DAVID AND KIMBERLY H.

Appellant

v.

HARFORD COUNTY BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 12-06

OPINION

INTRODUCTION

Appellants challenge the decision of the Harford County Board of Education (local board) denying their request for a boundary exception that would allow their daughter to attend Patterson Mill Middle School. The local board filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable, or illegal.

FACTUAL BACKGROUND

Appellants live in the attendance area for Edgewood Middle School. On April 10, 2011, Appellants requested a boundary exception for the 2011-2012 school year to allow their daughter, S.H., to attend Patterson Mill Middle School (Patterson Mill), citing child care as the basis for the request.[1] (R. 1.a). Pamela M. Smith, Pupil Personnel Worker, denied the request on April 21, 2011 because Patterson was projected to be at 98% of its state-rated capacity, making it closed to boundary exceptions for the upcoming school year. (R. 1.f).

On May 5, 2011, Appellants appealed this decision to the local Superintendent. Appellants explained that due to their work schedules, a childcare provider with pick-up service from school was necessary for S.H. They stated that they wanted to continue with their current provider who they trusted. (R. 1.d). On May 11, 2011, the Superintendent denied the boundary exception request. He stated that Patterson Mill was closed to boundary change requests because it was at 98% of its rated capacity. Under Harford County Public Schools' (HCPS) guidelines, no boundary exception will be approved to a school whose enrollment is at 95% of capacity or

[1] At the time of the request, S.H. was attending the 5th grade at William S. James Elementary School.

higher. He also stated that Appellants' child care issue was not a hardship as it was one that is common to a large number of families. He further noted an available after school program option for Appellants to explore. (R. 1.c).

On May 19, 2011, Appellants appealed to the local board, reiterating their problem with after school child care. (R. 3.a). On August 3, 2011, the local board affirmed the Superintendent's decision to deny the request for a boundary exception because (1) Patterson was closed to boundary exceptions for the 2011-2012 school year; and (2) the child care issue did not present a unique problem which would justify granting the request. (R. 5.a).

This appeal followed.

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).

LEGAL 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).

Citing child care needs, Appellants have appealed the local board's denial of their boundary exception request for their daughter, S.H., to attend Patterson Mill instead of Edgewood.

The HCPS Administrative Guidelines for Evaluating Boundary Exception Requests set forth several qualifying reasons for granting a request for a student to attend a school outside of the student's attendance zone. Of those reasons, only two are potentially relevant to Appellants' request. The first is child care. These requests are generally for elementary school-aged children when the primary issue is the child's safety and welfare. The second is hardship. These requests pertain to personal and family circumstances of an unusual and adverse nature which precludes the student's enrollment in his/her home school. (Guidelines, p.2). There are circumstances that limit the granting of an exception. One such limitation is if a school is at or over 95% of the state-rated capacity based on adjusted enrollment. (*Id.*, p.3).

Patterson Mill was projected to be over 95% capacity for the 2011-2012 school year. Thus, in light of that fact and the HCPS Guidelines, the local board was reasonable in rejecting the Appellants' request for a boundary exception for S.H. to attend Patterson Mill. *See Leona V. v. Harford County Bd. of Educ.*, MSBE Op. No. 09-17 (2009) (affirming denial of boundary exception to attend Patterson Mill due to utilization concerns).

CONCLUSION

For the reasons set forth above, we affirm the local board's decision to deny the Appellants' boundary exception request.

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January 24, 2012