

HIL & TERESA R.,

Appellant

v.

ALLEGANY COUNTY BOARD  
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 10-46

### OPINION

#### INTRODUCTION

The Appellants, Dr. and Mrs. Hil Rizvi, appealed the denial of their request that their two daughters be allowed to attend Frost Elementary School even though the Rizvi's live in the Beall Elementary School attendance area. The Allegany County Board of Education (local board) filed a Motion for Summary Affirmance to which the Appellants replied. The local board filed a Response to the Appellant's filing.

#### FACTUAL BACKGROUND

Until December 2009, Appellants lived in the school attendance area in which their children went to Frost Elementary School (*see* Motion at 1). (T. 20). At the end of 2009, the Appellants moved within the City of Frostburg. (T. 20). They wanted their two daughters to remain in Frost Elementary School. They were asked to submit an out-of-district application for the 2010-2011 school year. (T. 20). They did so on May 30, 2010 stating on the Request Form the four reasons for the request: (1) continuity from 2008 enrollment; (2) residence two miles from Frost Elementary and next door neighbors attend Frost Elementary; (3) unreasonable attitude of the principal backed by the Board of Education; and (4) babysitter for provisional use. (*See* Appeal, Request Form, attached thereto).

The principal denied the out-of-district request. The Appellants appealed that decision to the Superintendent. The Superintendent scheduled a fact-finding meeting with the Appellants on December 17, 2009. In attendance were the School Principal, the School Psychologist, and the Director of Student Services. (T. 14).

Apparently, the Appellants did not want those persons to be a part of the meeting. The Appellants declined to participate and left the meeting. (T. 15). Thereafter, the Superintendent issued a decision affirming the Principal's decision. The Appellants requested another meeting with the Superintendent. It was scheduled for March 3, 2010. Again, in attendance were the School Principal, School Psychologist, and Director of Student Services. Again, the Appellants

refused to meet with those parties present. (T. 15). Again, the Superintendent affirmed the decision of the Principal, but allowed the children to continue in Frost Elementary for the balance of the 2009-2010 school year. (T. 16).

The Appellants appealed that decision to the local board which held a hearing on April 8, 2010. (Motion, Ex. 12). In its decision of May 12, 2010, the local board found that the Appellants had failed to provide reasons to support the request for an out-of-district permit. They affirmed the Superintendent's decision. (See Motion, Decision attached thereto). This appeal ensued.

### 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

In Allegany County, a student must attend the school designated to serve the attendance area in which he/she resides unless he/she has been granted permission by the superintendent to attend another school. (See Motion, Ex. 15). The reasons for granting a request are: child care; school year completion; school employees in an out-of-district school; Title I accountability transfer; out-of-county/state student; and tuition students. (Motion, Ex. 15). The local board upheld the denial of the Appellants' out-of-district request because the Appellants provided no reason that met the requirements for granting the request.

On the Request Form that the Appellants submitted, they listed "babysitter for provisional use" as one of the reasons for the request. That reason is based on child care issues. The school policy states "a student whose parents are required to be outside the home and there is no responsible adult in the child's home to send him/her to or receive him/her from the home school may apply to attend another school in Allegany County." The parents must provide information to the school system about the child care provider. (Motion, Ex. 15). We note, however, that in the section of the Request Form that their child care provider was required to sign the words "regularly/daily" were crossed out. Specifically, the Request Form states: "I verify that I provide child care/supervision for the above student on a ~~regular/daily~~ basis." (Appeal, Request Form attached).

The child care issue was addressed in the hearing before the local board. The Superintendent explained that the School Principal had spoken to the babysitter and she said she was not giving child care to the students. The Superintendent further explained that he wanted to evaluate that issue with the Appellants at the fact-finding meetings he scheduled with them. (T. 22-23).

At the hearing, the Appellant explained the child care issue this way:

Appellant: Occasionally. Occasionally, that is the reason for why we - we don't have - I want you to understand this. We're not - the way this has been presented by the other side, it is as if on every single school day the children are going to this babysitter. This is not what's happening. This is our standby arrangement because I work out of the area, and there are times that we need a sitter, and there are times that we don't, and when we need a sitter, we're talking about weeks in a row.

Board Member: Let me ask the question again. Is that what you put on the application?

Appellant: That's what we put on the application.

Board Member: And, why would Ms. Lee have responded to the school that they're not receiving care from her after school?

Appellant: There is no reason for that. That is not authentic. If somebody is representing that, they are not being genuine here.

Board Member: O.K. Thank you.

(T. 24).

After the hearing, the local board concluded:

that the Appellant failed to prove that the Superintendent's decision with regard to his out-of-district permit request was arbitrary, unreasonable or illegal. Appellant had two opportunities to be heard by the Superintendent but failed to present any evidence or arguments to support his contention that the Principal's decision was in error. Faced with a lack of any evidence or arguments that the Principal's decision was incorrect, the Superintendent had no choice but to deny Appellant's request to overrule the denial of his out-of-district permit. Based on these facts, we find no error in the Superintendent's decision. The Appellant failed to meet his burden of persuasion and his appeal is denied.

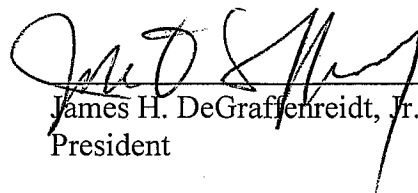
(Motion, Decision attached).

Based on the record before us, we agree with the local board. The Request Form itself reflects that child care was not going to be provided on a "regular or daily" basis. The

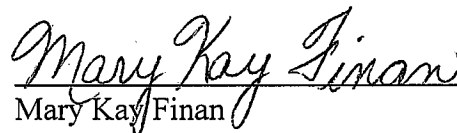
Appellant's testimony confirms that. Thus, in our view, the Appellants failed to present sufficient evidence to demonstrate the type of need for child care envisioned in the school policy. We find that the local board's decision is neither arbitrary, unreasonable or illegal.

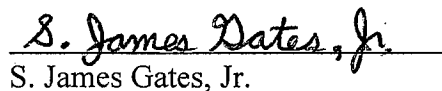
CONCLUSION

We recommend that the decision of the local board be affirmed.

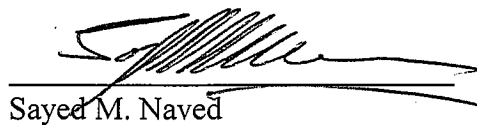
  
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October 26, 2010