

RICHARD AND NADIA S.,

Appellant

v.

HARFORD COUNTY BOARD OF
EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 07-41

OPINION

INTRODUCTION

In this appeal, Appellants challenge the decision of the Harford County Board of Education (Local Board) denying Appellants' request for a boundary exception so that their son can continue to attend C. Milton Wright High School (Wright). The Local Board has filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal. Appellants have submitted an opposition to the Motion.

FACTUAL BACKGROUND

Appellants' son, B.S., was a freshman at C. Milton Wright High School during the 2006-2007 school year. On April 3, 2006, the Local Board redistricted the area in which B.S. resides to Bel Air High School (Bel Air).

On March 26, 2007, Appellants submitted a boundary exception request for B.S. to remain at Wright for the 2007-2008 school year through graduation. Appellants sought the boundary exception so that B.S. could take advantage of science course offerings available at Wright, but not at Bel Air. Specifically, B.S. hoped to take zoology and botany in preparation of pursuing a degree in biology, and a career in ecology and conservation biology. Appellants attached a letter from a member of the Towson University science faculty to the request in support of the boundary exception based upon B.S.'s academic and career plans in science. Appellants also requested the exception so that B.S. could continue to participate in athletics and band at Wright. (Special Admission/Transfer Application and attachment).

Stephen Lentowski, Director of Student Services for Harford County Public Schools (HCPS), reviewed the request. He denied the boundary exception because Wright is projected to be at 107% capacity for the 2007-2008 school year and Harford County Public Schools' guidelines do not permit exceptions to be approved for schools at 95% or higher capacity. He

also denied the request because the desire to participate in extra-curricular activities, athletics or courses is not a recognized hardship sufficient to grant a transfer request. (Letter from Barnes, 4/23/07).

Appellants then appealed the decision to the local Superintendent, Dr. Jacqueline Haas. In their appeal, Appellants reiterated their desire for B.S. to remain at Wright for academic and athletic reasons. Appellants also asserted that remaining at Wright is in the best interest for B.S.'s development due to his having been "uprooted" from Louisiana and subsequently achieving a level of comfort at Wright. (Appeal to Haas).

Dr. Haas denied the request. She stated as follows:

The Board of Education annually sets the guidelines for boundary exceptions. They specifically spoke about students being affected by redistricting and decided not to honor requests for boundary exceptions on the basis of ties with a particular school, community or peer group. This request does not meet the criteria for two of the allowable exceptions: (1) an older sibling attending the requested school at the same time or (2) the student has met the criteria and has been admitted to a countywide program not offered in the home school. The desire to take a particular course, such as Zoology or Botany, both of which are half-credit elective courses, does not constitute a program of study. The guideline also does not allow a boundary exception to a school that is overcapacity (the enrollment at C. Milton Wright is projected at over 107 percent for 2007-2008) due to the availability of a course or program of study. In applying the guideline, your boundary exception request cannot be approved.

Dr. Haas encouraged Appellants to contact the principal or science department chairperson at Bel Air to learn more about the science program there. (Letter from Haas, 5/2/07).

Appellants further appealed the denial of the boundary exception to the Local Board. (Letter to Wolkow, 5/31/07). In a unanimous decision, the Local Board voted to uphold Dr. Haas' decision denying Appellants' request. The Local Board incorporated by reference Superintendent Haas' June 27, 2006 memorandum as its findings of fact and conclusions of law in the case. (Letter from Spicer, 7/11/07).

This appeal to the State Board followed. In their letter of appeal, Appellants request that the special exception to attend Wright be granted only on the basis of B.S.'s desire to continue his specific science-related course of study.

STANDARD OF REVIEW

The standard of review that the State Board applies in reviewing a student transfer decision is that the State Board will not substitute its judgment for that of the local board unless the decision is shown to be arbitrary, unreasonable, or illegal. COMAR 13A.01.05.05; *See, e.g., Breads v. Board of Education of Montgomery County*, 7 Op. MSBE 507 (1997).

ANALYSIS

The Harford County Public Schools' guidelines on boundary exception requests set forth several qualifying reasons for granting a request for a student to attend a school outside of the student's attendance zone. Of those reasons, the following three are potentially relevant to Appellants' request:

Curriculum: These requests involve the pursuit of a program of instruction unavailable in the student's home school. A program is defined as a sequence of courses leading to a specific academic or vocational preparation or to the development of a specific academic or vocational preparation or to the development of a specific interest or need. Consideration will not be given to a request based on a single course, athletic activities, or extracurricular activities as these do not constitute a program of instruction. Curriculum requests are granted only for the duration of the curricular program.

