

D. H.

Appellant

v.

MONTGOMERY COUNTY BOARD
OF EDUCATION

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 07-14

OPINION

This is an appeal of the denial of Appellant's request to admit his son into the Science, Mathematics, Computer Science Magnet Program at Montgomery Blair High School. The local board has filed a Motion for Summary Affirmance maintaining that the decision is not arbitrary, unreasonable or illegal. Appellant has submitted an opposition to the local board's motion.

FACTUAL BACKGROUND

On December 4, 2005, Appellant submitted an application for his son, A.H.,¹ to be admitted into the Science, Mathematics, and Computer Science Magnet Program at Montgomery Blair High School ("Blair Magnet Program") for the 2006-2007 school year. The Blair Magnet Program is a highly competitive countywide program. Admission to the program is based on the following criteria:

- Demonstrated interest in mathematics, science, and computer science;
- High achievement record in mathematics and science;
- Recommendations from teachers and others familiar with the student's work;
- Demonstrated ability to pursue inquiry and research and think critically; and
- High scores on aptitude, achievement, and critical thinking tests.

(Magnet Program Brochure, p.2). The program is funded for 100 students per grade level. Over 718 students applied for admission to the program for the 2006-2007 school year.

On February 24, 2006, Dennis Heidler, Acting Magnet Coordinator, notified Appellant that the screening and selection committee did not recommend A.H. for admission. He stated that the selection committee based its decision on the American Guidance Service (AGS) math and verbal test results; data collected from the current school, including grades from last year and

¹ Appellant's son will be referred to as A.H. throughout this memorandum.

the first quarter of this year; the three teacher recommendation forms; and the student's expressed interest, motivation, and work habits. Mr. Heidler stated that "the screening and selection committee feels that all factors taken together give a broad view of the student without emphasizing any one indicator too strongly." (Letter to Appellant, 2/24/06).

Appellant appealed this decision. In a letter to Mr. Heidler, Appellant emphasized that the average of the AGS scores for the students accepted for the incoming 2006-2007 class were 91st percentile on math and 83rd percentile on verbal, while A.H. scored in the 97th percentile on math and in the 98th percentile on verbal. The average GPA for accepted students was 3.9 while A.H.'s GPA was 3.125. He also expressed concern that A.H.'s poor first quarter grade in Computer Science, which was caused in part by the zero that he, and others, received when they collaborated on an independent project, may have played a role in the decision. A.H. received a D in that subject which Appellant maintains is not a reflection of A.H.'s ability to do the work, but rather his error in judgment as a result of an immature decision. (Letter to Heidler, 3/12/06). In a letter to Deputy Superintendent, Frieda K. Lacey, Appellant argued that the test scores should be "an extremely important factor in the selection process" and that A.H.'s participation in elementary and middle school magnet programs should weigh heavily in the decision.² Appellant also expressed concern that A.H.'s listed ethnicity may have impacted the decision.³ (Letter to Dr. Frieda K. Lacy, 4/21/06).

Dr. Lacey forwarded the appeal to the Associate Superintendent, Jody Lelect, to reevaluate A.H.'s application. The level II appeals committee reviewed the data in A.H.'s file, including assessments, report cards, teacher recommendations, and the additional information provided by Appellant in his appeal letter. Ms. Lelect reported the appeal committee's findings as follows:

The race and ethnicities of the applicants were unknown to the committees. Test scores alone are not the sole criteria for making placement decisions. The committee did note the strength of the combination of test scores in this case. However, the remainder of the data were not commensurate with the profiles of students accepted into the program. Therefore, the committee recommended that [A.H.] be placed in the wait pool for The Science/Mathematics/Computer Science Magnet Program at Montgomery Blair High School. The committee also recommended that the additional information be noted in [A.H.'s] file and be given due consideration should a space become available in the program.

²A.H. was enrolled in the magnet programs at Charles Drew Elementary School and Takoma Park Middle School. (Letter to Heidler, 3/12/06).

³Appellant believes that A.H.'s ethnicity is listed as Asian in his school records. (Letter to Heidler, 3/12/06, p.2).

(Memorandum to Dr. Lacey, 5/24/06). Ms. Leleck recommended that A.H. be placed in the wait pool. (*Id.*). By letter dated May 26, 2006, Dr. Lacey adopted the recommendation and notified Appellant that A.H. would be placed in the wait pool for the Blair Magnet Program. (Letter to Appellant, 5/26/06).

Subsequently, Appellant appealed to the local board again stressing that his son's high scores should carry the greatest weight. He stated his concern that "subjective, political, and ethnicity reasons" are being weighed far more heavily than A.H.'s test scores. (Letter to Dr. Haughey, 6/26/06, p.2).

