

D.D.

Appellants

v.

PRINCE GEORGE'S COUNTY BOARD
OF EDUCATION

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 06-35

OPINION

This is an appeal of the local board's denial of Appellants' request to transfer their son from Thomas Johnson Middle School to Greenbelt Middle School. The local board filed a Motion for Summary Affirmance maintaining that its decision was not arbitrary, unreasonable or illegal. Appellants have filed a response to the motion.

FACTUAL BACKGROUND

On May 24, 2006, Appellants filed a Student Transfer Request asking that their son, D.D.¹ be granted a transfer from Thomas Johnson Middle School (TJMS) to Greenbelt Middle School (GMS) for the 2006-2007 school year. (Student Transfer Request, p. 1). Appellants' reason for the request was that they wanted D.D. to remain in a conducive educational environment. They believed that if D.D. were transferred to TJMS he would be in "an environment where learning is not the sole priority of coming to school" and would "be influenced by students without the same focus of learning that he has." (*Id.*)

By letter dated June 12, 2006, Shirley Robinson, Supervisor of the Office of Student Transfers, denied Appellants' request. Ms. Robinson stated that "[a]ll students are expected to attend the school that is assigned to the address at which the parent or legal guardian resides" and that "transfers are not granted based upon the perceived superiority of one school over another." (Letter to Appellants, 6/12/06).

In response to Ms. Robinson's letter, Appellants wrote her on June 16, 2006 stating that they were in the process of withdrawing their initial transfer request. They explained that they now wanted a transfer out of TJMS under the school choice option of the No Child Left Behind Act because the school was identified for improvement for not making adequate yearly progress

¹Appellants' son is referred to as D.D. throughout this memorandum due to privacy concerns.

(AYP).² Appellants requested a transfer to Benjamin Tasker Middle School because both TJMS and GMS were identified for improvement.

The school system treated the Appellants' letter as an appeal of the denial of the transfer request. On June 22, 2006, Dorothy Stubbs, Special Assistant for Appeals, issued a decision denying Appellants' transfer request. Ms. Stubbs also noted that the student transfer process was not the appropriate avenue for school choice placements based on AYP and the mandates of the No Child Left Behind Act. She directed Appellants to contact the Office of Federal Programs which is responsible for processing the school choice transfers. (Letter to Appellants, 6/22/06).

Subsequently, Appellants appealed the denial of their transfer request to the local board. In a memorandum to the local board, Ms. Stubbs recommended that the local board deny the transfer request for the following reasons: (1) TJMS is not a Title I school for the 2006-2007 school year, therefore, the "School Choice" program is not applicable; (2) TJMS offers the county approved middle school curriculum in which D.D. can continue to achieve; (3) students are expected to attend the school assigned to their grade level and their parents' official address; and (4) transfers are not based upon parental preference. (Transfer Recommendation).

On July 7, 2006, Roger Thomas, General Counsel to the Prince George's County Public Schools, notified Appellants that the local board declined to reverse the decision of the Special Assistant, thus, denying Appellants' transfer request. (Letter to Appellants, 7/7/06).

This appeal to the State Board followed. The Appellants seek a reversal of the transfer decision. On the one hand, Appellants argue that, because they wanted to initiate the school choice option, the original basis for seeking the transfer, to change D.D.'s educational environment pursuant to Administrative Procedure 5110.3(III.A.1), was withdrawn and should not have been considered on further appeal. On the other hand, Appellants maintain that their transfer request should have been granted based on section III.A.1. Because we believe that the local board considered both the school choice option and the applicability of section III.A.1, we will review each aspect of the case.

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.

²The No Child Left Behind Act requires that parents of children in Title I low performing schools be given the option of transferring their children to better performing schools. This is known as the school choice option. (See Federal Regulations at 34 CFR §200.44).