Hardship: These requests pertain to personal and family circumstances of an unusual and adverse nature which precludes the student's enrollment in his/her home school.

Other: These are circumstances and situations where it is clearly evident that the student shall obtain educational benefit by virtue of the transfer. Supporting documentation will be required. Such requests are considered on a case-by-case basis.

(Guidelines, p.2). There are circumstances, however, that limit the granting of an exception. One such limitation is if a school is at or over 95% of the state-rated capacity based on adjusted enrollment. (Guidelines, p.3). In addition, the desire to attend a particular program of study that is over operational capacity is not considered a hardship. (Guidelines, p.4).

Appellants maintain that B.S. wants to pursue a career in ecology and conservation biology, and that this career goal will be advanced by taking zoology and botany. Both of these courses are offered at Wright but not at Bel Air. Even if these two courses were to be construed as constituting a "program of instruction" and Appellants' request was to fall under the

curriculum exception, the ability to grant the request would be limited by the fact that Wright is projected to be over 107% capacity for the 2007-2008 school year. Denying the boundary exception on this basis is consistent with local guidelines. *See Dennis v. Board of Education of Montgomery County*, 7 Op. MSBE 953 (1998) (desire to participate in particular courses does not constitute unique hardship sufficient to override utilization concerns). The same reasoning holds true for the other exceptions as well.

The Court of Appeals has ruled that there is no right to attend a particular school. *See Bernstein v. Board of Education of Prince Georges County*, 245 Md. 464, 472 (1967). Nor is there any right to attend any particular program. *See Marshall v. Board of Education of Howard County*, 7 Op. MSBE 596 (1997) (no entitlement to attend four-year communications program offered at Mount Hebron); *Slater v. Board of Education of Montgomery County*, 6 Op. MSBE 365 (1992) (denial of transfer to school alleged to better serve student's abilities and welfare); *See Sklar v. Board of Education of Montgomery County*, 5 Op. MSBE 443 (1989) (denial of request to attend school offering four years of Latin, note taking/study skills course, and piano); *Williams v. Board of Education of Montgomery County*, 5 Op. MSBE 507 (1990) (denial of transfer to program offering advanced German). Thus, while we are mindful that B.S. wishes to participate in particular academic courses which he believes are important to his future career, we do not believe that his desire to take those specified courses is a valid basis for granting a boundary exception here.

CONCLUSION

Because we do not find the Local Board's decision to be arbitrary, unreasonable or illegal, we affirm the decision of the Local Board denying Appellants' request for a boundary exception.



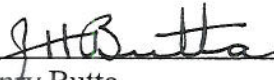
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President




Beverly A. Cooper
Vice President



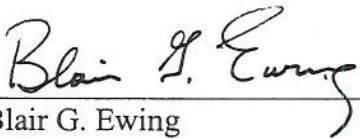
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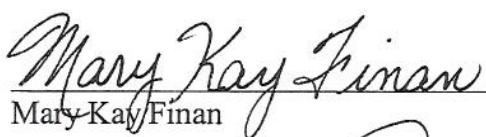
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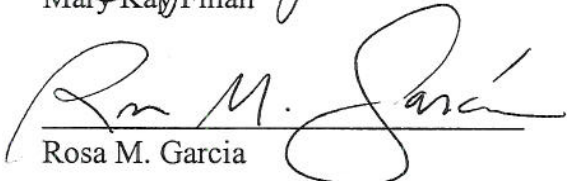
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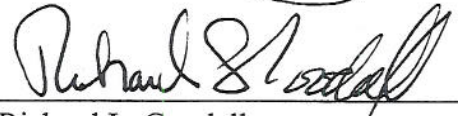
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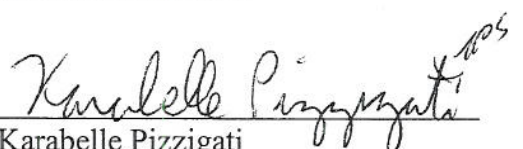
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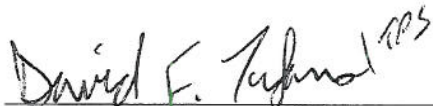
Rosa M. Garcia



Richard L. Goodall



Karabelle Pizzigati



David F. Tufaro

December 12, 2007