JAN M.

Appellant

v.

PRINCE GEORGE'S COUNTY BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 08-40

OPINION

INTRODUCTION

Appellant has appealed the denial of her request to transfer her son from Largo High School (Largo) to Eleanor Roosevelt High School (Roosevelt). The Prince George's 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 a reply to the Motion.

FACTUAL BACKGROUND

Appellant lives in the attendance area of Largo High School. During the 2007-2008 school year, her son was in the eleventh grade at Largo.

In November 2007, Appellant began communicating with school system personnel regarding problems at Largo with the computer graphics course and the Chinese language class. While there were computers available, they were not in use due to problems hooking them up in the computer graphics lab. The computer graphics class was therefore being taught without the use of computers, and students had to hand write their assignments. Although the Chinese language course was being taught, the instructor was a substitute and did not speak Chinese. (*See* E-mails).

School system personnel advised Appellant that the school system was attempting to fix the problems. With regard to the computer graphics lab, the school was waiting for tables and patch cables for installation of the computers. With regard to the Chinese language instructor, the school was trying to fill the vacant position at the last minute because the Chinese instructor left her job with virtually no notice. Finding a replacement was proving problematic due to a critical shortage of highly qualified Chinese language teachers. Appellant was advised that a permanent Chinese language instructor might not be found because of the shortage. Based on these problems, Bill Ritter, the Assistant Superintendent for the High School Consortium,

suggested that Appellant transfer her son to a Spanish class or request a transfer to another school that offered Chinese or Japanese. (*See* E-mail's). Appellant decided to request a transfer to another school.

On or about November 28, 2007, Appellant submitted a Student Transfer Request asking that her son be transferred from Largo to Roosevelt. As the basis for the request, Appellant stated that she was not confident that her son was getting proper Chinese instruction given Largo's failure to hire a Chinese speaking instructor for the Chinese language class. She stated that her son was interested in Japanese culture and would like to learn Japanese. In addition, she explained that her son would like to pursue a career in computer design, but she believed he was not getting proper instruction in computer graphics due to a lack of useable computers. Appellant believed that Roosevelt would provide the necessary instruction and equipment to appropriately school her son. She did not ask for a transfer to any school other than Roosevelt. (Student Transfer Request Form).

On November 29, 2007, Shirley C. Robinson, Supervisor of the Office of Transfers, advised Appellant that her transfer request was denied because the reasons given for the transfer failed to meet the requirements for approval. She advised that Roosevelt did not offer the Chinese instruction program. She also explained that students may apply for transfers into a sequential year program only up until September of the tenth grade year. This allows students the possibility of completing the full three or four year sequential program. (Robinson Letter, 11/29/07). Appellant's son was an eleventh grader.

Appellant appealed Ms. Robinson's decision to the Office of Appeals. She believed that an exception should be granted for her eleventh grade son to transfer to Roosevelt because he did not attend Prince George's County Public Schools (PGCPS) prior to the eleventh grade. She reiterated her concern that he was not receiving proper instruction in his Chinese language class at Largo. (Letter of Appeal, 12/4/07). Dorothy Stubbs, Special Assistant for Appeals, acting as the Superintendent's designee, advised Appellant that the transfer request had been denied due to overenrollment at Roosevelt. She stated that transfers are only granted to schools that have room for additional enrollment, and that Roosevelt was extremely overcrowded. (Stubbs' Letter, 12/12/07). Roosevelt offered a Japanese course in which Appellant's son was interested. (Student Transfer Request Form). At the time of Appellant's transfer request, the Japanese language program at Roosevelt was full and there was a waiting list. Reply to Response at 3, fn. 1.

On appeal to the local board, Appellant expressed her discontent with the situation at Largo. Her son continued to remain in a Chinese language course taught by a substitute and he was taking a computer graphics course without the use of a computer. (Letter of Appeal, 12/24/07).

In response to the appeal, Ms. Stubbs recommended that the local board uphold her decision and deny the transfer request. On the issue of enrollment, Ms. Stubbs explained that Roosevelt was extremely overcrowded with an enrollment at 26% over its State rated capacity. She provided the enrollment data showing that Largo had only an 80% utilization rate while Roosevelt had a utilization rate of 126%. Ms. Stubbs also noted that the school system was working on resolving the issues raised by the Appellant. At the time of her recommendation, however, the computer lab at Largo remained incomplete and the Chinese class instructor vacancy had not been filled. (Stubbs' Recommendation). The local board accepted Ms. Stubbs' recommendation and denied Appellant's transfer request. (Thomas Letter, 1/17/08).

This appeal to the State Board followed. In this appeal, Appellant raises the same issues that she raised before the local board and Superintendent's designee, but she asks that the State Board approve a transfer to Dr. Henry A. Wise Jr. High School or Bowie High School, rather than to Roosevelt. She also asks that the State Board order PGCPS to pay Appellant for a professional tutor or for her son to take courses at Prince George's Community College to obtain the proper proficiency level in the two courses at issue.

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

Appellant sought a transfer to Roosevelt for her son based on problems at Largo in the computer graphics and Chinese language classes. The local board upheld Ms. Stubbs' decision to deny the transfer request because Roosevelt was overenrolled. This Board has recognized that building utilization and enrollment levels are legally permissible subjects of consideration in weighing the impact of a request of a student to transfer from his or her home school to some other school of choice. *Slater v. Bd. of Educ. of Montgomery County*, 6 Op. MSBE 365, 371-372 (1992). Roosevelt was extremely overcrowded with a population at 26% over its State rated capacity. Thus, we do not find that the local board's decision denying the transfer to Roosevelt on this basis was arbitrary, unreasonable or illegal.

The State Board has long held that there is no legal right to attend a particular school or enroll in a particular 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).

Appellant requests for the first time on appeal to the State Board that her son be granted a transfer to a school other than Roosevelt. Specifically, she asks that he be permitted to attend Dr. Henry A. Wise Jr. High School or Bowie High School. At no time, however, did Appellant request a transfer to a school other than Roosevelt. It is the long held position of this Board that it will not review matters that have not been reviewed initially by the local board. *See McDaniel v. Montgomery County Board of Education*, MSBE Op. No. 03-22; *Craven v. Board of Education of Montgomery County*, 7 Op. MSBE 870 (1997); *Hart v. Board of Education of St. Mary's County*, 7 Op. MSBE 740 (1997).

As for Appellant's request for payment for tutors or community college courses, because the local board did not rule on this issue, there is nothing for the State Board to review.

CONCLUSION

For all of these reasons, we affirm the decision of the local board denying Appellant's request to transfer her son to Roosevelt High School.

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