

SHIRLEY B.

Appellant

v.

MONTGOMERY COUNTY  
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 09-45

### OPINION

Appellant, mother of T.B., has appealed the denial of her request to transfer her daughter from Northwest High School (Northwest) to Quince Orchard High School (Quince Orchard). The Board of Education of Montgomery County (Local Board) has filed a Response to the appeal maintaining that its decision should be upheld. Appellant has replied to the Local Board's Response.

### FACTUAL BACKGROUND

On March 31, 2009, Appellant submitted a Request for Change of School Assignment asking that her daughter be permitted to attend Quince Orchard High School (Quince Orchard) rather than her assigned school, Northwest High School (Northwest). Appellant checked the boxes marked "hardship" and "continue in a feeder pattern from middle to high school" as the reasons for the transfer request. (Motion, Exh.1). Appellant explained that T.B. had attended elementary and middle school at schools that feed into Quince Orchard, but that the family's move in 2006 now placed them in the Northwest attendance area.<sup>1</sup> Appellant also stated that her home is closer to Quince Orchard.

The Field Office Director denied the request because it did not meet the transfer guidelines. (*Id.*). As explained in the Montgomery County Public Schools' (MCPS) Change of School Assignment Booklet, the exemption for continuation in a feeder pattern applies only to middle school students who are already on an approved change of school assignment so that they may continue in the school's feeder pattern for high school. The exemption was inapplicable here because T.B. attended Lakelands Park Middle School as her "home" or assigned school, not as a result of an approved transfer.

Appellant appealed the denial to Larry A. Bowers, the Chief Operating Officer, referred the matter to Hearing Officer, Laurence M. Jeweler. Mr. Jeweler recommended that the transfer

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<sup>1</sup>T.B. attended Lakelands Park Middle School which feeds into both Quince Orchard and Northwest. The family moved from the Lakelands/Quince Orchard feeder pattern to the Lakelands/Northwest feeder pattern.

request be denied due to the absence of a unique hardship. (Motion, Exh. 4). Mr. Bowers adopted Mr. Jeweler's recommendation. (Motion, Exh. 5).

Appellant appealed to the Local Board. In her appeal, Appellant did not raise any of the issues that she had raised previously. Rather, she requested the transfer to Quince Orchard based only on the available course offerings there. Appellant maintained that, unlike Quince Orchard, Northwest does not offer a wide selection of basic AP and advanced courses in academics and the arts for students who are not interested in the specialty academies there, and that Northwest does not offer as many foreign language courses as Quince Orchard. She argued that the Local Board should allow the transfer given that some of the other school systems permit transfers for students to obtain a program of instruction unavailable at the assigned school. (Motion, Exh. 6).

The Superintendent requested that the Local Board uphold the denial of the transfer due to lack of a unique hardship. (Motion, Exh. 7).

On appeal, the Local Board was unable to reach a majority vote to affirm or reverse, thus the decision of the Superintendent stood. Three members of the Board voted to affirm, finding a lack of unique hardship under the MCPS student transfer policy. Three members voted to reverse the transfer decision without explanation. (Motion, Exh. 8). This appeal followed.

#### 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 Breads v. Bd. of Educ. of Montgomery County*, 7 Ops. MSBE 507 (1997).

#### LEGAL ANALYSIS

Pursuant to Local Board policy, students are assigned to the schools in the areas in which they live.

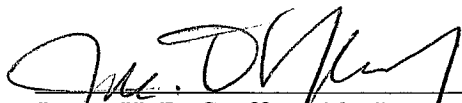
Appellant would like her daughter to attend Quince Orchard because of the course offerings there. Appellant must demonstrate a unique hardship in order to justify the transfer request. Problems that are common to large numbers of families do not constitute a unique hardship. (Motion, Exhibit 2).


This case is similar to *Chacon v. Montgomery County Bd. of Educ.*, MSBE Op. No. 01-39 (2001), in which the State Board upheld the denial of a student's request to transfer to a school in order to take a Latin class, finding that the case did not support a hardship finding. The State Board has repeatedly held that there is no entitlement for a student to attend a particular school or program of study. *See, e.g., Dennis v. Bd. of Educ. of Montgomery County*, 7 Op. MSBE 953 (1998) (desire to participate in particular courses does not constitute hardship); *Marshall v. Bd. of*

*Educ. of Howard County*, 7 Op. MSBE 596 (1997) (no entitlement to attend four year communications program offered at Mount Hebron); *Williams v. Bd. of Educ. of Montgomery County*, 5 Op. MSBE 507 (1990) (denial of transfer to program offering advanced German); *Sklar v. Bd. of Educ. 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).

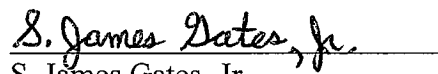
CONCLUSION

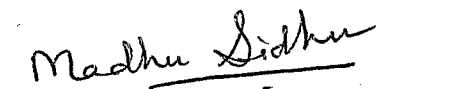
The Superintendent's decision was not arbitrary, unreasonable or illegal. Accordingly, we affirm the Superintendent's decision to deny Appellant's request to have her daughter transferred to Quince Orchard high School.

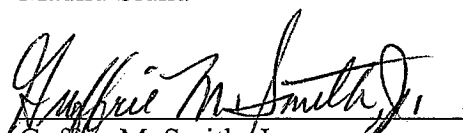
  
James H. DeGraffenreidt, Jr.  
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*Absent*

Ivan C.A. Walks

*Kate Walsh*

Kate Walsh

December 10, 2009