

RACHEL J.

Appellant

v.

HARFORD COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 13-15

OPINION

INTRODUCTION

This is an appeal of the Harford County Board of Education's (local board) denial of a request for a boundary exception. The local board filed a Motion for Summary Affirmance maintaining that its decision was not arbitrary, unreasonable or illegal and should be upheld. The Appellant filed a response to the local board's motion, to which the local board replied.

FACTUAL BACKGROUND

Appellant's son, A, is five years old and is currently attending kindergarten at a private school. Appellant resides in the attendance area for Homestead Wakefield Elementary School (HWES). He attended HWES for prekindergarten during the 2011-2012 school year. (Ex.1h).

On or about October 22, 2012, Appellant filed an application requesting a boundary exception for the 2012-2013 school year requesting that her son, A, be permitted to attend kindergarten at Riverside Elementary School (Riverside) rather than HWES based on hardship. Appellant stated that her son has been enrolled in a private school because of an unspecified situation that occurred at HWES in pre-kindergarten the previous year. She stated, however, that the private school can no longer serve A's needs and she would like him enrolled in kindergarten at Riverside where he is familiar with staff because Appellant's mother works there. She also explained that Riverside's schedule would best accommodate her and her mother's work schedules for pick up and drop off at school. On the child care form she wrote that she worked at one job from early morning to midday and then another job at a restaurant from 5:30 to closing or 5:30 to 10:30. (Mtn. Ex. 1d – 1f).

The pupil personnel worker (PPW) denied Appellant's request on November 5, 2012. The PPW advised Appellant that she failed to submit documentation to support child care or hardship as a basis for the boundary exception. The PPW also stated that the kindergarten class sizes at Riverside exceed the established limit of 20 students per class. (Mtn. Ex. 2).

By letter dated November 12, 2012, the Appellant appealed the denial to the Superintendent. She stated that her mother takes care of A due to Appellant's work schedule and is responsible for getting him to and from school. Her mother works as an inclusion helper at Riverside and her schedule and work location is a basis for requesting the transfer there. She also stated that HWES is not an option "due to the many problems and difficulties we have had with them and continue even into this school year when [A] is no longer there!" (Mtn. Ex. 3a -- b).

The Superintendent denied Appellant's request for a boundary exception. He explained that the kindergarten class size at Riverside exceeded the established limits and that boundary exceptions are not approved for a school where class sizes for a requested grade are at or above capacity. The Superintendent did not find that Appellant's situation constituted a hardship sufficient to override class size concerns. The Superintendent offered to enroll A at a school operating below capacity, suggesting Edgewood or William S. James Elementary Schools, which are in close proximity to where Appellant lives and have on-site before and after school care available. (Mtn. Exs.4, 9a).

Appellant further appealed to the local board. In her letter of appeal she stated that the private school where A is enrolled can no longer attend to his special needs. She stated he has a medical balance issue for which he needs one on one attention for physical activity and that he also has an IEP. Appellant reiterated her claim regarding hardship based on her work schedule and child care arrangements. She explained that she is a single mother who works two jobs and must report to work at 4 a.m. She lives with her mother who assists her with A both before and after school due to her work schedule. She again stated that there were problems with HWES that are documented, but documentation was not provided with the appeal letter. (Mtn. Ex. 5a-5b).

In a memorandum to the local board, the Director of Student Services explained that Appellant's request was primarily based on her child care arrangements with her mother who works for the school system. The director stated, however, that the duty day for Appellant's mother begins at 8:30 a.m. and concludes at 4:00 p.m., thus her employment responsibilities would not permit her to provide child care or supervision of A at Riverside as proposed by the Appellant.¹ While the school system offered alternative school choices with child care options, the Appellant did not opt for one. He recommended that the local board deny the request.

In a decision issued December 16, 2012, the local board denied the appeal.

This appeal followed.

¹Appellant claims that morning drop off at Riverside would not be an issue because the school day begins at 8:30 a.m. She also maintains that her mother's duty day ends at 3:50 and A would be dismissed to her charge at that time in the same way the other children attending Riverside who have parents working there are dismissed to them.

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.

