

AMBER J.,

Appellant

v.

MONTGOMERY COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 14-25

OPINION

INTRODUCTION

The Appellant is the mother of an elementary school student. She appeals the decision of the Montgomery County Board of Education (local board) declining to place her daughter in a French language immersion program. The local board filed a Motion for Summary Affirmance. The Appellant did not reply.

FACTUAL BACKGROUND

Montgomery County Public Schools (“MCPS”) operates seven elementary language immersion programs: two Chinese language programs, two French language programs, and three Spanish language programs. The two French Immersion programs draw student applicants from the entire county. Each of the two programs has a specific catchment area. Appellant and her daughter live within the geographic attendance area of Jackson Road Elementary School (“Jackson Road ES”) in Silver Spring, Maryland, which is within the catchment area for the French Immersion program at Sligo Creek Elementary School (“Sligo Creek ES”).

When the number of applicants exceeds available space for the immersion program, admission is by lottery.

On or about February 5, 2013, Appellant submitted an application, asking for admission to any one of the four language immersion programs: the French Immersion program at Maryvale Elementary School (“Maryvale ES”), the French Immersion program at Sligo Creek ES, the Spanish Immersion program at Burnt Mills Elementary School (“Burnt Mills ES”), and the Chinese Immersion at College Gardens Elementary School.

By letter dated April 30, 2013, the school system informed the Appellant that lotteries were held to select students for admission to each of the language immersion programs she had designated and that her daughter’s name was not drawn for admission to any of the programs designated. Montgomery County Public Schools (MCPS), however, maintains a waiting list. After seats are filled, the lottery continues to draw names until every name is drawn and placed on a wait list in the order of selection so parents can know where their child stands on the list and can make more informed decisions based on their assessments of the chance of later admission due to future vacancies. The student’s position on the waitlist at each school was:

Chinese Immersion	College Gardens ES	#75
French Immersion	Maryvale ES	#138
French Immersion	Sligo Creek ES	#190
Spanish Immersion	Burnt Mills ES	#21

Appellant appealed the lottery results to Larry A. Bowers, the Chief Operating Officer, who acts as the Superintendent’s designee. She appealed only the failure to place her daughter in a French Immersion program. In her letter of appeal, Appellant cited three reasons why her daughter should be admitted. First, she explained that the family believes strongly in early introduction of foreign languages to students. She notes that she and her husband speak several languages and hope to be transferred to Geneva, Switzerland, in the next 2-3 years. Participating in the French Immersion program would facilitate that transition to Geneva and provide a better education than is available in their home school. Second, Appellant was not happy with her daughter’s home school, Jackson Road ES, due to a “lack of diversity,” based on socio-economic indicators.” Jackson Road ES is a Title I school. Third, Appellant argued that students whose home school is a Title I school should receive a lottery preference for admission into the language immersion programs.

Mr. Bowers asked Ms. Sandra S. Walker to investigate the appeal as his hearing officer. Ms. Walker did not find that the reasons Appellant gave for requesting placement in a language immersion program constituted a unique hardship that warranted overriding the lottery results. Mr. Bowers adopted that recommendation by letter dated June 19, 2013. The Appellant appealed that decision to the local board.

Dr. Joshua P. Starr, Superintendent of Schools, responded to the appeal. He concluded that the family’s situation did not rise to the level of a unique hardship. He recommended to the local board that the student remain on the French Immersion wait list.

Appellant responded to the superintendent’s memorandum. She added, for the first time, that attendance at the French Immersion program at Sligo Creek ES would facilitate child care because the provider’s son is a Grade 4 student in the French Immersion program there and Appellant would be returning to work in the fall following her maternity leave.

The local board considered the appeal in closed session on September 10, 2013, affirmed the Superintendent’s decision not to remove the student from the wait list and administratively place her at the Sligo Creek ES French Immersion program. The local board found no unique hardship. It explained that the language immersion programs have limited spaces available that are filled by lottery when applications exceed the spaces available. The local board declined to create a new, preferential category for Title I school applicants through the appeal process rather than the policy-making or regulatory processes.

