

LATASHA B.,

Appellant

v.

CHARLES COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 14-45

OPINION

INTRODUCTION

This is an appeal of the decision of the Charles County Board of Education (local board) denying Appellant's request to have her daughter transferred back to Westlake High School (Westlake) after she was redistricted to Maurice J. McDonough High School (McDonough). The local board has filed a motion for summary affirmance maintaining that its decision was not arbitrary, unreasonable, or illegal. The Appellant responded to the local board's motion, and the local board replied.

FACTUAL BACKGROUND

The Appellant's daughter, P., attended Westlake during her freshman and sophomore years of high school. Based on a recent redistricting, she is now assigned to attend McDonough beginning with the 2014-2015 school year, which is her junior year.

On January 12, 2014, Appellant requested that her daughter be transferred back to Westlake. (Motion, Ex.4). She stated that she has safety concerns about McDonough based on her perception of poor student behavior resulting in a number of fights and altercations over the years. She also stated that it would be academically better for her daughter to complete all four years of her high school education at the same location. She further stated that Westlake is closer to her home with an approximated six minute drive, as compared to McDonough which is about a 15-20 minute drive from her home. *Id.* By letter dated March 17, 2014, the Director of Student Services, Patricia Vaira, denied the request because it did not meet the transfer guidelines. (Motion, Ex.5).

On March 19, 2014, Appellant appealed the decision reiterating her concerns about the shorter distance to Westlake and her desire to keep her daughter in a consistent pattern attending the same high school for all four years. She also expressed safety and sanitation concerns in that McDonough lacked doors on the classrooms, was not sufficiently clean, and the hallways smelled of cigarette smoke and musty odors. (Motion, Ex.6). By letter dated March 27, 2014, Sylvia Lawson, Assistant Superintendent of School Administration, advised that she was affirming Ms. Vaira's decision because the transfer request did not meet the guidelines established by the transfer policy. (Motion, Ex.7).

Appellant appealed the decision to the local board repeating her previous arguments. (Motion, Ex.8). On May 20, 2014 the local board affirmed the decision of the Superintendent denying the Appellant's transfer request because Westlake did not have adequate space for a transfer under the policy. (Motion, Ex.1). The local board cited Superintendent's Rule 5126 which allows transfers under certain circumstances "only if the receiving school has adequate space to accommodate additional students outside of their residence zone."

This appeal to the State Board followed. In her appeal, the Appellant sets forth the following reasons for the transfer request: (1) McDonough is farther from their home than Westlake and other local high schools; (2) Appellant wants P to attend the same school for all four years ; (3) Appellant thinks McDonough is in poor physical condition based on her observation of missing classroom doors, unpleasant odors in the halls, and a lack of renovations; (4) The Seniors were allowed to remain at Westlake as part of the redistricting decision so the juniors should be allowed to do the same; and (5) Appellant has health and safety concerns about McDonough because she thinks students there are poorly behaved and there are many fights and altercations at the school.

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 13.A.01.05.05A.

LEGAL ANALYSIS

Appellant essentially claims that the local board's decision is arbitrary and unreasonable. She sets forth various arguments in an attempt to justify the transfer request for her daughter based on an "unusual hardship," which is the only applicable provision of the policy under which she could seek a transfer here.

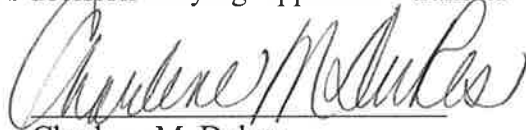
Assuming without deciding that the Appellant has shown unusual hardship, Superintendent's Rule 5126 permits a student to transfer between schools based on an unusual hardship "only if the receiving school has adequate space to accommodate additional students outside of their residence zone." Factors that are used to determine if there is adequate space include whether the receiving school is at or above the state-rated capacity and whether the enrollment will negatively affect any specific grade or program of studies. *Id.* The Office of Student Services determines which schools have adequate space to accommodate additional students seeking a transfer. For the 2014-2015 school year, the Office of Student Services determined that the following schools had adequate space to accommodate transfers: Piccowaxen Middle School; Theodore G. Davis Middle School; Henry E. Lackey High School; Maurice J. McDonough High School; Thomas Stone High School; and St. Charles High School. (Motion, Ex.1, p.2).

Westlake was not on the list of schools with adequate space to accept student transfers. In its Motion, the local board has represented that Westlake was projected to be over capacity for the 2014-2015 school year with an enrollment of 1,291 students and a state-rated capacity of 1,203.¹ (Local Bd. Motion). Although the Appellant questions the enrollment projections, claiming that Westlake's principal stated in September 2013 that the school was under-enrolled, she has not presented any evidence to support her claim that there was space for transfers. Moreover, the denial of Appellant's initial transfer request was in March 2014, several months after the alleged statement.

The State Board has repeatedly recognized that over-crowding concerns are a valid justification for denying a transfer request. *See Alexandra and Christopher K. v. Charles County Bd. of Educ.*, MSBE Op. No. 13-06 (2013); *Mr. and Mrs. T. v. Prince George's County Bd. of Educ.*, MSBE Op. No. 12-50 (2012); *David and Kimberly H. v. Harford County Bd. of Educ.*, MSBE Op. No. 12-06 (2012); *Jenai B. v. Prince George's County Bd. of Educ.*, MSBE Op. 08-52 (2008). Thus, in light of Superintendent's Rule 5126, the fact that Westlake was overcrowded, and the precedent cited above, the local board's decision denying Appellant's transfer request was reasonable.

CONCLUSION

For these reasons, we do not find the local board's decision to be arbitrary, unreasonable or illegal. Accordingly, we affirm the local board's decision denying Appellant's transfer request.



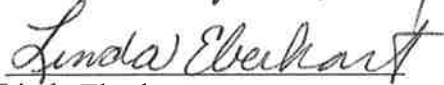
Charlene M. Dukes
President

Absent

Mary Kay Finan
Vice President



James H. DeGraffenreidt, Jr.



Linda Eberhart

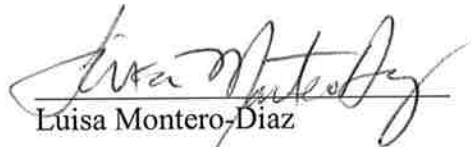
Absent


S. James Gates, Jr.




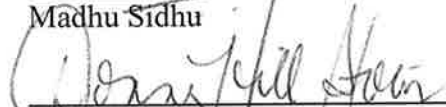
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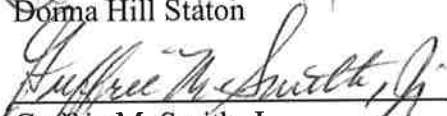
¹ State-rated capacity is not a mandated maximum capacity for schools. Indeed, many schools throughout Charles County have an enrollment level above the state-rated capacity. The redistricting was an attempt to relieve some of the overcrowding, although some high schools continue to be overcrowded. (See Local Bd. Response).


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August 26, 2014