

LISA L.,

Appellant

v.

PRINCE GEORGE'S COUNTY BOARD OF
EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 08-17

OPINION

INTRODUCTION

In this appeal, Appellant challenges the decision of the Prince George's County Board of Education (local board) to deny her request to transfer her daughter to Eleanor Roosevelt High School. The Local Board filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal. Appellant has submitted a response.

FACTUAL BACKGROUND

On March 2, 2007, Appellant submitted a request to transfer her daughter, J.B., an entering ninth grade student, from DuVal High School (DuVal), her boundary school, to Eleanor Roosevelt High School (Roosevelt). Appellant requested the transfer because she and her son had experienced alleged harassment and retaliation at DuVal following a due process appeal,¹ and Appellant suspected that her daughter would also "face retaliation" if she were to attend DuVal.² Appellant also stated in the application that she wanted her son and daughter to attend the same school. (Motion, Exhibit 9).

By letter dated June 18, 2007, Shirley C. Robinson, Supervisor of the Office of Student Transfers, advised Appellant that her request to transfer J.B. to Roosevelt was denied because the

¹The special education due process hearing decision, issued on February 2, 2006, denied Appellant's request for a private placement for her son, but awarded compensatory services to him to address the lack of an instructional aid as was required by his IEP. (Motion, p.2).

²Some examples of the alleged harassment and retaliation are as follows: cancellation of the son's transportation services, threatening to have Appellant arrested for coming on school property at DuVal, and problems with the aide assigned to her son. (State Board Appeal Letter).

reasons advanced by Appellant did not meet the requirements for approval, and due to lack of space at Roosevelt. (Motion, Exhibit 8).

Appellant appealed further stating that the primary reason for the transfer request was so that her daughter could avoid the harassment and retaliation that she and her son experienced from the staff and administration at DuVal. Appellant included a list of incidents that she claimed constituted retaliation against them. She also stated that she would like her daughter to attend the same school as her son, who is a special needs student. (Motion, Exhibit 7). The Assistant Supervisor in the Office of Student Appeals reviewed the request. By letter dated July 25, 2007, Dorothy B. Stubbs, Special Assistant for Appeals, advised Appellant that the transfer request was denied. She stated that transfers may only be granted to schools that have space for additional students, and that Roosevelt has no space and is extremely overcrowded. (Motion, Exhibit 6).

Appellant appealed to the local board. In response to the appeal, Ms. Stubbs submitted a recommendation to the local board stating that Roosevelt is extremely overcrowded, with anticipated enrollment at 25.3% over its State-rated capacity; that Appellant's son was transferred to Roosevelt because DuVal had difficulty finding an aide for him and because of Appellant's complaints about the former principal there; and that there is no reason to expect that there will be retaliation against J.B. Ms. Stubbs recommended that the appeal be denied. (Motion, Exhibit 3). On August 13, 2007, the local board affirmed the decision of the Office of Student Appeals denying Appellant's request for a transfer. (Motion, Exhibit 2).

This appeal to the State Board 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.

LEGAL ANALYSIS

Prince George's County Public Schools' Administrative Procedure 5110.3 governs student transfers. The Administrative Procedure lists the circumstances which may warrant a transfer to an out-of-boundary school. The circumstances are as follows:

- 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, which is initiated by a school official;

- The 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 a student's desired program at another school would be to the student's educational advantage;
- The medical or psychological condition of the student;
- The bona fide change in residence of the student's parent or legal guardian;
- 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;
- Children of school-based employees who are eligible to attend Prince George's County Public Schools may be assigned to the school where the parent or guardian is stationed;
- For siblings of special education students to attend the same school in the regular education program;
- For siblings to attend the same school of a transferred elementary, middle, or high school regular education student; and
- Transfers permitted pursuant to the laws of the State of Maryland or the United States of America.

Administrative Procedure 5110.3(III.A). The student transfer policy is permissive and not mandatory, giving the school system discretion in balancing the interests of the students and the schools.

Here, Appellant sought a transfer for her daughter so that she would not be subject to the same type of harassment and retaliation that Appellant alleges she and her son were subjected to at DuVal. As Ms. Stubbs stated, however, there was no reason to expect any such incidents towards J.B. (Motion, Exhibit 4). The due process matter referenced by Appellant was concluded over a year ago. There is a new principal at DuVal. *Id.*

Appellant also sought a transfer so that her daughter would be at the same school as her

son. While there is a provision that would allow a student to attend the same school as their special education sibling (Procedure 5110.3 - Student Transfer - III.A.7), there is a limitation on that provision based on the space availability in the requested school. (Procedure No. 5110.4 - Special Education - Sibling Enrollment - IV.C). In this case, Roosevelt had anticipated enrollment at 25.3% over its State-rated capacity. Given the record, we believe that the local board had a reasonable basis for denying the transfer request.

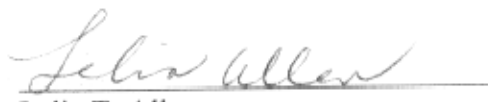
The State Board has long held that there is no right to attend a particular school or a particular class. See *Bernstein v. Board of Education of Prince George's County*, 245 Md. 464 (1967); *Chacon v. Montgomery County Board of Education*, Opinions of MSBE, No. 01-39 (December 5, 2001); *Williams v. Board of Education of Montgomery County* 5 Opinions of MSBE 507 (1990); *Goldberg v. Montgomery County Board of Education*, Opinions of MSBE, No. 05-35 (October 26, 2005). Because none of the exemptions in Administrative Procedure 5110.3 apply, we find that the local board's decision is not arbitrary, unreasonable or illegal.

CONCLUSION


For all these reasons, we affirm the decision of the Local Board denying Appellant's request to have her daughter attend Eleanor Roosevelt High School.


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March 26, 2008