

BRIAN AND IVONNE O.

Appellant

v.

MONTGOMERY COUNTY

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR12-12

ORDER

The State Board received an appeal challenging the decision of the Montgomery County Board of Education (local board) denying Appellants' request to transfer their son to Kensington Parkwood Elementary School for the first grade during the 2011-2012 school year.<sup>1</sup> Although Georgian Forest Elementary is the public school serving the Appellants' geographic attendance area, their son attended private kindergarten at Washington Episcopal School during the 2010-2011 school year and continued there in the first grade.

The local board filed a Motion to Dismiss maintaining that the appeal is moot. 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 J.H. v. Baltimore County Bd. of Educ.*, MSBE Order No. OR07-03 (2007). Because the school year is over and Montgomery County Public Schools considers transfer requests anew each spring for the following year, there is no existing controversy between the parties and no effective remedy that the State Board can provide.<sup>2</sup>

Accordingly, it is this 26<sup>th</sup> day of June, 2012, by the Maryland State Board of Education, ORDERED, that the appeal is hereby dismissed because it is moot.

MARYLAND STATE BOARD OF EDUCATION

By:



James H. DeGraffenreidt, Jr.

President

<sup>1</sup>The State Board did not receive the appeal until February 2012.

<sup>2</sup> We did not reach the issue of mootness based on whether the student is currently enrolled in Montgomery County Public Schools. Nevertheless, we note generally that an appeal of a request to transfer from a school serving the attendance area in which an appellant resides to another school in the county may not necessarily be moot merely because the student is attending a private school. A case or controversy may possibly exist if an appellant makes clear that they intend to enroll the student in the requested school if the transfer is granted. *See Robert and Jennifer N. v. Calvert County Bd. of Educ.*, MSBE Op. No. 06-21 (2006)(Appeal of denial of admission into the Honors Program at the assigned elementary school was not moot because appellants lived in the county and intended to re-enroll the student in the school system if student was admitted into the program through the appeal.).