

DAN AND LISA K.

Appellant

v.

PRINCE GEORGE'S COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 12-54

OPINION

INTRODUCTION

Appellants challenge the decision of the Prince George's County Board of Education (local board) denying their request to transfer their son to Robert Goddard Montessori School from Judith Hoyer Montessori School. The local board filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal.

FACTUAL BACKGROUND

Appellants have three children. Two sons are students at Robert Goddard Montessori School (Goddard). Their youngest son, A.K., is entering pre-kindergarten. When Appellants' older sons entered school, Appellants were zoned for Goddard. School boundaries were then redrawn to control overcrowding at Goddard. Appellants are now zoned for Judith Hoyer Montessori School (Hoyer).

Montessori programs are considered specialty programs by the local board. Students are accepted by lottery selection. The local board allows for a sibling preference policy. This policy permits children whose siblings attend a Montessori school automatic acceptance into a Montessori program. A.K. was accepted into Hoyer's three year old program through this process. Appellants' older sons remain at Goddard.

On April 16, 2012, the Appellants submitted a transfer request to Johndel Jones-Brown, Director, Department of Pupil-Accounting and School Boundaries of Prince Georges County. Appellants asked that A.K. be allowed to attend Goddard rather than his designated school, Hoyer. Appellants explained that Goddard would be a better fit for A.K. because of his ongoing familiarity with the school through his brothers' enrollment. A.K. has also been treated for speech delays and extreme shyness by the County's Infants and Toddlers Program. Appellants assert that Goddard has superior resources for treating these special needs.

On April 24, 2012, Mr. Brown informed Appellants that their transfer request had been reviewed and denied because A.K. was not zoned for Goddard, and because Goddard did not

have available space. However, Mr. Brown did suggest that they could move A.K.'s brothers from Goddard to Hoyer. Mr. Brown noted that this could help ease Appellants' concern with A.K.'s home to school transition.

Appellants appealed Mr. Brown's decision to the local superintendent on May 1, 2012, reiterating their arguments and asserting that transferring A.K.'s older brothers from Goddard to Hoyer would contradict their requests. Specifically, Appellants maintained that this would cause "undue hardship" for the older brothers since their quality of education would decline.

On June 12, 2012, the local superintendent informed the Appellants that their request had been denied because Goddard was overcrowded. Appellants were again given the option to transfer their older sons from Goddard to Hoyer.

Appellants appealed the superintendent's decision to the local board. The local board affirmed the superintendent's decision on July 3, 2012. The local board also noted that A.K.'s special needs would be evaluated by testing assessment on July 12, 2012. If he qualified for special needs, A.K. would be provided with an Individualized Education Plan (IEP) once he entered school.

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. The local board's decision is considered *prima facie* correct unless the decision is shown to be arbitrary, unreasonable or illegal. COMAR 13A.01.05.05A.

ANALYSIS

The Appellants argue that the local board's decision is arbitrary and unreasonable. State Board regulations define arbitrary and unreasonable as follows:

- (B) A decision may be arbitrary or unreasonable if it is one or more of the following:
 - (1) It is contrary to sound educational policy; or
 - (2) A reasoning mind could not have reasonably reached the conclusion of the local board or local superintendent reached.

COMAR 13A.01.05.05A

I. Contrary to a sound educational policy?

Appellants contend that the local board's decision was contrary to sound educational policy. The local board offered Appellants two options: to transfer A.K.'s older siblings to Hoyer or to enroll A.K. in a school with children with special educational needs. Appellants

argue that these options do not reflect the best interests of their children and therefore interfere with sound educational policy. In particular, they claim these options would be detrimental to the education of their older children. To support this position, they provide examples that demonstrate the effect Goddard's curriculum has had on the personal and academic growth of the children. They also provide examples highlighting the disparities between Goddard and Hoyer, noting that Hoyer offers significantly less enrichment and extracurricular opportunities.

