

JERRY & SUSAN S.,
Appellant

v.

HOWARD COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION
Opinion No. 10-47

OPINION

INTRODUCTION

In this appeal, Appellants challenge the decision of the Howard County Board of Education (local board) denying their request to have their son transferred from Cradlerock School ("Cradlerock") to Patuxent Valley Middle School ("Patuxent Valley"). The local board has filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal and should be upheld. The Appellants opposed the local board's motion and the local board filed a reply to the opposition.

FACTUAL BACKGROUND

Appellants' children first entered the Howard County Public School System ("HCPSS") during the 2006-2007 school year when they moved to the Columbia area. (Student Reassignment Request 2007). They attended Talbott Springs Elementary School ("Talbott Springs").

For the 2007-2008 school year, Appellants' sons, R.S. and B.S., transferred from Talbott Springs to Atholton Elementary School. (Plunkett Letter, 7/26/07). The transfer came about after B.S. found a plastic bag at school that the Appellants maintained may have contained an unidentified harmful substance. The school system investigated the matter and determined that the plastic bag was empty and posed no harm. (Blackwell Memo. to Local Board, 5/25/10). Nonetheless, Appellants applied for transfers because they were dissatisfied with the manner in which the incident was handled at school and were concerned about safety. (Student reassignment Request 2007). Their transfer request included a letter from their sons' pediatrician stating that the boys had shown changes in their behavior and emotional health since attending the school, and had expressed concerns about going there. (Boscia Letter, 7/12/07). Roger L. Plunkett, then the Superintendent's designee, granted the transfers. When B.S. finished elementary school at the end of the school year, Mr. Plunkett approved a transfer for him to attend Patuxent Valley at the start of the 2008-2009 school year. (Plunkett Letter, 6/3/08).

For the 2010-2011 school year, R.S. was to begin the 6th grade at Cradlerock School and B.S. was assigned to begin the 8th grade at Patuxent Valley.

In March 2010, the Appellants requested that R.S. be reassigned to Patuxent Valley for the 2010-2011 school year. (Local Board Motion). Appellants requested the transfer because they wanted R.S. to have the same positive school experiences that his brother had been having at Patuxent Valley. Appellants believed that the transfer would make R.S.'s transition to middle school "more effective and more efficient". (Attachment to Student Reassignment Form 2010). Appellants included a letter from R.S.'s pediatrician recommending that R.S. be placed "in the same school as his brother to make his acclimation and transition [to middle school] more seamless." The pediatrician also stated his belief that R.S.'s attendance at a school with his friends would "benefit him greatly." (Boscia Letter, 3/1/10). Additionally, Appellants included a brief history of their concerns regarding the HCPSS, referencing the plastic bag incident at Talbott Springs that occurred in the spring of 2007. (Student Reassignment Request 2010).

By letter dated March 24, 2010, Pamela Blackwell, Director for Student Services, advised the Appellants that their reassignment request was denied because it did not meet any of the criteria for approval under local board Policy 9000 – Enrollment, Residency, Student Assignment, and Admission to Pre-Kindergarten and Kindergarten. (Blackwell Letter, 3/24/10).

Appellants appealed Ms. Blackwell's decision to the local board. Appellants requested that the transfer be granted based on concerns about their son's health, safety and academic success. (Attachment to Appeal Information Form, 4/30/10). Appellants stated their belief that Cradlerock is an unsafe school environment, that R.S. would be better off emotionally at Patuxent because his friends will be attending school there, and that he would thrive at Patuxent because it has better math test scores than Cradlerock. (*Id.*).

Ms. Blackwell responded to the appeal in a memorandum to the local board. She stated that Appellants' safety concerns were unfounded and that Appellants had not demonstrated that Cradlerock was unsafe or a danger to Appellants' son. Ms. Blackwell also responded that the pediatrician's statement lacked a diagnosis of a medical condition thus presenting no medical basis for the recommendation to reassign R.S. to Patuxent Valley. Nor had R.S.'s school counselor, school psychologist, or teachers reported any concerns about emotional or behavioral issues. Ms. Blackwell further stated that the math teachers at Cradlerock are highly qualified and the students in the school have made steady gains in both reading and math for the past three years. (Blackwell Memo. to Local Board, 5/25/10).

On June 9, 2010, the local board denied Appellant's reassignment request finding no compelling justification for the transfer. The board therefore upheld Ms. Blackwell's decision. (Local Board Decision).

This appeal to the State Board followed.

STANDARD OF REVIEW

Because this appeal involves a decision of the local board involving a local policy, the local board's decision is considered *prima facie* correct, and the State Board may not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. COMAR 13A.01.05.03E(1).

LEGAL ANALYSIS

According to the HCPSS student transfer policy, students are required to attend their assigned school unless they are granted a special exception to attend a school outside their geographic attendance area. (Policy 9000). There are several types of special exceptions set forth in the HCPSS policy, only one of which is relevant to this case – the “Special Circumstances” exception. The “Special Circumstances” Exception states:

In rare circumstances, the Superintendent/designee may grant parent requests for individual exceptions to the student reassignment standards based on documented needs. Such exceptions will not be granted for issues common to large numbers of families, such as the need for a particular schedule, class/program, sibling enrollment, redistricting, or day care issues. Decisions will be made by the Superintendent/designee.

Policy 9000 IV (I)(10). This is the provision under which the Appellants sought R.S.'s reassignment.

