

MR. AND MRS. RASHAD M.

Appellant

v.

MONTGOMERY COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 12-07

OPINION

INTRODUCTION

Appellants challenge the decision of the Montgomery County Board of Education (local board) denying their request to transfer their daughter to Wood Middle School from Argyle Middle School. The local board filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal.

FACTUAL BACKGROUND

When she began kindergarten in the fall of the 2006-2007 school year, Appellant's daughter, H.M., was assigned to her home school, East Silver Spring Elementary School. She received a transfer to attend Rock Creek Valley Elementary School (Rock Creek Valley) where she completed kindergarten and remained through the end of grade five. Rock Creek Valley feeds into Wood Middle School. Appellants, however, reside in an area of Montgomery County where students attend one of three middle schools that are part of the Middle School Magnet Consortium - Argyle, Parkland, and Loiederman. Appellants' daughter, H.M., was assigned to Argyle Middle School for 2011-2012 school year.

The MCPS transfer policy requires elementary school students on an approved change of school assignment to return to their home middle school unless a new transfer request is approved for middle school. (Local Board Policy JEE-RA (IV)(D)(1)(d)).

Appellants submitted a transfer request asking that H.M. be allowed to continue in her out of district feeder pattern by attending Wood Middle School (Wood) rather than Argyle. (Mtn. Attach. 1). They marked the box on the form for continuing in a feeder pattern from middle school to high school as the reason for the request. They attached a letter explaining that their transportation needs would best be met if H.M. were allowed to attend Wood. They also stated their belief that "it would be most beneficial for [H.M.'s] academic success if she were

able to continue her education in the same feeder pattern and matriculate to Wood Middle School” where she is familiar with the curricular programs and has ties to the school community. (*Id.*).

The Disciplinary Review and School Assignment Unit denied the request because it did not meet transfer guidelines. The comment section of the form noted that continuation in a feeder pattern does not apply from elementary to middle school. (Mtn. Attach. 1).

Appellants appealed the denial to Larry Bowers, the Chief Operating Officer and Superintendent’s Designee, claiming hardship and reiterating their desire to have H.M. remain in the feeder pattern with her peers for middle school. Appellants claimed that H.M. would lose her community of peers from elementary school and that she functions better when she is part of this community. They claimed that they would lose the community of mothers whose children will be attending Wood and who assist with after school transportation and child care. (Mtn. Attach. 2).

Mr. Bowers assigned the matter to Hearing Officer, Laurence E. Jeweler. Hearing Officer Jeweler investigated the case. He concluded that the denial of the transfer request should be upheld based on the absence of a unique hardship. On May 19, 2011, Mr. Bowers adopted the recommendation of the Hearing Officer and denied the transfer. (Mtn. Attach. 3).

On June 11, 2011, Appellants appealed to the local board. In their letter of appeal, Appellants agreed that their transportation challenges and their desire to have H.M. attend school with her present peer group did not rise to the level of a unique hardship. They argued, however, that a unique hardship existed because H.M. would lose the ability to participate in extra-curricular activities if Appellants were to lose their “community of shared transportation” and H.M. would also lose her friends. (Mtn. Attach. 4).

The local Superintendent responded to the appeal in a June 28, 2011 memorandum to the local board. He explained that Appellants’ situation is common to families in the County, that extracurricular activities are available at Argyle, and that Argyle has counselors who can assist H.M. transition to her new environment. He recommended that the local board uphold the denial of the transfer request. (Mtn. Attach. 5). On July 13, the Local Board adopted the Superintendent’s recommendation and upheld the denial of the transfer request. (Mtn. Attach. 7).

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 unless the decision is shown to be arbitrary, unreasonable, or illegal. COMAR 13A.01.05.05; *see 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); *Mr. & Mrs. David G. v. Montgomery Co. Bd. of Educ.*, MSBE Op. No. 10-14 (2010).

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); *Mr. & Mrs. David G. v. Montgomery Co. Bd. of Educ.*, MSBE Op. No. 10-14 (2010). The Montgomery County Public Schools' (MCPS) transfer policy provides that transfer requests will be granted if a student demonstrates a documented, unique hardship. Documented hardships do not include problems that are common to large numbers of families absent additional compelling factors.

The Appellants request the transfer for their daughter so that she will have an easier transition to middle school with her peer group from the Rock Creek Valley community, and so the family will have the assistance of other parents who provide after school transportation for H.M.'s extra-curricular activities.

As this Board has stated previously and often, the desire to attend school with ones friends or peer group does not constitute a unique hardship. *Mary Ann K. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 10-52 (2010); *Tom & Judy M. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 09-37 (2009); *Iglesias v. Montgomery County Bd. of Educ.*, MSBE Op. No. 02-50 (2002); *Skardis v. Montgomery County Bd. of Educ.*, 7 Op. MSBE 1055 (1998). The matriculation to middle school is an adjustment for all entering students who can be understandably anxious and insecure in the new environment. It is a time, however, when they meet new people, make new friends, and become involved in new school activities.

Appellants claim that they will lose their community of parents who share transportation for extra-curricular activities, and thus, H.M. will not be able to participate in such activities unless the transfer is granted. The desire to participate in extra-curricular activities and the challenges faced by parents in making the necessary transportation arrangements is a common issue for many families. While it serves as a great resource when parents work together to carpool for such activities, the inability to do so is not a unique hardship for transfer purposes.

In their letter of appeal to the State Board, Appellants claim that the school system has granted transfers to Wood for other students who have also attended Rock Creek Valley as out of area students. We are unable to address this argument given that Appellants have provided no specificity regarding this claim and no information regarding the bases of those alleged transfers.

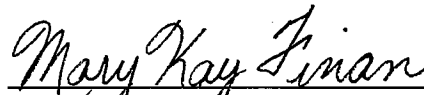
CONCLUSION

For the reasons stated above, we affirm the decision of the local board denying the Appellants' request to transfer their daughter to Wood Middle School.

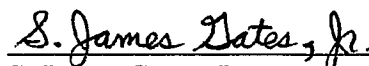

James H. DeGraffenreidt, Jr.
President



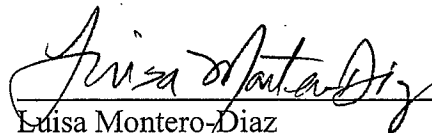
Charlene M. Dukes
Vice President



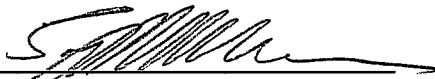
Mary Kay Finan



S. James Gates, Jr.



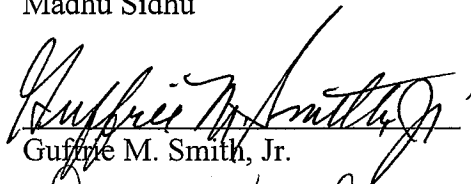
Luisa Montero-Diaz




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Kate Walsh

January 24, 2012