

PAUL AND ETY E.

Appellants

v.

MONTGOMERY COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 12-05

OPINION

INTRODUCTION

Appellants challenge the decision of the Montgomery County Board of Education (local board) denying their request to transfer their daughter to Cabin John Middle School from Montgomery Village Middle School. The local board filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal.

FACTUAL BACKGROUND

Appellants reside in the geographic attendance area for Watkins Mill Elementary School (Watkins Mill) which feeds into Montgomery Village Middle School (Montgomery Village). Appellants' daughter, E.E., attended Watkins Mill for several years. In the fourth grade, in response to Appellants' request, the school system allowed E.E. to transfer to Stone Mill Elementary School (Stone Mill) because Mrs. E. was expected to be absent for extended periods of time to provide medical care and assistance for her mother in Israel. Although the school system initially granted the transfer to Stone Mill for a period of one year, it extended it for a second year due to the mother's continued absence. (Mtn. Attach. 5). Stone Mill feeds into Cabin John Middle School.

The Montgomery County Public Schools (MCPS) transfer policy requires elementary school students on an approved change of school assignment to return to their home middle school unless a new transfer request is approved for middle school. (Mtn. Attach. 7, JEE-RA (IV)(D)(1)(d)).

Appellants submitted a transfer request asking that E.E. be allowed to continue in her out of district feeder pattern by attending Cabin John rather than her home school, Montgomery Village. Appellants stated that the family was close and had "suffered a great deal of illness and loss over these past couple of years" with the care taking and loss of both of E.E.'s

grandmothers. Appellants explained that E.E.'s uncle and his family, who live in the Stone Mill attendance area, had become an emotional and practical support, sharing transportation and child care. E.E. attended Stone Mill with her cousins.¹ They stated that E.E. had become attached to good friends and felt connected to the community at Stone Mill and wanted to remain with her peer group that would be moving on to Cabin John. Appellants believed that having E.E. attend Cabin John would provide her with stability and comfort and reduce her anxiety as she entered middle school. (Mtn. Attach. 2).

The Disciplinary Review and School Assignment Unit denied the request because it did not meet transfer guidelines. (Mtn. Attach. 1).

Appellants appealed the decision, reiterating their desire that E.E. remain with her peer group during this transitional period. Appellants explained that the family had been going through a stressful time. Mr. E. would be absent from home while traveling to Israel for several weeks. Mrs. E. would also be traveling to Israel for approximately one month during the school year, and Mr. E. is concerned about his ability to care for his three daughters while she is away. (Appeal, 4/26/11 Letter to CEO). Appellants explained that they rely on Mr. E.'s brother and his family, especially when Mrs. E. is away. (Mtn. Attach. 3).

Larry A. Bowers, the Chief Operating Officer and Superintendent's Designee, assigned the matter to Hearing Officer, Sandra S. Walker. Hearing Officer Walker investigated the case. She concluded that the denial of the transfer request should be upheld based on the absence of a unique hardship. (Motion, Attach. 3). On May 10, 2011, Mr. Bowers adopted the recommendation of the Hearing Officer and denied the transfer. (*Id.*).

On May 30, 2011 Appellants appealed Mr. Bowers' denial to the local board. (Mtn. Attach. 4). E.E. also submitted a letter stating that she wanted to be with her friends at Cabin John and that she believes that she will enjoy learning there. (Mtn. Attach. 4A). The local Superintendent responded to the appeal in a June 15, 2011 memorandum to the local board. He did not find a unique hardship sufficient to justify the transfer and recommended that the local board deny the request. (Mtn. Attach. 5). The Board upheld the denial of the transfer request on July 7, 2011.

This appeal followed. In the appeal, Appellants mention for the first time that the family is under stress because Mrs. E. lost her job and Mr. E.'s home improvement business has diminished; that E.E. "has been in treatment with a therapist for moods and behaviors at home" and that she has been "excessively sad, angry and verbally explosive from time to time with her sisters and parents"; and that E.E. has negative feelings about returning to her home district based on her sister's experience of bullying/sexual harassment from a peer at Watkins Mill.

¹ E.E.'s two sisters attend Watkins Mill.