This appeal to the State Board followed.

STANDARD OF REVIEW

The burden is on the Appellant to show, by a preponderance of the evidence that the local board decision was arbitrary, unreasonable, or illegal. A decision is arbitrary if “a reasoning mind could not have reasonably reached the conclusion the local board... reached.” COMAR

13A.01.05.05B(2). Moreover, unless and until that burden is met, the State Board will not substitute its judgment for that of the local board of education.

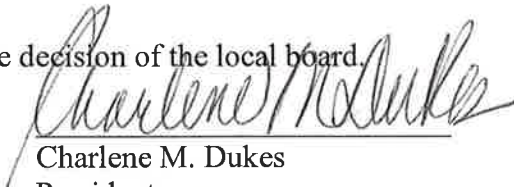
ANALYSIS

Appellant disagrees with the local board’s conclusion regarding the presence of a unique hardship that justifies disregarding the lottery results and administratively placing her daughter into the desired language immersion program ahead of others.¹ We have had the opportunity to consider similar challenges in the past. One such case was *Denise G. v. Prince George’s County Bd. of Educ.*, MSBE Opin. No. 13-08 (January 22, 2013). In that case, Appellant sought admission of her daughter to a special Talented and Gifted (“TAG”) Center school. “Appellant’s daughter was not chosen by lottery to enter the TAG Center at Greenbelt, but she was instead placed on the waiting list.” Appellant’s daughter was 40th on the waiting list. In that case, Appellant asked that “her daughter be placed in the TAG Center, notwithstanding her wait list status, explaining” that her assigned school “would not be able to offer her daughter the same rigorous program of instruction.” *Id.* at 1-2. We found, however, that the local board of education had followed its policy. We agreed that placing Appellant’s daughter ahead of 39 other students who received a lower wait list number would violate the administrative guidelines, devalue the interest of the 39 wait list students ahead of Appellant’s daughter, and undermine the principals of equity which underlay the lottery admission process. *Id.* at 3.

Likewise, for the same reasons, we agree here with the local board that their decision to adhere to the results of the lottery process was appropriate and that the Appellant had not presented evidence of a unique hardship sufficient to override the results of the lottery.

CONCLUSION

For the reasons stated above, we affirm the decision of the local board.



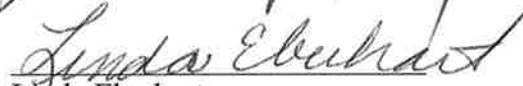
Charlene M. Dukes
President

Absent

Mary Kay Finan
Vice President



James H. DeGraffenheidt, Jr.



Linda Eberhart

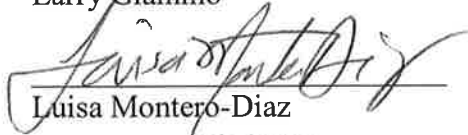
Absent

S. James Gates, Jr.

¹ The local board notes in its Motion that the student was withdrawn from MCPS on August 26, 2013. (Motion FN. 7). In many instances, a withdrawal would moot the case. Here, however, the controversy arguably remains live and we will decide the merits of the case.

Absent

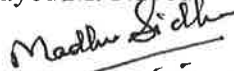
Larry Giammo



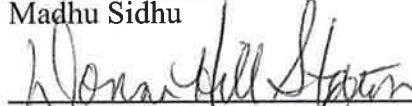
Luisa Montero-Diaz



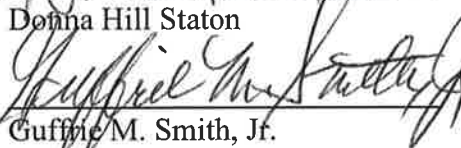
Sayed M. Nayed



Madhu Sidhu



Donna Hill Staton



Guffie M. Smith, Jr.

May 20, 2014