The Superintendent of Schools responded to the appeal by memorandum dated July 6, 2006. Dr. Weast acknowledged that A.H.'s test scores were "very high," but noted that data in other areas did not compare favorably to those accepted into the program. For example, A.H. earned a 3.125 GPA for the 2005-2006 school year, with final grades of B in Magnet Geometry A; C in Magnet Geometry B; C in Magnet Computer Science; and B in Magnet Science. In addition, on a scale of 100 possible points, A.H.'s teacher recommendations were: 65 from his science teacher, 83 from his mathematics teacher, and 84 from his English teacher. The average⁴ accepted teacher recommendation scores for students accepted into the program were higher at 95, 96, and 97, respectively. Taken as a whole, giving weight to all criteria, the Superintendent believed that A.H. was properly placed in the wait pool. (*Id.*).

In a unanimous decision, the local board affirmed the decision denying A.H. entry into the Blair Magnet Program and placing him in the waiting pool for future openings in the program. The local board stated that "test scores are not the only criteria for admission to the magnet program." (Local Board Decision, p. 2). The criteria also include teacher recommendations, performance in schools, and materials submitted in support of the application. The local board found that "there is not sufficient evidence to overturn the determination, made after two levels of review, that [A.H.] should be placed in the wait pool for the magnet program. While his test scores were very high, his teacher recommendations were not. While his grades were very solid, they also were not particularly high." (*Id.*). The local board also noted that there was no evidence that ethnicity was a factor and that A.H. would have the opportunity to pursue his interests in math and science in academically challenging and rigorous environment at Montgomery Blair High School through the Communication Arts Program. (*Id.*).

This appeal ensued.

STANDARD OF REVIEW

Because this appeal involves a decision of the local board involving a local policy, the

⁴Although the Superintendent states that these are the median scores on the recommendations, it is our understanding that these are actually the averages of the scores. (Local Board Motion, p.9).

local board's decision is considered prima facie correct, and the State Board may not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. COMAR 13A.01.05.03E(1).

ANALYSIS

AGS Test Scores

Appellant's main contention is that his son's outstanding test scores on the AGS tests should be the dominant factor in determining his admission to the Balir Magnet Program.⁵ Admission to the program, however, is determined by consideration of multiple factors which give a broad view of the applicants without emphasizing any one indicator too strongly. (Letter to Appellant, 2/24/06). This multi-factor approach is publicized in the Blair Magnet Program brochure which states that the factors for admission consist of a high achievement record in mathematics and science; recommendations from teachers and others familiar with the student's work; a demonstrated ability to pursue inquiry and research and to think critically; and high test scores. Although Appellant believes that the test scores should be the overriding factor in this case, the guidelines for admission to the program do not require this.

Here, all of the information submitted as part of A.H.'s application for admission was considered. Although A.H. scored outstanding on the AGS tests, his teacher recommendation scores were much lower than those accepted into the program, his GPA was below the average for accepted students, and his final grades for the 2005-2006 school year included a B in Magnet Geometry A; a C in Magnet Geometry B; a C in Magnet Computer Science; and a B in Magnet Science. The screening and selection committee considered these criteria and determined that the totality of the factors did not warrant A.H.'s admission into the program. This decision was affirmed at each level of review before the local school system.

The State Board has previously upheld local board decisions denying admission into a magnet program because the student did not perform as well as other students accepted into the program. See *Hoogerwerf v. Montgomery County Board of Education*, MSBE Op. No. 06-05 (March, 1, 2006); *Czerska v. Board of Education of Montgomery County*, 7 Op. MSBE 642 (1997); *Skjerven v. Montgomery County Board of Education*, 7 Op. MSBE 1249 (1998). While the cited cases concern students who were denied admission based on insufficient test scores, the proposition is, nevertheless, applicable to this case.

⁵Appellant maintains that no student who has scored as well as his son on the AGS tests has ever been denied admission to the program, yet the record contains no evidence of this. Appellant states that he has requested data demonstrating this point from the local board to no avail. To the extent that Appellant is seeking public information through this appeal, the State Board is not the appropriate forum to entertain such complaints. The Maryland Public Information Act (PIA), Md. Code Ann., State Gov't 10-611 *et seq.*, sets forth the proper process.

In addition, the State Board has consistently held that there is no entitlement to attend a particular program of study at a particular school. See *Haibel v. Board of Education of Montgomery County*, MSBE Op. 98-28 (May 28, 1998) (affirming denial of request for student placement in magnet program); *Czerska v. Board of Education of Montgomery County*, MSBE Op. 97-18 (April 30, 1997) (upholding denial of request for admission into magnet program).