ANALYSIS

Merits of Transfer Decision

As to the merits of the transfer, Appellants allege that the local board's decision violated local regulation, Administrative Procedure 5110.3(III.A.1). Administrative Procedure 5110.3 sets forth the various grounds for granting a student transfer request. Section III.A.1 states that the Office of Student Transfers may approve a transfer request for the following reason:

The necessity for the student to have a change in his or her then existing educational environment for reasons at the school from which the transfer is sought, provided such transfer proceeding is initiated by the appropriate school official, in accordance with enabling procedures, after conference with the student's parents or legally constituted guardian, and for the sole reason that the transfer would serve an educational advantage for the student.

The student transfer policy is permissive and not mandatory, giving the school system discretion in balancing the interests of the students and the schools. Because this provision envisions a transfer initiated by a school official and not one initiated by a student's parents, it is inapplicable here.³

Appellants also argue that the local board decision is inherently arbitrary, unreasonable or illegal because the local board failed to present any basis for its decision. While we believe that it is always better for a local board to provide a rationale for its decision, in this particular case the record contains sufficient evidence to support the local board's denial of Appellants' transfer request. (*But cf. Mack v. Prince George's County Board of Education*, MSBE Opinion No. 99-21, in which the appeal was remanded to the local board for further explanation of its decision when neither the local board nor the administrative assistant for appeals explained a basis for denying the transfer request.). As discussed above, in her recommendation to the local board, Ms. Stubbs gave specific reasons for denying the transfer request. These provide the basis for the local board's decision. The basis for the local board's decision was twofold. First, as Ms. Stubbs explained, none of the reasons that Appellants offered for the transfer request were sufficient under local board policy. Second, the school choice option was not available to the Appellants because TJMS is not a Title I school. Both of those reasons are legally supported in the record.

³Administrative Procedure 5110.3 also contains a provision for transfers in "[c]ases of extreme hardship where it is clearly evident to the Office of Student Transfers that the student shall obtain an educational benefit by virtue of the transfer." (Section III.A.5). It does not appear that Appellants sought a transfer pursuant to this provision. Nor do we believe that the record contains evidence of extreme hardship.

Procedural Issues

Appellants also raised several procedural arguments which we will address below:

Appellants argue that Ms. Stubbs interfered in the appeal by submitting recommendations to the local board. Forwarding recommendations to the local board is common practice in all cases.

Appellants also maintain that the local board never formed a committee of the board for consideration of their appeal. Appellants have provided no credible evidence that the local board failed to form a committee to review and render a decision on this case.

CONCLUSION

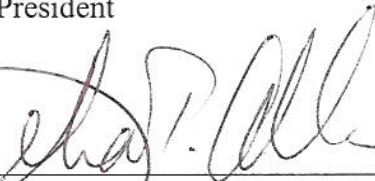
Based on all of the above reasons, we conclude that the local board's decision is not arbitrary, unreasonable or illegal. Accordingly, we affirm the decision of the Prince George's County Board of Education denying Appellants' transfer request.



Edward L. Root
President



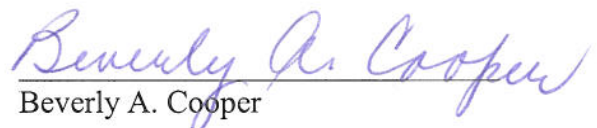
Dunbar Brooks
Vice President




Lelia T. Allen



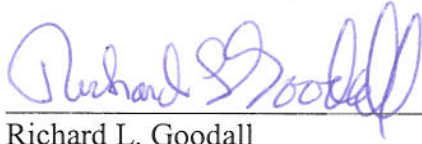
J. Henry Butta



Beverly A. Cooper



Calvin D. Disney



Richard L. Goodall



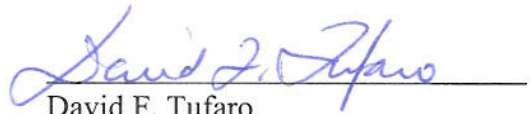
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December 12, 2006