indicated to us that the decision of the County Board was arbitrary and unreasonable.

Finally, these opinions should not be interpreted to imply that we are approving the County Superintendent's recommendations in regard to these schools or are recommending *any* specific plan or remedy.

We are cognizant that decisions regarding school closure and reorganization of attendance zones are difficult ones, and that no school community wishes to lose its school. We recognize that these issues are accompanied by much emotion and heated debate. On the other hand, the Montgomery County Board of Education has been placed in a situation where it is faced with dramatically declining enrollment and a finite amount of funds to serve its children. It has a legitimate need to close certain schools and reallocate its resources in order to continue to provide the excellent quality education it now offers its student population. Thus, certain schools had to be closed and changes made.

We now turn to the individual decisions.

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### ROSEMARY HILLS PRIMARY SCHOOL

Rosemary Hills is one of ten elementary schools which feed into Bethesda-Chevy Chase High School and is part of a cluster which was established in an effort to reduce school segregation. Presently, approximately 90% of the elementary students who live in the Rosemary Hills neighborhood are minority students. (Hearing Examiner's Findings, p. 603) In an effort to reduce the high minority population that would have attended Rosemary Hills Elementary School, pursuant to a resolution adopted by the Montgomery County Board of Education on March 16, 1976, Rosemary Hills was designated as an "early childhood learning center." The record indicates that children from Rosemary Hills, Chevy Chase, and Larchmont were assigned to Rosemary Hills for kindergarten through second grade and that for grades 3 through 6, assigned students from Rosemary Hills went to Chevy Chase, Larchmont, and Parkwood while those schools also became grades 3 through 6 for the students in their neighborhoods. (App. Ex. 6 and 7; App. Proposed Findings of Fact at 265-267) The details of this cluster and its background are described adequately in Appellants' Proposed Findings of Fact, pp. 109-113, and are not contested by the County Board.

## **2 Opinions of MSBE 582**

As a result of this cluster, the racial imbalance that had existed at Rosemary Hills was greatly alleviated and the current minority ratio is approximately 55%. *See* Hearing Examiner's Findings at p. 603. As indicated in the Hearing Examiner's Findings of Fact, the Board has decided to close Rosemary Hills Elementary School and assign its students to four elementary schools. It is true, as counsel for the County Board argued at the hearing before this Board, that the end result of the County Board's action in closing Rosemary Hills Elementary School has brought all of the schools within the cluster within 20% of the county-wide average minority population of 23.8% and thus, based on statistics alone, the decisions have not resulted in racial imbalance.

However, we are reversing the County Board's decision because we believe that in reviewing the full impact of this closing decision, one must inevitably conclude that the County Board has acted arbitrarily and unreasonably because the primary burden for reaching this "improved" racial balance has fallen on the minority students at Rosemary Hills. Without reaching the constitutional question posed by this "lopsided" burden, we find as a matter of sound educational policy that this is arbitrary and unreasonable.

There were feasible alternatives available. Indeed, the question arises as to why the County Board chose to close Rosemary Hills (and consequently place the burden on minority students) rather than Rollingwood, the school which the Superintendent chose, in light of the following facts. Of the two schools, Rosemary Hills has more classrooms, a larger playing field, a gym, and a higher student enrollment. Therefore, it is closer to full utilization under the County Board's own policy statement. Additionally, Rosemary Hills has been evaluated as having a less satisfactory capability for an alternative use in the event of closure than Rollingwood. *See* Hearing Examiner's Findings at p. 604. Further, the closing of Rosemary Hills will result in additional busing for more students than the closing of Rollingwood. *See* Hearing Examiner's Findings at p. 611.

It is obvious from the above that Rosemary Hills was not a prime candidate for closure under the County Board's own Facilities Planning Policy. However, these factors in and of themselves would not have led to our reversal of the County Board's decision. Rather, it is these factors as well as the one-sided burden that has been placed on

## **2 Opinions of MSBE 582**

minority students that has led to our decision today. It is important to point out that in the County Board's own Facilities Planning Policy, it states that the "solution" to be arrived at in deciding which schools are to be closed "shall be developed in a manner which is consistent with the Board of Education's policy statement on Quality Education/Racial Balance and as further delineated in a Board-adopted supplementary statement." *See* II.B.(e)(3). The Quality Education/Racial Balance statement provides that in seeking measures to decrease racial disproportion, there should be "the avoidance of one-way desegregation." The record indicates that this has not occurred here.

First, in regard to busing, under the County Board's plan, the minority children in Rosemary Hills are to be bused to four different schools (Chevy Chase, North Chevy Chase, Rollingwood, or Bethesda) all of which are located in predominantly white neighborhoods. Only North Chevy Chase is in a neighborhood adjacent to the Rosemary Hills feeder area. It is true that under the existing plan, students from the Rosemary Hills community are bused out for grades 3 through 6. However, it is also true that students from predominantly white neighborhoods are bused into the Rosemary Hills Primary School for grades K through 2. Thus, the busing that now exists places a burden on *both* white and minority neighborhoods in order to achieve a better racial balance.

In addition to the onus placed on minority students in what we believe is fairly characterized as "one-way busing," a review of undisputed facts in the record indicate that in contrast to the student assignments of these children from a minority neighborhood, the children in seven predominantly white neighborhoods were assigned to their neighborhood schools with little if any busing. These include the residents of Chevy Chase, Bethesda, North Chevy Chase, Parkwood, Rollingwood, Somerset, and Westbrook. It appears obvious that the burden of addressing the disproportionate minority enrollment in the cluster was placed on the minority students. *See* Appellants proposed Findings of Fact at 307-322. Whatever are the constitutional implications of such an inequitable plan, it is our opinion this is unacceptable from an educational policy perspective.

As the Hearing Examiner discusses, the record contains two justifications for the County Board's action. The first is the County



**2 Opinions of MSBE 582**

Board's preferred K-6 pattern for elementary schools which is set forth in their Facilities Planning Policy. The second is the testimony of Board member Marion Greenblatt that the grade organization plan at Rosemary Hills has not worked well. As to the County Board's preferred K-6 plan, we voice no opinion as to the merits of a K-6 educational program in contrast to the present K-2 at one school and 3-6 at another. Indeed, we believe the record does not indicate the educators are in agreement as to which of these plans is preferred, if either. We do note, however, that the County Board did not hesitate to deviate from its preferred grade pattern when it reassigned three high majority schools that the Superintendent had recommended be assigned to Blair High School to Einstein with the effect that the preferred grade pattern was disrupted at both Einstein High School and Sligo Intermediate School.

In regard to Mrs. Greenblatt's testimony, we note that the County Superintendent testified at these hearings that in his judgment the Rosemary Hills cluster and its grade reorganization plan had been educationally successful and that he had so advised the County Board. *See* Hearing Examiner's Findings at p. 611.

It is, therefore, *all* of the factors discussed above that have led us to conclude that the County Board's decision in closing Rosemary Hills Primary School is arbitrary and unreasonable as a matter of educational policy in its adverse impact on minority students and its inconsistency with the Quality Education/Racial Balance Policy.

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