Appellants further explain that A.K.'s special needs will not be met by transferring his older siblings from Goddard to Hoyer. They assert that the A.K.'s familiarity with Goddard is crucial to helping him overcome his shyness and discomfort with new surroundings. Appellants maintain that A.K. should be allowed to transfer to Goddard so that he may enjoy the support of his older brothers. Appellants also state that A.K. assumed he would attend Goddard, and that attending Hoyer will cause him to lose the progress made participating in the infants and toddlers program.

We understand that Appellants prefer Goddard for a variety of reasons. Board Policy 5110.4 allows for the transfer of siblings subject to the availability of space. It is a fact that Goddard is an overcrowded school. The local board has a legitimate and logical concern to control overcrowding. In our view, it is sound educational policy for the local board to consider overcrowding in denying the request to transfer.

In addition, there is no right to attend a particular school. *Bernstein v. Board of Educ. of Prince George's County*, 245 Md., 464, 472 (1967). The State Board has held that there is no entitlement to attend a particular school or program of study. *Thelma W. v. Prince George's County Bd. of Educ.*, MSBE Op. No. 07-7 (2007); *Slater v. Board of Educ. of Montgomery County*, 6 Op. MSBE 365 (1992). Appellants have not met their burden of showing that the denial of their transfer request was contrary to a sound educational policy.

II. Unreasonable Decision?

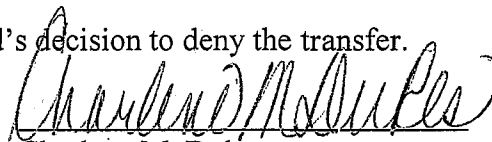
Appellants argue that the decision of the local board was unreasonable. Appellants assert that transferring their older children would be detrimental to their education, and that A.K. needs the support of his brothers to flourish and grow. They conclude that the issue at heart is not A.K.'s admission to a Montessori program, but the separation of siblings that the county zoning imposes. Appellants reinforce this argument by referring to fellow parents and educators who share their view that separation of siblings is unnecessary and illogical.

PGCPS Administrative Procedure 6148 allows placement consideration for siblings enrolled in a specialty program. Transfers between program locations are not permitted. The presence of siblings who have been accepted into a specialty program is not necessarily a guarantee that another child will attend the Montessori program at the same location. *Philip and Deborah W. v. Prince George's County Bd of Educ.*, MSBE Op. No. 11-48 (2011). In other words, A.K. must attend the Montessori program for which he was zoned. His brothers may opt to transfer into Hoyer from Goddard in order to attend school with their brother. A.K.'s older brothers may transfer into Hoyer because that school is within their current school zone, and

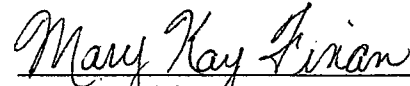
because that school is not overcrowded. We conclude that the local board's decision in this matter was a reasonable one.

CONCLUSION

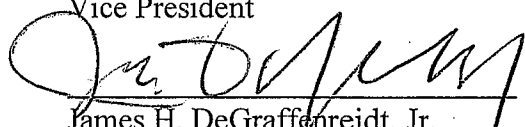
For these reasons, we affirm the local board's decision to deny the transfer.



Charlene M. Dukes
President



Mary Kay Finan
Vice President



James H. DeGraffenreidt, Jr.

absent

S. James Gates, Jr.

absent

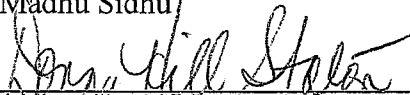
Luisa Montero-Diaz

absent


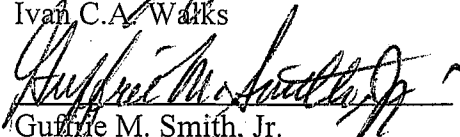
Sayed M. Naved



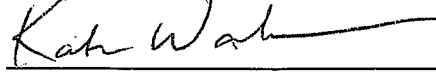
Madhu Sidhu



Donna Hill Staten


Ivan C.A. Warks

Guffie M. Smith, Jr.



Kate Walsh

December 17, 2012