

ROBERT AND ROBIN C.

Appellant

v.

WICOMICO COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 13-02

OPINION

INTRODUCTION

The Appellants appealed the decision of the Wicomico County Board of Education (local board) denying their son entry into the Magnet Program for the 2012-2013 school year. The local board filed a motion for summary affirmance maintaining that its decision was not arbitrary, unreasonable or illegal.

FACTUAL BACKGROUND

Wicomico County Public Schools (WCPS) gives second grade students the opportunity to be tested to qualify for participation in the third grade Magnet Program. To qualify for participation the student must receive a test score within the top 10% of all second graders.¹ For the 2012-2013 school year, second grade students needed to score a minimum of 39 out of 60 points on the assessment in order to fall within the top 10%. Students also needed a cumulative 3.0 or higher grade point average (GPA) in reading and mathematics throughout second grade.

During the second grade, Appellants' son, TC, was tested for placement in the Magnet Program. He received a score of 26 points on the assessment. He had a 4.0 grade point average in reading and mathematics throughout all of second grade. By letter dated June 25, 2012, Lori A. Bock, Supervisor of Accelerated Learning Programs K-12, advised the Appellants that their son did not qualify for admission to the Magnet Program because his test score did not satisfy the minimum criteria. (Appeal, Ex.1).

Appellants appealed to the Magnet Appeals Committee. (Appeal, Ex.2). Appellants highlighted TC's strength in reading, having participated in a 20 week reading enrichment

¹WCPS uses five data points in assessing the child: two data points in reading achievement measured by the second grade reading cumulative final and the reading benchmark average; two data points in mathematics achievement measured by the second grade math cumulative final and the math benchmark average; and one data point in problem solving and reasoning skills measured by the Naglieri Non-Verbal Assessment Test 2nd edition (NNAT2).

program at the May Literacy Center at Salisbury University during the second half of 2nd grade . They explained that TC excelled in the program and was reading on a sixth grade level with above average reading comprehension skills at its completion. In addition, TC scored an 823 and a 763 on two Scholastic Reading Inventory Tests (SRI), which were high scores for a second grader.² (*Id.*). The Committee considered the information provided by the Appellants but denied the appeal because TC did not achieve a score on the admission test in the top 10% of all second grade students as required for participation in the program. (Appeal, Ex.3).

Appellants further appealed to the Superintendent, John E. Fredericksen. (Appeal, Ex.4). Dr. Fredericksen denied the appeal based on TC's score on the Magnet Program assessment. (Appeal, Ex.5).

Appellants appealed to the local board. In a decision dated August 31, 2012, the local board affirmed the Superintendent's decision to deny the student admission to the Magnet Program. The local board explained that the scoring cutoff number had been carefully calculated and established and that the process provided objectivity in the placement of the students into the program. (Appeal, Ex.7).

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.01.05.05A.

LEGAL ANALYSIS

Appellants maintain that the local board's decision is arbitrary and capricious because it contravenes sound educational policy given TC's high GPA and performance on various assessments. They believe that their son's advanced level of academic achievement exemplifies the type of student for which the Magnet Program is designed. Appellants maintain that TC's performance on the Magnet Program assessment is an inaccurate depiction of his level of academic ability and the local board erred by not considering the other evidence of his academic achievement in making the Magnet Program entry decision.

The Magnet Program is a program of limited enrollment and WCPS has established minimum entry criteria. The admission process requires a minimum combination of a 39 on the assessment and a cumulative 3.0 or higher grade point average (GPA) in reading and mathematics throughout second grade. There is no sliding scale in the event that a student has scored higher on one aspect or the other and no substitution of other testing or performance measures. If the student falls short of one of the requirements, the student does not qualify.

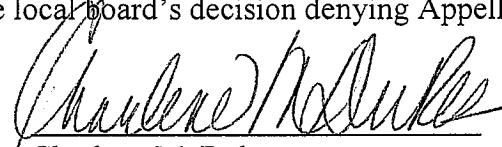
² SRI is a reading assessment program that provides data on student reading comprehension levels and growth over time. *See* http://teacher/scholastic.com/products/sri_reading_assessment/index.htm.

Although bright line rules sometimes appear to render a harsh result, it does not make their use illegal. *See Dawn and Michael H. v. Anne Arundel County Bd. of Educ.*, MSBE Op. No. 12-11 (2012). Deviation from the minimum requirements for entry to the Magnet Program would be contrary to the established standards.³ There is nothing arbitrary, unreasonable or illegal about the local board following its established criteria and denying a student entry into the Magnet Program on that basis. *See Hoogerwerf v. Montgomery County Bd. of Educ.*, MSBE Op. No. 06-05 (2006); *Twu v. Montgomery County Bd. of Educ.*, MSBE Op. No. 01-11 (2001); *Skjerven v. Montgomery County Bd. of Educ.*, 7 Op. MSBE 642 (1997)(cases denying admission into special programs because students did not score as well as the other students admitted).

We understand the Appellants' desire to have their son participate in an educational program that they believe is challenging and one that they view is more appropriately suited to her needs. We also applaud TC's high GPA and high performance on assessments other than those used for entry to the Magnet Program. But as this Board has often stated, there is no right to attend a particular school or enroll in a particular program in a school system. *See, e.g. D.H. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 07-14 (2007); *Haibel v. Board of Educ. of Montgomery County*, 7 Op. MSBE 1163 (1998); *Czerska v. Board of Educ. of Montgomery County*, 7 Ops. MSBE 642 (1997).

CONCLUSION

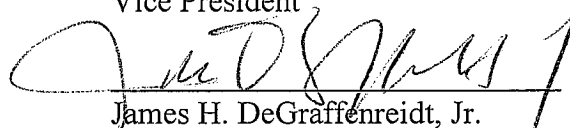
For the reasons stated above, we affirm the local board's decision denying Appellants' son entry to the Magnet Program.



Charlene M. Dukes
President

Absent


Mary Kay Finan
Vice President



James H. DeGraffenreidt, Jr.


S. James Gates, Jr.

S. James Gates, Jr.

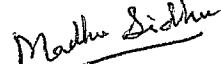


Luisa Montero-Diaz


³ To the extent that Appellants seek a change in the qualifying criteria, they should pursue that change through the Magnet Criterion Committee. Unless a local board policy is illegal, the appeal process is not the appropriate vehicle to force a change policy. *Dawn and Michael H. v. Anne Arundel County Bd. of Educ.*, MSBE Op. No. 12-11.



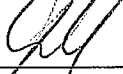
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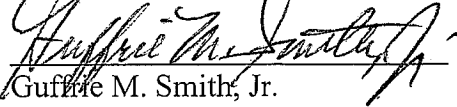
Madhu Sidhu



Donna Hill Staton



Ivan C.A. Walks



Guffie M. Smith, Jr.

Kate Walsh*

January 22, 2013

* Ms. Walsh's term expired on June 30, 2012. She served as a Board Member until her successor was appointed on January 4, 2013.