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); *Dennis v. Board of Educ. of Montgomery County*, 7 Op. MSBE 953 (1998); *Slater v. Board of Educ. of Montgomery County*, 6 Op. MSBE 365 (1992).

The Harford County Public Schools Administrative Guidelines for Evaluating Boundary Exception Requests set forth several qualifying reasons for granting a request for a student to attend a school outside the student's attendance zone. Of those reasons, only child care and hardship pertain to this case. There are circumstances, however, that limit the granting of an exception. One such limitation is if the average class size in a particular grade level exceeds the established limit. (Guidelines, p.3).

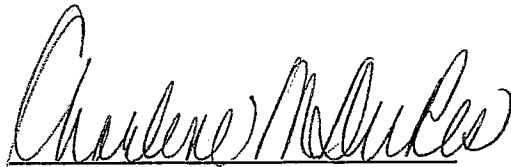
Here, Riverside Elementary School's kindergarten enrollment exceeds the 20 student limitation as set forth in the Guidelines. Thus, in light of that fact, the local board was reasonable in rejecting the Appellant's request for a boundary exception for A to attend Riverside. See *Leona V. v. Harford County Bd. of Educ.*, MSBE Op. No. 09-17 (2009).

This case is not much different from *David and Kimberly H. v. Harford County Bd. of Educ.*, MSBE Op. No. 12-6, in which the State Board upheld the local board's decision denying a boundary exception request based on child care and hardship related to the appellants' work schedules and desire to remain with the same child care provider. In that case, the State Board found that overcapacity at the requested school trumped the appellants' request because under school system policy boundary exceptions are not granted if a school is overcapacity.

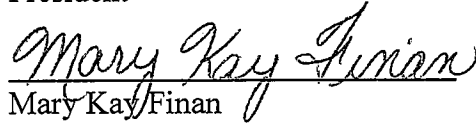
We note that Appellant makes reference in her various appeal letters to a situation involving HWES and her son, but she has provided no specifics regarding the situation and how it demonstrates a hardship that would not allow A to attend school there. To the extent that Appellant believes that A must attend a particular school based on his special needs, we recommend that she pursue such a claim through the special education process.

CONCLUSION

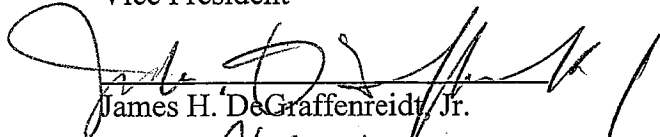
For the reasons set forth above, we affirm the local board's decision to deny Appellant's boundary exception request.



Charlene M. Dukes
President



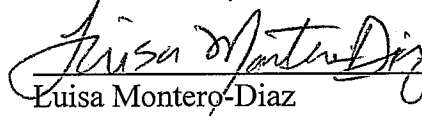
Mary Kay Finan
Vice President



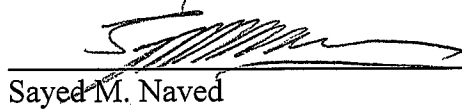
James H. DeGraffenreid, Jr.

Absent

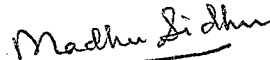
S. James Gates, Jr.



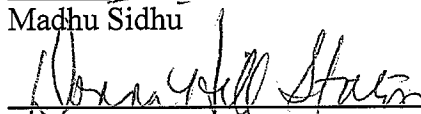
Luisa Montero-Diaz



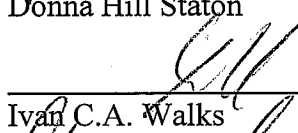
Sayed M. Naved



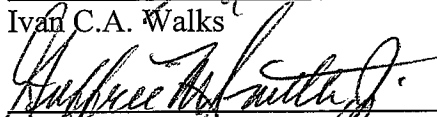
Madhu Sidhu



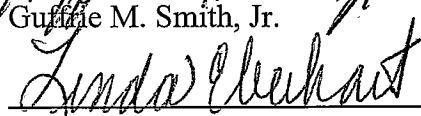
Donna Hill Staton



Ivan C.A. Walks



Guffie M. Smith, Jr.



Linda Eberhart

February 26, 2013