As stated in the local board's motion:

There is no question that Appellant's son is a bright, talented, and highly able student who could succeed in the Blair Magnet Program, as could many other s who were not selected for admission. When there are 718 applicants for 100 seats, there will be capable students who are not selected for admission. That fact alone does not make the difficult selection decisions arbitrary and unreasonable or illegal. The fact that [A.H.] scored well on the AGS tests and was not selected for admission does not alone show that the decision was arbitrary and unreasonable or illegal. On the record, as a whole, considering all of the factors reviewed by the screening and selection committee and that Level II review committee, a reasonable person could reasonably conclude that there was a basis for the decision made at the local level and upheld by the local board of education.

(Local Board Motion, p. 13). We concur.

Race and Ethnicity

Appellant argues that his son was denied admission into the program because of his race and ethnicity. He presents no evidence to support this contention, merely allegations. Moreover, race and ethnicity were not a part of the magnet application (Student Application Form) and were unknown to the screening and selection committee and the level II appeals committee. (Memorandum to Dr. Lacey, 5/24/06). Thus, we believe this claim lacks merit.

Falsifications and Inaccuracies

Appellant accuses Dr. Weast of intentional inaccuracies and falsifications of information based on statements contained in Dr. Weast's memorandum to the local board. Appellant argues that these misstatements diminish his son's test scores and demonstrate a pattern of untruths which lead one to question the veracity of the selection process.

In particular, Appellant points to Dr. Weast's use of the word "percent" instead of "percentile" and "median" instead of "average" in discussing the AGS test results. Dr. Weast inaccurately stated that "[t]he median AGS test scores for those students accepted into the

magnet program were 95 percent in mathematics and 87 percent in verbal. Andrew scored 97 percent in mathematics and 98 percent in verbal.” (Superintendent’s Memorandum, 7/6/06). While it is true that Dr. Weast’s memorandum contained misnomers, there is no evidence in the record to suggest an intent to purposefully mislead the local board, nor is there any evidence that these misstatements impacted the local board’s decision. Neither the screening and selection committee nor the level II appeals committee had the superintendent’s memorandum before them in making their decision. In addition, the local board had before it the entire record in this case which is replete with accurate statements of the AGS test results, as well as Appellant’s July 14, 2006 letter in which he points out and corrects Dr. Weast’s error.

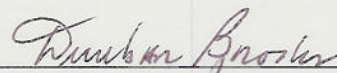
Another falsification alleged by Appellant is Dr. Weast’s statement that only 100 students can be admitted into the Blair Magnet Program (Superintendent’s Memorandum), when 103 students were admitted for the 2006-2007 school year. Again, there is no evidence of deception here. The local board has explained that, because the program is admission based, more offers are extended than there are spaces in order to achieve a full class. For this school year, three more students accepted spaces in the program than was predicted. (Local Board’s Motion, p. 6).

CONCLUSION

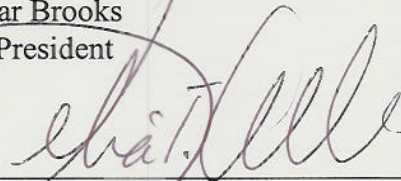
Because we find that the local board’s decision was not arbitrary, unreasonable or illegal, we affirm the local board’s decision denying Appellant entrance into the Blair Magnet Program.



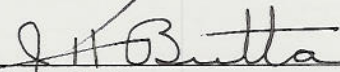
Edward L. Root
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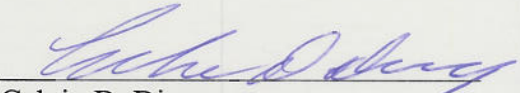


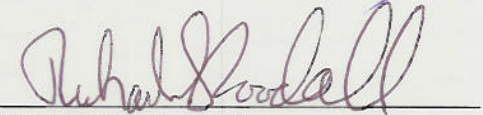
Lelia T. Allen



J. Henry Butta

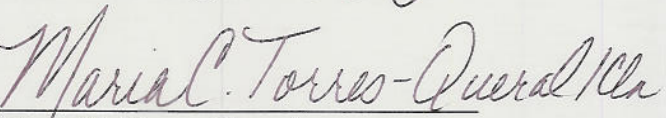

Beverly A. Cooper

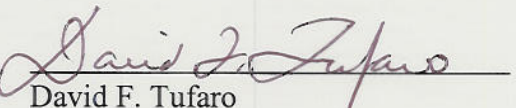

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March 27, 2007