

LATONYA H.,

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 10-15

OPINION

In this appeal, the Appellant challenges the decision of the Montgomery County Board of Education (“local board”) denying her transfer request for her daughter. The local board has submitted a Motion for Summary Affirmance arguing that its decision was not arbitrary, unreasonable or illegal and should be upheld.

FACTUAL BACKGROUND

In June 2009, the Appellant moved to the Northeast Consortium (NEC) attendance area for Montgomery County Public Schools. The Appellant’s daughter, D.H., was assigned to attend eleventh grade at Paint Branch High School as her base school.

Incoming NEC students are given a form on which they note their first, second and third choices for school assignment. Also, in February of each year, existing NEC students in grades nine through eleven may submit a “Change of Choice” request to attend another school other than their base school. The assignment process takes into account the student’s ranking of choices, any sibling link, school and grade level capacities, gender and socioeconomic status. School assignments are made through a computer assisted lottery process. (Local Bd. Motion, Exhs. 4, 12).

The Appellant submitted the choice form on May 29, 2009. D.H. indicated Blake High School as her first choice, and Paint Branch as her second choice.¹ (Local Bd. Motion, Exh. 2). On the form, the Appellant also indicated D.H. had a sibling who attended her first choice, Blake

¹ D.H. previously attended Blake High School for the first semester of the 2008-2009 school year. Following an investigation into D.H.’s residency, the local school system concluded that D.H. actually resided in the Sherwood High School attendance area, where she attended ninth grade the previous year. Accordingly, D.H. was permitted to complete her first semester at Blake, and she was transferred back to Sherwood High School. The Appellant submitted a transfer request based on hardship for D.H. to return to Blake, which was denied by the local school system. (Local Bd. Motion, Exh. 1).

High School, but the record indicates that D.H. had a younger brother who attended middle school. (Local Bd. Motion at 3; Exh. 2).

Along with her choice form, the Appellant included a letter explaining that D.H. desired to return to Blake High School because she was familiar with the supportive staff, had many friends, and would perform well academically. The Appellant also stated that D.H.'s current school assignment was causing great stress in D.H.'s life, and that she has seen "kids taking measures into their own hands when their [sic] unhappy." (Local Bd. Motion, Exh. 3).

On June 12, 2009, the local school system denied the transfer request to Blake High School, finding there was no unique hardship. (Local Bd. Motion, Exh. 4). The Appellant appealed to the chief operating officer, who served as the local superintendent's designee. The Appellant believed the possibility that D.H. may not graduate from high school due to issues she faced at Paint Branch, represented a unique hardship for their family. She also noted that Paint Branch appeared to be overenrolled. (Local Bd. Motion, Exh. 5).

The appeal was transferred to a hearing officer, who spoke with officials in the Division of Consortia Choice and Application Program Services. The hearing officer learned that February 23, 2009 was the deadline for NEC students to request a different school assignment, and the Appellant submitted her request on May 29, 2009. School officials explained that if submissions are not in by the deadline and the requested school is closed to new enrollments, the student is automatically assigned to her base school unless there is a unique hardship. The hearing officer further learned that Blake High School was closed to new enrollments, but D.H. could reapply in February 2010 through the "Change of Choice" process.

Consequently, the hearing officer concluded that D.H. did not present a unique hardship and recommended that the transfer appeal be denied. The chief operating officer adopted the recommendation, noting that Paint Branch could offer D.H. a challenging educational experience. (Local Bd. Motion, Exh. 6).

In her appeal to the local board, the Appellant included a letter from D.H., who noted that, as a student with ADHD, she would achieve more academically in the smaller, positive environment of Blake High School.

The local board concluded that the NEC choice process had been implemented correctly and that Appellant's request was properly reviewed under a hardship standard because her choice form was submitted well after the deadline. The local board found that nothing in the record demonstrated what distractions D.H. faced at Paint Branch or why she could not be successful at that school. The local board further found that staff at all schools are able to work with students with ADHD. Moreover, the local board concluded that a student's preference for one school based on familiarity with students and staff is not a unique hardship under local policy. (Local Bd. Motion, Exh. 10).

This appeal to the State Board 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, e.g., 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).

LEGAL ANALYSIS

The heart of the Appellant's appeal is that D.H. desires to attend Blake High School to benefit from positive connections she has made with staff and students there. The Appellant argues D.H. has suffered depression about her school assignment and that her academic performance has worsened.

In response, the local board argues that the Appellant's concern for D.H. and desire for her to perform better in a smaller school environment does not constitute a unique hardship that would justify overriding the local assignment process.

Based on our review of the record, the local board's decision was not arbitrary, unreasonable or illegal. The Appellant was given an opportunity to indicate her school assignment preferences, but Blake High School was closed to new enrollments by the time the Appellant's form was submitted.


In our view, the record does not show that D.H.'s distress over her school assignment amounted to a unique hardship under the local board's policy. The Appellant vaguely described negative influences and distractions that D.H. faced at Paint Branch High School, which she hoped to avoid by transferring to Blake High School. Certainly, no school environment is perfect. However, the Appellant does not adequately describe or present evidence about why these negative influences and distractions were so unique and detrimental to D.H. that she could not get the assistance she needed at Paint Branch and should be transferred to another school.

While the Appellant's desire to have D.H. at a particular school with a familiar staff and peer group is understandable, it is well settled that there is no right to attend a particular school. *See Bernstein v. Bd. of Educ. of Prince George's County*, 245 Md. 464, 472 (1967); *cf. Dennis v. Bd. of Educ. of Montgomery County*, 7 Op. MSBE 953 (1998) (desire to participate in particular courses does not constitute unique hardship sufficient to override utilization concerns); *Marshall v. Bd. of Educ. of Howard County*, 7 Op. MSBE 596 (1997) (no entitlement to attend four-year communications program offered at Mount Hebron); *Slater v. Bd. of Educ. of Montgomery County*, 6 Op. MSBE 365 (1992) (denial of transfer to school alleged to better serve student's abilities and welfare); *Williams v. Bd. of Educ. of Montgomery County*, 5 Op. MSBE 507 (1990) (denial of transfer to program offering advanced German); *Sklar v. Bd. of Educ. of Montgomery*

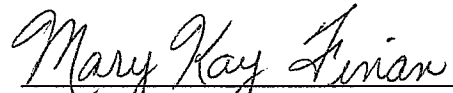
County, 5 Op. MSBE 443 (1989) (denial of request to attend school offering four years of Latin, note taking/study skills course, and piano).

CONCLUSION

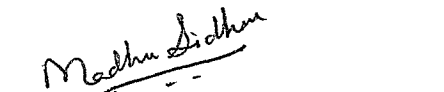
For all these reasons, we affirm the decision of the Montgomery County Board of Education.

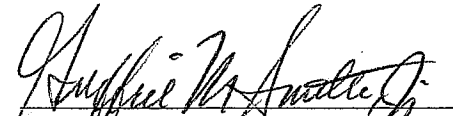

James H. DeGraffenreidt, Jr.
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ABSENT
Charlene M. Dukes
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Mary Kay Finan

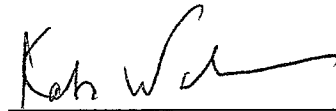
ABSTAINED
S. James Gates, Jr.


Madhu Sidhu


Guffie M. Smith, Jr.


Donna Hill Staton


Ivan C.A. Walks



Kate Walsh

March 23, 2010