M. J.	BEFORE THE
Appellant	MARYLAND
v.	STATE BOARD
PRINCE GEORGE'S COUNTY BOARD OF EDUCATION	OF EDUCATION
Appellee	Opinion No. 07-18

OPINION

INTRODUCTION

This is an appeal of the local board's denial of Appellants' request to transfer their daughter from Parkdale High School to Eleanor Roosevelt High School. The local board filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal. Appellants filed a reply to the local board's Motion.

FACTUAL BACKGROUND

Appellants reside in the attendance area for Parkdale High School ("Parkdale"). Appellants' daughter, R.J.,[1] attended Eleanor Roosevelt High School ("Roosevelt"), rather than Parkdale, for the 2004-2005 and 2005-2006 school years as a transfer student in order to participate in Roosevelt's Russian Program.[2] Each of those transfers was valid for one year only and was contingent on two special conditions. The first condition was that R.J. would have to enroll in Parkdale for the next school year if her final year end grade in the program was unsatisfactory. The second condition was that R.J. would have to immediately enroll in Parkdale if she were to withdraw from the Russian Program during the school year. (Letters from Robinson, 6/22/04 and 6/9/05).

Appellants filed a Student Transfer Request asking that R.J. be allowed to remain at Roosevelt for the 2006-2007 school year in order to continue her Russian studies in the 11th grade. (Student Transfer Request 2006-2007). Shirley Robinson, Supervisor of the Office of Student Transfers, advised Appellants that their transfer request was denied based on R.J.'s poor academics and excessive school absences and tardiness. (Letter

[1] Appellants' daughter is referred to as R.J. throughout this memorandum.

[2] This is known as a program transfer under school system policy.

from Robinson, 6/12/06). R.J. received final grades of C in Russian 1 and Russian 2, and she received a Quality Point Average ("QPA") of 1.86 in 9th grade and 1.99 in 10th grade. (Performance Data Summary). In 10th grade, she was absent 22 days and tardy 33 days. (Report Card).

On further appeal, Appellants' transfer request was denied by Dorothy Stubbs, Special Assistant for Appeals. Ms. Stubbs noted that "[c]ontinuation in a program of studies as a transfer student is contingent upon maintaining satisfactory grades, attendance, and behavior. For two years, [R.J.] has not met those requirements. Consequently, she must attend the school which serves her official address and grade level." (Letter from Stubbs, 8/4/06).

Appellants appealed the denial of their request to the local board. The appeal reiterated Appellants' desire that R.J. continue her Russian studies, and set forth various other reasons for the transfer, such as R.J.'s wish to participate in school activities, to remain with her friends, and to go work out at Curves after school with her siblings. R.J. promised to improve her grades and attendance at school. (Transfer Recommendation).

As part of the appeal, Appellants included a note from a physician, Faheem Moghal, dated August 3, 2006, and a "Verification of Treatment" form dated August 21, 2006, both of which stated that R.J. is undergoing medical treatment for depression. The note from Dr. Moghal also stated that the depression recently affected R.J.'s behavior and school attendance. The "Verification of Treatment" form stated that "it would be most therapeutic" for R.J. to return to Roosevelt. The parents stated that R.J. suffers from migraines and possibly ADD. (Transfer Recommendation).

Ms. Stubbs recommended to the local board that the transfer request be denied. She stated the following bases for her decision: (1) R.J. has not made satisfactory progress academically for two years, and she has also been excessively absent and tardy during that time; (2) Roosevelt has requested that the program transfer be rescinded for two consecutive years; (3) Roosevelt is severely overcrowded, exceeding its State rated capacity with a 32% overage; and (4) Although R.J. will not be able to take Russian at Parkdale, she will be able to continue her higher level classes in Spanish, which she was taking at Roosevelt. (Transfer Recommendation).

On August 25, 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 Appellant's transfer request. (Letter to Appellants).

This appeal to the State Board followed. In the appeal, Appellants set forth a variety of reasons for R.J.'s tardiness and absenteeism, such as depression, staying up late, oversleeping and delayed bus service. They also provide reasons for R.J.'s poor grades. For example, they state that R.J. was confused by taking Russian and Spanish at the same time with back to back classes. They state further that R.J.'s guitar teacher lost her class work and refused to teach her how to play the guitar, resulting in a grade of E. In a letter to the State Board, R.J. states that she will improve on her tardiness, absenteeism, and grades if she is permitted to remain at Roosevelt.

