

ROBERT & JANA PRICE,

Appellant

v.

HOWARD COUNTY  
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 05-36

OPINION

This is an appeal of the denial of Appellants' request to transfer their daughter from Oakland Mills High School to Hammond High School. The local board has submitted a Motion to Dismiss and/or for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal. Appellants' filed a response to the local board's motion.

FACTUAL BACKGROUND

Appellants and their daughter, R.P.,<sup>1</sup> reside in the Owen Brown neighborhood of Columbia which is now in the Oakland Mills High School attendance zone as a result of the local board's high school redistricting decision for the 2005-2006 school year. Prior to the redistricting, R.P. would have attended Hammond High School.

Appellants requested an out-of-district transfer for R.P. to remain at Hammond. They set forth the following reasons for the transfer request: that the family's children have had to adjust and find new friends with other assignments out of their neighborhood; that R.P. has adjusted to high school and done well academically at Hammond and should not have to make another transition; that attending Hammond where her older brother will be a senior will help the family support school activities at one school rather than be split between two different schools. The request was denied by Roger L. Plunkett, acting as the superintendent's designee. In a February 24, 2005 letter to the Appellant's, Mr. Plunkett stated as follows:

In the past several years enrollment increases combined with program expansion have created crowded conditions in our schools. Open enrollment has added to the problem. Some of this movement results in unnecessary redistricting. The Board has chosen to extend the moratorium placed on open enrollment to stabilize the movement of students within the County. The boundary lines for the high schools are set for the 2005-2006 school year. All students are required to attend the school to which they have been redistricted. The redistricting is a Board of Education decision.

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<sup>1</sup>Throughout this Opinion we will refer to Appellants' daughter as R.P.

Mr. Plunkett also indicated that the sibling policy had been abolished and that transfers are not granted in order for a student to be with a sibling.

Appellants challenged Mr. Plunkett's decision denying their transfer request. In their letter of appeal, Appellants reiterated their desire that R.P. be allowed to remain at Hammond with her older brother where R.P. has had academic success as well as successful participation in extracurricular activities and athletics. Appellants noted the difficulties they would face as working parents trying to attend sports events at two different schools to support both of their children. Appellants also reiterated their concern that R.P. not be required to face another school transition where she would need to adjust to a new environment and new friends.<sup>2</sup> See March 4, 2004 letter from Appellants to Watson.

In a unanimous decision, the local board upheld Mr. Plunkett's decision to deny the transfer request. After considering all of the materials provided, the local board concluded that the reasons for transfer advanced by Appellants failed to present a unique family hardship or compelling extenuating circumstances which might justify an exception to the school assignment.

#### ANALYSIS

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 that decision is shown to be arbitrary, unreasonable or illegal. COMAR 13A.01.05.05A; *see, e.g., Breads v. Board of Educ. of Montgomery County*, 7 Op. MSBE 507 (1997). The State Board has noted that student transfer decisions require balancing county-wide considerations with those of the student and family. *See, e.g., Marbach v. Board of Educ. of Montgomery County*, 6 Op. MSBE 351, 356 (1992). Socio-economic level, building utilization, enrollment levels, and the educational program needs of the individual student are all legally permissible and proper subjects of consideration in weighing the impact of a request for a student to transfer from his or home school to some other school of choice. *Slater v. Board of Educ. of Montgomery County*, 6 Op. MSBE 365, 371-372 (1992)

Howard County Board of Education policy 3211-R (II.B) states as follows:

Pupils attending public schools in Howard County are initially assigned by the Board of Education to schools serving the area in which the parent has bona fide residence. Pupils are required to attend the schools to which they are assigned unless a special exception is made.

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<sup>2</sup>The letter indicates that R.P. and her brother attended a different middle school than the one attended by the rest of the their elementary school population, and that they also attended a different high school than the one attended by the other students at their middle school.

Although the local board placed a moratorium on open enrollment on February 10, 2005, policy 3211-R (II.G) allows a parent to initiate exceptions to the moratorium on open enrollment via the provisions of II.D.2 which states that: (1) Pupil reassignment may be requested by parents for schools that are declared open given reasons such as physical, emotional, or educational conditions affecting individual pupils; (2) The superintendent or his designee will consider each case; and (3) Pupil reassignment will be made to schools where capacity is available.

In addition, the local board's Guidelines for Administrative Transfers state:

In rare circumstances, individual exceptions may be made by the Superintendent or his designee based on documented hardship. Hardship depends on a family's individual and personal situation. For the purposes of these guidelines problems that are common to large numbers of families such as need for a particular schedule, class/program, sibling enrolled, or day care, do not constitute a hardship.

Here, Mr. Plunkett and the local board found that the reasons for the transfer request as set forth by the Appellants were insufficient to outweigh the reasons for the existing moratorium on open enrollment. The local board enacted the moratorium restricting the transfer of students from one high school to another in order to stabilize enrollment throughout Howard County. This was put into effect in conjunction with the recent high school redistricting which is in effect for the 2005-2006 school year. Given the need to stabilize enrollment within the county, it was not unreasonable for the local board to uphold the denial of Appellant's request on this basis.

In addition, neither Mr. Plunkett nor the local board found any compelling extenuating circumstances justifying an exception from R.P.'s school assignment. The reasons for the transfer set forth by the Appellants do not appear to rise to the level of a documented hardship. The desire to have R.P. remain at Hammond with her brother and her friends where she has already adjusted are not issues unique to the Appellants. The local board abolished the sibling policy in 1999 so that students no longer receive permission to transfer to a school being attended by an older sibling. Furthermore, the State Board has deemed the desire to attend school with a particular peer group as an insufficient basis to support a student transfer. *See, e.g., Skardis v. Montgomery County Board of Education*, 7 Op. MSBE 1055 (1998) (desire to attend high school with middle school peer group not sufficient to approve transfer); *Diehl v. Montgomery County Board of Education*, 7 Op. MSBE 589 (1997) (desire to join peer group not sufficient to warrant student transfer). For these reasons, we concur with the local board that Appellants have not presented sufficient evidence of hardship.

The Court of Appeals has ruled that there is no right to attend a particular school. *See Bernstein v. Board of Education of Prince Georges County*, 245 Md. 464, 472 (1967); *cf. Dennis v. Board of Education of Montgomery County*, 7 Op. MSBE 953 (1998) (desire to participate in particular courses does not constitute unique hardship sufficient to override utilization concerns);

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

## CONCLUSION

Based on the record in this case, we do not find that the local board's decision upholding the transfer denial was arbitrary, unreasonable, or illegal. Accordingly, we affirm the denial of Appellants' transfer request.

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October 26, 2005