

JANELLE D.,

Appellant

v.

HOWARD COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 10-22

OPINION

INTRODUCTION

In this appeal, Appellant challenges the Howard County Board of Education's (local board) decision denying her request to allow her children to remain at Running Brook Elementary School and Wilde Lake Middle School. The local board has filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal. The Appellant has opposed the local board's motion.

FACTUAL BACKGROUND

This appeal concerns the school assignment of Appellant's children, K.T., A.T., and D.C. for the 2009-2010 school year. At the start of the 2009-2010 school year, K.T. was in kindergarten, A.T. was in 1st grade, and D.C. was in 7th grade.

During the prior school year, the Appellant and her children resided in an area served by Running Brook Elementary and Wilde Lake Middle Schools. A.T. and D.C. attended those schools for 2008-2009.

Sometime during first part of 2009, the family moved to an apartment on Blue Wing Court in Columbia. That address is served by Phelps Luck Elementary School and Ellicott Mills Middle School. (Exh.1). Because the family had a change of residence during the 2008-2009 school year, A.T. and D.C. finished out the remainder of the school year at Running Brook and Wilde Lake per local policy. (Exhs.1, 9).

For the 2009-2010 school year, the Appellant sought transfers for her children to remain at Running Brook and Wilde Lake. She primarily requested the transfers for daycare reasons. (Exh.4, Tab 2). The Appellant is a single mother who works full-time and attends school in the evenings. She relies on her mother and sister for help with the children. Due to the Appellant's schedule and financial situation, the Appellant's 15 year old sister gets the children after school and takes them to Appellant's mother's house where they sleep overnight 2-3 times per week.

(*Id.*). The Appellant also requested the transfers because she had attended Running Brook, Wilde Lake Middle, and Wilde Lake High when she was a student in Howard County and she wanted the same educational experience for her children. (*Id.*).

Pamela Blackwell, the Director of Student Services and the Superintendent's designee, reviewed the request. On July 20, 2009, Ms. Blackwell denied the Appellant's request because the need for daycare is not a basis for granting a transfer under school system policy. (Exh.2, Tabs 3, 4).

The Appellant appealed Ms. Blackwell's decision to the local board. (Exh.5). In her appeal, the Appellant stated that she was now unemployed, on a month to month lease, and concerned about her financial and housing situation. In addition to her need for her family day care, the Appellant requested the transfers so that her children would have a stable school environment in the event that there was a change in their living arrangements. (*Id.*).

The local board reviewed the case. After its initial review of the record, the local board was concerned that the instability in the Appellant's economic and living situation might deteriorate. It delayed making a decision so that its designee could look at the Appellant's circumstances a second time to determine if the particular circumstances rose to the level of a hardship warranting a transfer under the local board's policy. (Exh.B).

Ms. Blackwell issued a follow-up report recommending that the Appellant's request to reassign the children be denied. Ms. Blackwell noted the following:

- Appellant claimed to be living with her mother in the Running Brook school district during the 2008-2009 school year when she lived in the Phelps Luck school district.
- A.T. was absent 11 times and was tardy 15 times during the 2008-2009 school year.
- As of September 24, 2009, K.T. and A.T. had been picked up late from Running Brook 4 times and tardy 3 times.
- Appellant re-registered her children at Running Brook for the 2009-2010 school year under false pretenses using the Multiple Family Disclosure registration procedures, claiming to live with her mother when she was still residing at Blue Wing Court.

- Appellant renewed the Blue Wing Court lease on August 28, 2009. The lease is valid until July 31, 2010.

(Exh. C).

After receiving Ms. Blackwell's follow up report, the Appellant contacted the local board's attorney and explained that certain information in the report was untrue. She stated that she would send a written response rebutting the report, however, the local board did not receive a rebuttal prior to its decision in the case.¹ (Exh. 1).

The local board considered the matter on September 25, 2009. Counsel for the board advised the Appellant of the board's decision to deny the transfer request. (Letter of Appeal). On October 23, 2009, the local board issued a written decision denying the Appellant's request for a change of school assignment because the circumstances did not satisfy the hardship standard. (Exh.1). Among other things cited as a basis for the denial, the local board noted that the Appellant had a more stable situation because she had recently gained employment and had signed a one year lease for the apartment at Blue Wing Court effective August 28, 2009 through July 31, 2010. (*Id.*).

During this time, the Appellant's children had been attending Running Brook and Wilde Lake. On October 15, 2009, the school system withdrew the children from those schools based on the local board's denial of the transfer request. (Exh. D). According to the local board, the children should have been enrolled at Phelps Luck Elementary and Ellicott Mills Middle.

The Appellant appealed the local board's decision to the State Board. While the appeal was pending, the Appellant and her children became homeless. (App's. Resp. to Mtn.). Upon learning of these circumstances, in January 2010, the school system enrolled the Appellant's children in the requested schools in accordance with the protections of the McKinney-Vento Act. (Blom Letter, 1/27/10).²

Even though the Appellant's children are now enrolled at the requested schools, the Appellant seeks to pursue the appeal of the local board's decision denying the transfer request.

¹Based on the record, it appears that the local board received the Appellant's rebuttal to Ms. Blackwell's follow up report after it had rendered a decision in the case. The Appellant's rebuttal states that, as of August 1, 2009, the Appellant had a month to month lease for the Blue Wing Court apartment, and that the Appellant immediately gave up that lease because of her financial situation. The Appellant explained that she then enrolled her children in Running Brook and Wilde Lake under the Multiple Family Disclosure registration procedures. She also explained that A.T. had some absences from school because he has severe allergies and asthma. (Exh. E2).

