

STEVEN M.,

Appellant

v.

BALTIMORE COUNTY BOARD OF
EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 08-11

OPINION

INTRODUCTION

In this appeal, Appellant challenges the decision of the Baltimore County Board of Education (Local Board) to deny his son admission to Sudbrook Magnet Middle School (Sudbrook). The Local Board has filed a Motion to Dismiss or for Summary Affirmance, maintaining that its decision is not arbitrary, unreasonable or illegal.

FACTUAL BACKGROUND

Appellant's son, J.M., applied to the grade six Environmental and Earth Science Magnet Program at Sudbrook Magnet Middle School for the 2006-2007 school year. He was denied admission. His twin sister applied to the Visual Arts magnet program at Sudbrook. She was admitted to the program.

Admission to magnet programs in Baltimore County Public Schools (BCPS) is governed by Superintendent's Rule 6130. In order to qualify for a magnet program, an applicant must receive a score of at least 70 percent of the established points for admission. (Magnet Program Brochure). At the middle school level, if the number of qualified applicants exceeds the number of available seats, up to 10% of the seats may first be filled with candidates who show exceptional promise in the specialized program. The remaining seats are filled using the centralized random lottery selection process from the remaining pool of qualified applicants. (Rule 6130(4.f.4)).

Out of 285 applicants for the Environmental and Earth Science Magnet Program, 134 students qualified for the 70 available seats in the program. Five applicants qualified through the 10 percent selection process by earning the five highest scores on the magnet assessment. Preference was also given to seven qualified applicants residing in the former Sudbrook boundary area, pursuant to the long standing procedure in Sudbrook's admission process since its

opening as a magnet school. The rest of the qualified applicants, including Appellant's son, were assigned random computer generated numbers for participation in the lottery. J.M.'s number was not selected and he was placed number 44 on the waiting list for the program.¹ (Dickson letter).

Appellant appealed his son's placement on the waiting list. He stated that separating J.M. and his twin sister would be emotionally and psychologically detrimental to them. He also stated that there were safety and transportation issues with the two children attending different schools. He further claimed that his son, as a Chatsworth Elementary School student applying to Sudbrook's science program, was at a disadvantage in the admissions process because Chatsworth students do not take science in the first quarter of 5th grade.

By letter dated April 5, 2006, Phyllis Bailey, Executive Director for Special Programs – PreK-12, advised Appellant that his appeal was denied. She stated that the magnet selection process does not provide admission on the basis of transportation or safety. With regard to siblings, she explained that only kindergarten applicants applying to elementary magnet school programs who have a sibling already in the program are given a preference for admission. (Rule 6130 (4.e.2)). Furthermore, she explained that the magnet assessment is an assessment tool for fifth grade students applying to Sudbrook's Environmental Science program which is based on elementary scientific investigation, the principles of which are taught to students up through the fourth grade science curriculum.

Appellant appealed Ms. Bailey's April 5 decision. Although his letter was dated April 20, 2006, it was received by the school system on April 21, 2006. Superintendent's Rule 6130(7.b) requires appeals of magnet denials to be received within 15 days of the date of the denial. Because more than 15 days had elapsed from the date of Ms. Bailey's letter, Dr. Carol Batoff, acting as the Superintendent's designee, denied the appeal as untimely. Nevertheless, Dr. Batoff stated that she would have upheld the decision to place J.M. on the waiting list.

Appellant noted an appeal to the Local Board. On October 10, 2006, a full evidentiary hearing was conducted before one of the Board's hearing examiners. The hearing examiner issued a report and recommendation upholding Dr. Batoff's decision on the merits.² The hearing officer held that Appellant offered no proof that the decision was arbitrary, unreasonable or illegal. He found no evidence of a sibling rule that would apply to this circumstance, nor did he find any violation of the magnet admissions process. He recommended that the local board

¹Seats in the program are filled beginning with the lowest randomly assigned number to the highest, going in sequential order. When the seats are filled, the remaining qualified applicants are placed on the waiting list. Sixty four students, including J.M., were placed on the waiting list. (Bailey letter).

²The hearing examiner reversed Dr. Batoff on the timeliness issue.

uphold Dr. Batoff's decision denying J.M. entry into the magnet program and placing him on the waiting list. (Hearing Examiner Report).

Oral argument was held before the local board on May 22, 2007. The board issued a unanimous opinion adopting the Report and Recommendation of the Hearing Examiner to affirm J.M.'s denial of admission to the magnet program and his placement on the waiting list. (Local board Opinion and Order). This appeal to the State Board ensued.

STANDARD OF REVIEW

Admission to magnet programs is a matter of local policy and the State Board's adopted standard of review provides that, in such cases, 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.

LEGAL ANALYSIS

The State Board has long held that there is no legal right to attend a particular school program. *See Haibel v. Board of Education of Montgomery County*, 7 Op. MSBE 1163 (1998) (denial of entry to magnet program); *Dennis v. Board of Education of Montgomery County*, 7 Op. MSBE 953 (1998) (denied participation in particular courses); *Czerska v. Montgomery County Board of Education*, 7 Op. MSBE 642 (1997) (denial of entry to magnet program); *Marshall v. Board of Education of Howard County*, 7 Op. MSBE 596 (1997) (no entitlement to attend four-year communications program); *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); *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).

Many school systems offer specialized programs and courses with varying admissions requirements. Such programs are often popular and inevitably there are those who wish to participate but are unable due to insufficient space. In this case, the Environmental and Earth Science Magnet Program at Sudbrook received more qualified applicants than available seats. Superintendent's Rule 6130 was implemented and the lottery process was utilized. Appellant's son was a qualified applicant but he did not get into the program through the lottery process. He was placed on the waiting list but his number was never reached. Appellant has presented no evidence that BCPS failed to fairly and consistently apply the magnet admission process here.

Appellant requests that an exception be granted for his son to be admitted to the magnet program because his twin sister was admitted to another magnet program at Sudbrook and Appellant feels it would be detrimental for the two children to be in different schools. There is

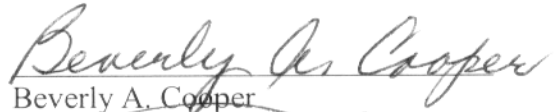
no twin sibling provision, however, for admission to BCPS magnet programs.

CONCLUSION

For all these reasons, we affirm the decision of the Local Board denying Appellant's request to have his son admitted into the Environmental and Earth Science Magnet Program at Sudbrook Magnet Middle School.



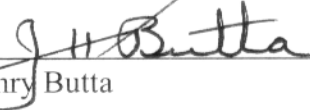
Dunbar Brooks
President



Beverly A. Cooper
Vice President



Lelia T. Allen

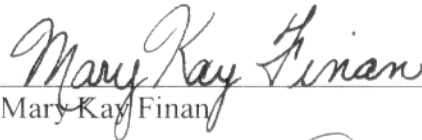


J. Henry Butta

Charlene M. Dukes



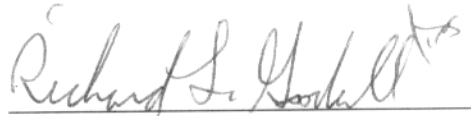
Blair G. Ewing



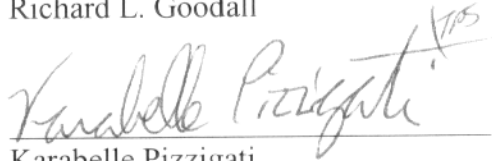
Mary Kay Finan



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February 27, 2008