

ROBERT W.

Appellant

v.

MONTGOMERY COUNTY BOARD
OF EDUCATION

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 07-27

OPINION

INTRODUCTION

Appellant, father of H. W., has appealed the denial of his request to transfer his son from Gaithersburg High School to Damascus High School. The Board of Education of Montgomery County (local board) filed a Motion For Summary Affirmance.

FACTUAL BACKGROUND

H. W. lives in the attendance area of Gaithersburg High School. On or about August 10, 2006, his parents submitted a "Request for Change of School Assignment" form asking for a transfer from Gaithersburg to Damascus because H. W. had attended small private schools or had been home schooled for his entire education and his parents believed that the transition would be better if H. W. attended a smaller school. In addition, Damascus offered a class in Graphic Design, an area of interest to H. W. Moreover, they explained that H. W. had friendships with students who attended Damascus. (*See* Motion, Exhibit 3).

On October 17, 2006, the Superintendent recommended that the local board deny the transfer request. The Superintendent concluded that the circumstances did not rise to the level of a hardship sufficient to override the presumption that students attend their school of assignment. (*See* Motion, Exhibit 9).

At its meeting on November 14, 2006, the local board voted unanimously to uphold the Superintendent's decision. (Motion, Exhibit 10). They concluded that H. W. needs could be met at Gaithersburg and that neither proximity to the family residence nor desire to take a specific course constituted a hardship meriting a transfer. This appeal followed.

STANDARD OF REVIEW

The State Board has determined that it will not substitute its judgment for that of the local boards of education in matters of local policy and will not disturb such local board decisions unless they are shown to be arbitrary, capricious or illegal. COMAR 13A.01.05.05.

LEGAL ANALYSIS

Pursuant to local board policies, students are assigned to the schools in the areas in which they live. In order to transfer to a different school, there must be evidence of hardship. We agree with the local board that there is not sufficient evidence here of the types of hardship that would warrant a transfer.

Appellant would like his son to attend Graphics Design classes. We return to the oft quoted statement that there is no right to attend a particular school or a particular class. *See Bernstein v. Board of Education of Prince George's County*, 245 Md. 464 (1967); *Chacon v. Montgomery County Board of Education*, Opinions of MSBE, No. 01-39 (December 5, 2001); *Williams v. Board of Education of Montgomery County* 5 Opinions of MSBE 507 (1990); *Goldberg v. Montgomery County Board of Education*, Opinions of MSBE, No. 05-35 (October 26, 2005).

The Appellant would like his son to attend Damascus High School because he has friends there. As this Board has stated previously and often, failure to attend a school with friends does not constitute a unique hardship. *Iglesias v. Montgomery County Board of Education*, Opinions of MSBE, No. 02-05 (October 30, 2002)(citing five other cases in which the desire to remain with friends was deemed insufficient to constitute a unique hardship.)

The Appellant wants his son to attend a school closer to home and one, he believes, is smaller and better suited to his son's needs. We return to our previous rulings, the desire to...attend a particular school that [the parents] feel can better serve [their child's] interest... is not a recognized hardship sufficient to grant a transfer request." *Goldberg v. Montgomery County Board of Education*, Opinions of MSBE, No 05-35 (October 26, 2005).

CONCLUSION

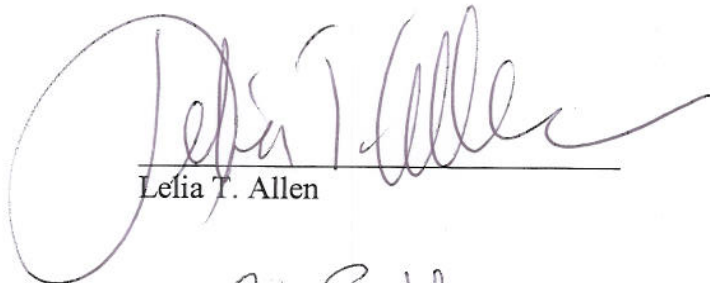
For all these reasons, we affirm the decision of the local board because it is not arbitrary, reasonable or illegal.




Edward L. Root
President



Dunbar Brooks
Vice President



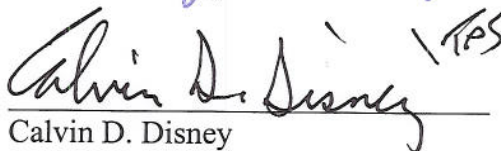
Lelia T. Allen



J. Henry Butta



Beverly A. Cooper



Calvin D. Disney



Charlene M. Dukes



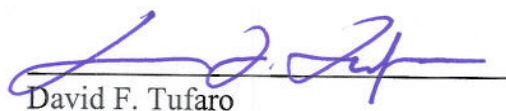
Richard L. Goodall



Karabelle Pizzigati



Maria C. Torres-Queral



David F. Tufaro

May 30, 2007