

JOHN M. & RON K.,

Appellant

v.

MONTGOMERY COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 10-53

OPINION

INTRODUCTION

The Appellants have filed an appeal of the decision of the Montgomery County Board of Education (local board) denying their request to transfer their son to Bethesda Elementary School from Rosemary Hills Elementary School. The local board filed a Motion for Summary Affirmance. The Appellants responded to the Motion.

FACTUAL BACKGROUND

Appellants and their son live in East Bethesda. Students who live in that area attend Rosemary Hills Elementary School for grades K-2 and Bethesda Elementary School for grades 3-5. Appellants' son, a kindergartner, was assigned to Rosemary Hills for the 2010-2011 school year. Prior to the start of the 2010-2011 school year, the Appellants applied for a change of school assignment to permit their son to attend Bethesda Elementary based on the "hardship" exemption. Their request stated:

We wanted Bethesda Elementary because . . . [W]e are a same sex couple with children.

We are very sensitive to where we live and what schools our children will attend. The environment must liberal and contain other gay families and gay family supporters. Bethesda Elementary School already has same-sex couple families and gay family supporters.

We feel that the population of downtown Bethesda would be a better environment for our children. The demographic of Downtown Bethesda is very different than that of a Silver Spring school. A

tolerant and welcoming environment is very important to gay families and their children.

As a gay man who is very aware of the intolerance of others, I always know where are the “safest” zones for gay people and their families. While I’m sure Rosemary Hills will not be a bad place to send our children, we feel Bethesda Elementary would be a better community due to our family situation.

(Motion, Ex. 3).

Throughout the school system’s administrative process, the transfer request was denied for failure to meet the hardship guidelines. (Motion, Ex. 4, 5, 7). The Appellant’s appealed to the local board which issued a decision on July 8, 2010 denying the transfer request. 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

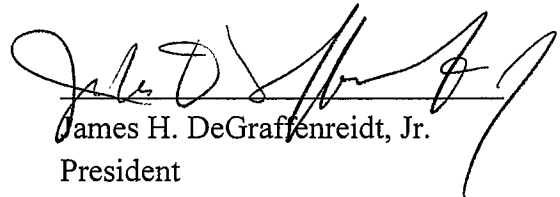
The Appellants assert that the local board did not follow the correct transfer rules in this case. In the past, because Rosemary Hills and Bethesda Elementary are paired schools, informal rules allowing flexible transfers between schools were applied. That informal policy was rescinded in 2009. See *Erik & Susan E. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 09-23, vacated by MSBE Op. No. 10-08. Therefore, the local board’s formal transfer rules apply in this case.

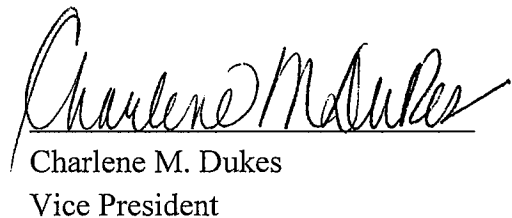
Under Administrative Regulation (JEE-RA), “changes from one’s assigned school to another school are permitted for students . . . who have documented a unique hardship.” The Appellants argue that Bethesda Elementary would be a better place for their son because the community is more gay-friendly than the Rosemary Hill’s community. They assert that they face “unique hardship . . . as gay people and same sex-families.” (Appeal at 1).

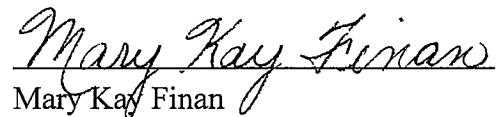
The local board concluded that the Appellants had not presented evidence of a unique hardship. (Motion, Ex. 8). We reviewed the record and we concur with the local board. The Appellants essentially prefer one school over the other. The State Board has recognized, on numerous occasions, that there is no right to attend a particular school and parental preference for one school over another does not constitute a hardship. *See, e.g., John C. Speer & Coleen A. Allen v. Montgomery County Bd. of Educ.*, MSBE No. 04-37 (2004) and cases cited therein. In that case, the State Board found that "Appellants' desire to place their children in an educational environment that they feel can better serve their needs is not a recognized hardship sufficient to grant a transfer." (*Id.* at p. 5).

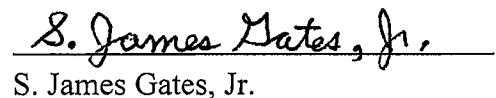
CONCLUSION

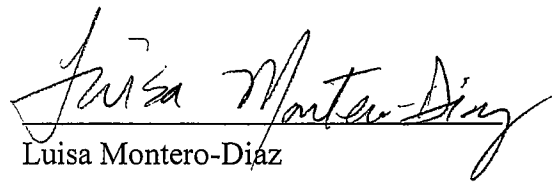
For all of the reasons set forth above, the decision of the local board is affirmed.

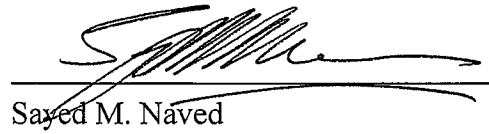

James H. DeGraffenreidt, Jr.
President

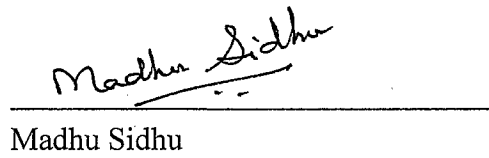

Charlene M. Dukes
Vice President

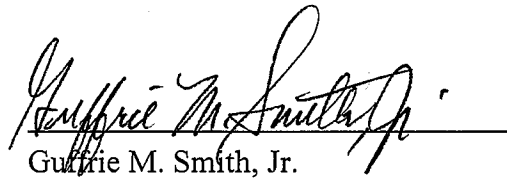

Mary Kay Finan

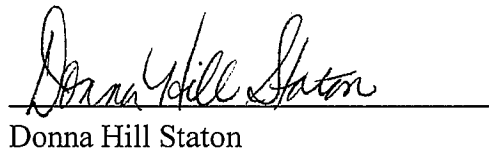

S. James Gates, Jr.

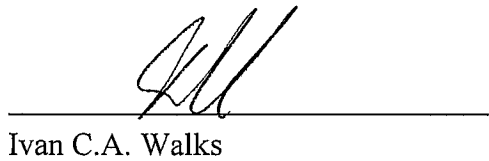

Luisa Montero-Diaz

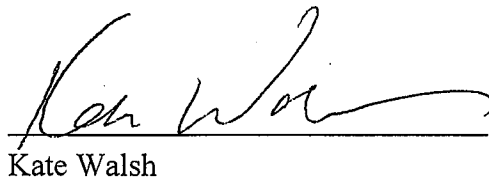

Sayed M. Naved


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December 14, 2010