The Appellants argue that R.S. would be healthier emotionally at Patuxent Valley. In support of this they have produced a letter from their pediatrician, Dr. Boscia. Dr. Boscia's letter, however, does not provide any clinical diagnosis of a medical condition that would necessitate R.S.'s placement at Patuxent Valley. Nor is there any record from Dr. Boscia, the school counselor, school psychologist, or R.S.'s teachers that R.S. was experiencing any emotional or behavioral problems that would require him to attend a school other than Cradlerock. There is simply no persuasive evidence that there is a medical basis for the transfer. See *Timothy and Michelle W. v. Howard County Bd. of Educ.*, MSBE Op. No. 09-18 (2009).

The Appellants have expressed generalized safety concerns about Cradlerock based on various incidents including the plastic bag incident that took place 3 years ago at Talbott Springs Elementary School which has a student population that feeds into Cradlerock.¹ (Attachments to

¹They also rely on various online or print sources including an article about a shooting that took place near Cradlerock but not on the school grounds; an article that details the results of a school system study where Cradlerock received a building facility rating of “good” but not “excellent in terms of compliance with State and local standards; a news bulletin that notes that an alarm was

Local Board Appeal). To the extent that the Appellants' litany of incidents even raises a safety issue, the "Special Circumstances" exception excludes issues that are common to large numbers of families. Policy 9000 IV (I)(10). General safety concerns about a school are such an issue. Thus, none of the information cited by the Appellants supports a transfer in this case.

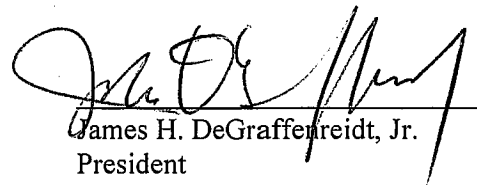
Appellants also claim that Cradlerock cannot meet R.S.'s needs with regard to mathematics. Test performance and teacher ratings are issues common to large numbers of families and cannot serve as a basis for the special exception transfer. Nor can the desire to attend a particular school that parents feel can better serve their child's interests serve as a valid basis for reassignment. *See Slater v. Board of Educ. of Montgomery County*, 6 Op. MSBE 365 (1992) (denial of transfer to school alleged to better serve student's abilities and welfare).

Appellants also mention that R.S. has established healthy relationships with friends who will also attend Patuxent Valley next year. (Letter of Appeal to Local Board, 4/30/10). As this Board has stated previously and often, the desire to attend school with a particular peer group is insufficient to support a student transfer. *See, e.g., Iglesias v. Montgomery County Bd. of Educ.*, MSBE Op. No. 02-05 (2002) (desire to attend high school with middle school peer group does not constitute hardship for transfer purposes); *Skardis v. Montgomery County Bd. of Educ.*, 7 Op. MSBE 1055 (1998) (desire to attend high school with middle school peer group not sufficient to approve transfer); *Diehl v. Montgomery County Bd. of Educ.*, 7 Op. MSBE 589 (1997) (desire to join peer group not sufficient to warrant student transfer).

Moreover, the Court of Appeals has ruled that there is no right to attend a particular school. *See Bernstein v. Board of Educ. of Prince George's County*, 245 Md. 464, 472 (1967); *Goldberg v. Montgomery County Bd. of Educ.*, MSBE Op. No. 05-35 (2005); *Chacon v. Montgomery County Bd. of Educ.*, MSBE Op. No. 01-39 (2001); *Williams v. Board of Educ. of Montgomery County*, 5 Ops. MSBE 507 (1990).

CONCLUSION

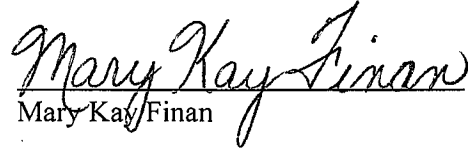
For these reasons, we recommend that you affirm the local board's decision denying the transfer request.

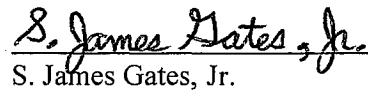

James H. DeGraffenreidt, Jr.
President

set off at Cradlerock at 3:18 a.m. on June 8, 2009 and that the suspect was apprehended; and a school system report stating that Cradlerock's transition into two schools (elementary and middle instead of Pre K- 8) at the end of the 2010-2011 school year will remove barriers to success and support efforts to improve student achievement and behavior. (Attachments to Local Board Appeal; Apps'. Addendum to Appeal).

ABSENT

Charlene M. Dukes
Vice President


Mary Kay Finan

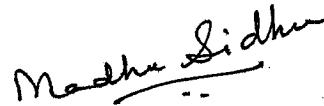

S. James Gates, Jr.

ABSENT

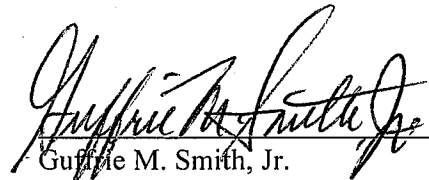
Luisa Montero-Diaz

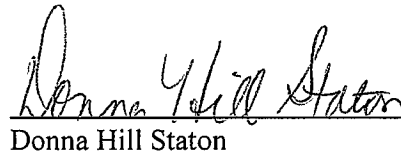


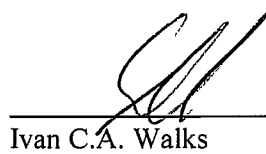
Sayed M. Naved



Madhu Sidhu


Guffie M. Smith, Jr.


Donna Hill Staton


Ivan C.A. Walks



Kate Walsh

October 26, 2010