STANDARD OF REVIEW

The standard of review in a student transfer case is that the State Board will not substitute its judgment for that of the local board unless the decision is shown to be arbitrary, unreasonable, or illegal. COMAR 13A.01.05.05; see *Bell v. Montgomery County Bd. of Educ.*, MSBE Op. No. 05-02 (2002); *Breads v. Bd. of Educ. of Montgomery County*, 7 Op. MSBE 507 (1997); *Mr. & Mrs. David G. v. Montgomery Co. Bd. of Educ.*, MSBE Op. No. 10-14 (2010).

ANALYSIS

It is well settled that there is no right to attend a particular school. *Bernstein v. Bd. of Educ. of Prince George's County*, 245 MD 464, 472 (1967); *Mr. & Mrs. David G. v. Montgomery Co. Bd. of Educ.*, MSBE Op. No. 10-14 (2010). The MCPS transfer policy provides that transfer requests will be granted if a student demonstrates a documented, unique hardship. Documented hardships do not include problems that are common to large numbers of families absent additional compelling factors. (Mtn. Attach. 7).

The Appellants request the transfer for their daughter so that she will have an easier transition to middle school with her friends from the Stone Mill school community. Appellants believe the transfer is warranted given the recent stressors E.E. has experienced with the illness and loss of her grandmothers and lengthy travel by her parents.

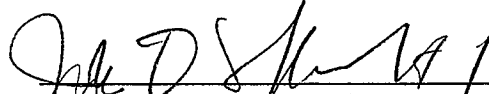
As this Board has stated previously and often, the desire to attend school with ones friends or peer group does not constitute a unique hardship. *Mary Ann K. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 10-52 (2010); *Tom & Judy M. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 09-37 (2009); *Iglesias v. Montgomery County Bd. of Educ.*, MSBE Op. No. 02-50 (2002); *Skardis v. Montgomery County Bd. of Educ.*, 7 Op. MSBE 1055 (1998). The matriculation to middle school is an adjustment for all entering students who can be understandably anxious and insecure in the new environment. The school counselor has already offered to meet with E.E. and her family to assist.


With regard to the life stressors mentioned by the Appellants, we find the local board's decision that they do not rise to the level of unique hardship to be reasonable. Unfortunately, the illness and death of loved ones is a very common experience. Busy parental travel schedules are common as well, and parents often have to juggle child care arrangements.

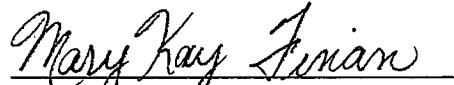
Appellants present several new bases of alleged hardship in their letter of appeal to the State Board. The State Board has long held that it will not review matters that were not initially reviewed by the local board. *Donald and Natalia C. v. Montgomery County Board of Education*, MSBE Op. No. 11-19 (2011). The Appellants may wish to pursue this issue with the local board.

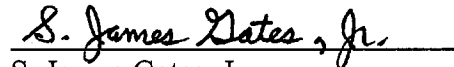
CONCLUSION

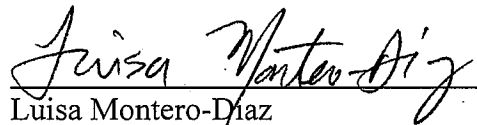
For the reasons stated above, we affirm the decision of the local board denying the Appellants' request to transfer their daughter to Cabin John Middle School.



James H. DeGraffenreidt, Jr.
President



Charlene M. Dukes
Vice President

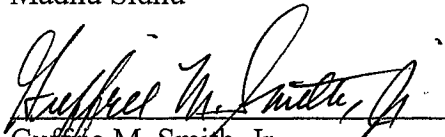

Mary Kay Finan


S. James Gates, Jr.



Luisa Montero-Diaz

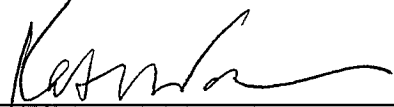

Sayed M. Naved


Madhu Sidhu


Guffie M. Smith, Jr.


Donna Hill Staton


Ivan C.A. Walks


Kate Walsh

January 24, 2012