²The school system also provided the Appellant a copy of the childrens' report cards which were inadvertently not given to her when initially requested. (*Id.*).

She argues that the transfer denial was based on erroneous information provided to the local board by Ms. Blackwell. The Appellant also takes issue with the manner in which school employees handled her case and removed her children from school in October, 2009. (Appellant's E-mail).

STANDARD OF REVIEW

Because this is a case involving local board policy and procedures, the local board's decision is considered *prima facie* correct and the State Board will not substitute its judgment for that of the local board unless its decision is arbitrary, unreasonable or illegal. COMAR 13A.01.05.05A.

LEGAL ANALYSIS

The local board maintains that the matter should be dismissed as moot because the children are currently attending the requested schools. It is well established that a question is moot when "there is no longer an existing controversy between the parties, so that there is no longer any effective remedy which the courts [or agency] can provide." *In Re Michael B.*, 345 Md. 232, 234 (1997); *See also Arnold v. Carroll County Bd. of Educ.*, MSBE Op. No. 99-41 (1999); *Farver v. Carroll County Bd. of Educ.*; MSBE Op. No. 99-42 (1999); *Chappas v. Montgomery County Bd. of Educ.*, 7 Op. MSBE 1068 (1998).

This appeal is based on the Appellant's request to have her children assigned to Running Brook Elementary and Wilde Lake Middle Schools. Because Appellant's children are currently attending the requested schools, there is no existing controversy between the parties and no effective remedy that the State Board can provide.³ If the Appellant's living situation were to change at some point and if the school system required the children to attend different schools, the Appellant could appeal that decision or request a transfer at that time. We cannot project, however, what Appellant's situation might be in the future.

As for the Appellant's discontent with the manner in which Ms. Blackwell and other school system employees handled her case and removed her children from school, to the extent that the Appellant is seeking personnel action against any of those personnel, she lacks standing to do so. The State Board has held that an individual citizen, including a parent, does not have standing in an appeal of a local board decision to request personnel action against school system employees. *Rafael Y. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 07-40 (2007); *Schlamp v. Howard County Bd. of Educ.*, MSBE Op. No. 04-04 (2004); *Schlamp v. Howard*

³In her appeal to the State Board the Appellant requests twelve months of tutoring assistance for all three children in the core subjects plus Spanish. (Appeal). Because the Appellant did not make this same request in her appeal to the local board, she has waived her right to raise it now before the State Board. *See Craven v. Bd. of Educ. of Montgomery County*, 7 Op. MSBE 870 (1997); *Hart v. Bd. of Educ. of St. Mary's County*, 7 Op. MSBE 740 (1997).

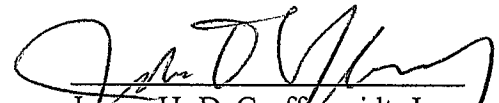
County Bd. of Educ., 7 Ops. MSBE 27 (1995).

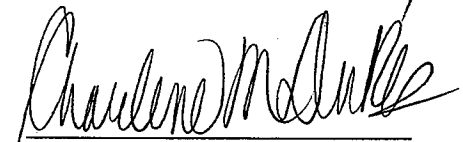
We are concerned, however, about the quality of Ms. Blackwell's follow-up investigation. Most of the information in Ms. Blackwell's follow-up report was not relevant to the question of the Appellant's financial well being and housing situation. These were the very issues pinpointed by the local board as necessary to make an informed decision regarding hardship. The only relevant piece of information Ms. Blackwell related on these issues was that pertaining to the lease of the apartment at Blue Wing Court. But, as explained in the Appellant's rebuttal to Ms. Blackwell's report, even that information does not appear to be accurate.

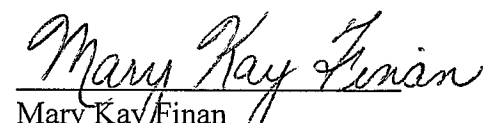
We are sympathetic to the Appellant's concerns in this case. There may very well be an issue regarding the validity of the information relied upon by the local board in its decision. The Appellant's situation, however, has changed since that decision was issued. Her children are currently attending the requested schools. Given that the appeal is moot, it is inappropriate for this Board to comment any further on these matters.

CONCLUSION


For these reasons, we dismiss the appeal.



James H. DeGraffenreidt, Jr.
President



Charlene M. Dukes
Vice President

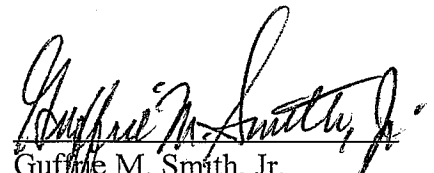

Mary Kay Finan

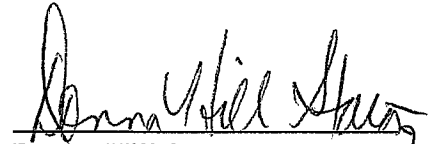

S. James Gates, Jr.

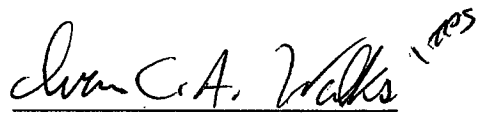

Luisa Montero Diaz


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Donna Hill Staton


Ivan C.A. Walks

ABSENT
Kate Walsh

May 25, 2010