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

Prince George's County Public Schools' Administrative Procedure 5110.3 contains three possible grounds for a student transfer in this case. They are as follows:

- Inability of the student to either continue or obtain a program of instruction at the student's present school and evidence is given to the effect that the student's desired program at another school would be to the student's educational advantage;

- The medical or psychological condition of the student; and

- Cases of extreme hardship where it is clearly evident to the Office of Student Transfers that the student will obtain an additional educational benefit by virtue of the transfer.

The student transfer policy is permissive and not mandatory, giving the school system discretion in balancing the interests of the students and the schools.

In this case, the school system granted Appellants' requests for program transfers for two consecutive years, specifically conditioned on R.J.'s satisfactory performance in the Russian Program. For both years, R.J.'s year end grade in Russian was a C. Also for both years, her QPA was less than a 2.0. In addition, she had excessive absences and

tardiness. R.J. failed to satisfy the conditions of her attendance at Roosevelt. For this reason, the transfer was denied by the Supervisor of the Office of Student Transfers, the Special Assistant for Appeals, and the local board. We believe that the local board's decision to deny the transfer on this basis was reasonable.

In their appeal to the local board, Appellants also requested a medical transfer to Roosevelt based on R.J.'s depression. As for the medical documentation submitted by Appellants to the local board, we believe that the information fails to provide a clinical explanation linking attendance at Roosevelt to R.J.'s mental health. While the documentation states that R.J. is suffering from depression and states that it would be more therapeutic for her to attend Roosevelt, the medical reasoning for such a conclusion is lacking.

Appellants assert in their appeal to the State Board that the medical transfer is necessary because exercise has a positive impact on depression and Roosevelt is close to the gym where R.J. would work out. Appellants have submitted a letter to the State Board from Dr. Moghal which states "When I said that returning to Eleanor Roosevelt would be most therapeutic what I meant was that [R.J.] needs to exercise regularly and Greenbelt Curves seems to be the best and safest place." He also states that R.J. had depression when she attended Roosevelt and that her depression has worsened since she has been attending Parkdale. He recommends exercise and psychotherapy as R.J.'s treatment. (Letter from Moghal, 11/2/06). Appellants have also submitted to the State Board a letter from Michelle Wines, CRNP, who has been involved in R.J.'s care through her pediatrician's office. Ms. Wines endorses the request to attend Roosevelt to accommodate R.J.'s exercise plan. (Letter from Wines, 11/2/06).

This medical documentation is new evidence which is not a part of the record before the local board. COMAR 13A.01.04.04 provides that, if the Appellant can show to the satisfaction of the State Board that the additional evidence is material and that there were good reasons for the failure to offer the evidence in the proceedings before the local board, the State Board may receive the additional evidence or remand the appeal to the local board for the limited purpose of receiving the additional evidence. Based on our review of the documentation, we do not believe that the evidence is material to the appeal because its fails to establish a medical necessity for R.J. to exercise at the specific location. Nor has the Appellant provided any reason why the medical documentation was not provided to the local board prior to its decision.

Although Appellants prefer to have R.J. attend Roosevelt, the Court of Appeals has ruled that there is no right to attend a particular school. *See Bernstein v. Board of Education of Prince George's County*, 245 Md. 464, 472 (1967); *cf. Dennis v. Board of*

Education of Montgomery County, 7 Op. MSBE 953 (1988)(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); *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

Therefore, based on the evidence presented, we find that the decision of the local board was not arbitrary, unreasonable or illegal. Accordingly, we affirm the denial of Appellants' request to transfer R.J. to Roosevelt.

Edward L. Root
Edward L. Root
President

Dunbar Brooks
Dunbar Brooks
Vice President

Lelia T. Allen
Lelia T. Allen

J. Henry Butta
J. Henry Butta

Beverly A. Cooper
Beverly A. Cooper

absent
Calvin D. Disney

Richard L. Goodall

Tonya Miles

Karabelle Pizzigati

absent
Maria C. Torres-Queral

David F. Tufaro

April 24, 2007