

SHARON P.,

Appellant

v.

MONTGOMERY COUNTY BOARD OF  
EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 08-05

## OPINION

### INTRODUCTION

In this appeal, a parent challenges the denial of her request to transfer her son from Springbrook High School (Springbrook) to Rockville High School (Rockville). The Montgomery County Board of Education (Local Board) filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal. Appellant has submitted an opposition to the Local Board's Motion.

### FACTUAL BACKGROUND

S.P. is a ninth grade student who lives in a geographic attendance area within the Northeast Consortium. The Northeast Consortium is an area served by three high schools: Blake High School, Paint Branch High School, and Springbrook High School. Students who reside within the Northeast Consortium are assigned to a high school by ranking the school choices in order of preference. Each high school is linked to geographic areas within the Consortium called the school's base area. Students who choose their base area school as their first choice are given priority assignment to that school. If another school is ranked first and the student does not get the top ranked school, the student will be given priority entrance to the base area school of it is the second choice.

S.P. resides in the base area of Paint Branch, but selected Blake as his first choice, Springbrook as his second choice, and Paint Branch as his third choice. He was assigned to Springbrook. S.P. resubmitted his choices for the second round of the assignment process. He remained assigned to Springbrook after the second round.

On March 2, 2007, Appellant submitted a Request for Change of School Assignment form requesting that her son attend Rockville High School for the 2007-2008 school year. She stated that the close proximity of Rockville to her place of employment would allow her to more

easily drop off and pick up S.P. in the event of an emergency or illness, or if S.P. missed the school bus. The Field Office Supervisor denied the request for lack of unique hardship. (Motion, Exhibits 4 & 4a).

Appellant appealed to the Chief Operating Officer (COO), acting as the Superintendent's Designee. She argued the necessity of S.P. attending a school close to her job due to health concerns based on S.P.'s seasonal allergies. The matter was assigned to a hearing officer who learned that S.P. had been newly diagnosed with exercise induced asthma and had been prescribed an inhaler. (Motion, Exhibit 6). Based on the new diagnosis and medication, Appellant expressed additional concerns about her son's health and the anticipated need for doctor appointments during school hours. The hearing officer recommended that the transfer request be denied based on the absence of a unique hardship. The COO adopted the recommendation and denied the request. (Motion, Exhibit 7).

Appellant appealed to the Local Board. On July 10, 2007, the Superintendent recommended that the Local Board deny the transfer request. The Superintendent concluded that the circumstances did not rise to the level of hardship sufficient to override the presumption that students attend their school of assignment. He stated that there are hundreds of students in Montgomery County Public Schools who have allergies and asthma, and that school nurses and school staff are trained to deal with these conditions and to respond appropriately. (Motion, Exhibit 9).

The Local Board voted unanimously to uphold the Superintendent's decision, finding a lack of a unique hardship. The Board stated its belief that the trained staff at Springbrook will be able to address situations that may arise due to S.P.'s allergy and asthma conditions. (Motion, Exhibit 10). This appeal followed.

#### STANDARD OF REVIEW

The State Board 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 policy, 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. Problems or situations that are common to large numbers of families do not constitute a unique hardship. Some transfer requests are exempt from the hardship criterion. Families need not demonstrate documented, unique hardship to obtain approval under the following circumstances:

- where there is an older sibling already attending the

requested school and who will continue to be enrolled at the requested school for the next school year;

- when the student is already out of a feeder pattern on an approved transfer and wishes to continue from middle school to high school; or
- when a family moves within the county and prefers to remain in the original school until completion of that school year.

In addition, there are several programs for which admission is governed by lottery or application and which, therefore, are exempt from the hardship criterion. (Motion, Exhibit 2, JEE-RA).

We agree with the Local Board that there is not sufficient evidence here of the types of hardship that would warrant a transfer. Problems that are common to large numbers of families do not constitute unique hardship. Many children in public schools suffer from allergies and asthma and use inhalers and other medications. Like Appellant's son, many of those children have a need to see doctors during school hours over the course of the school year. That need does not create a unique hardship.

The State Board has long held 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).

#### CONCLUSION

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



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J. Henry Butta

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Charlene M. Dukes

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Blair G. Ewing

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Mary Kay Finan

*Rosa M. Garcia*

Rosa M. Garcia

*Richard L. Goodall*

Richard L. Goodall

*Karabelle Pizzigati*

Karabelle Pizzigati

*David F. Tufaro*

David F. Tufaro

January 30, 2008