

DALE AND DIANE GROTE,

Appellant

v.

CARROLL COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 04-07

OPINION

This is an appeal of the denial of Appellants' request to allow their daughter to attend Winters Mill High School, rather than North Carroll High. The local board has submitted a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable, or illegal. Appellants have submitted a reply opposing the local board's motion.

FACTUAL BACKGROUND

Appellants' daughter Selina has attended William Winchester Elementary and East Middle School as an out-of-district student. For high school, Selina was assigned to her in-district school, North Carroll High School.

Appellants requested that Selina be permitted to attend Winters Mill High School as an out-of-district student rather than North Carroll, stating that having to attend North Carroll "would be a major transition impacting every aspect of [Selina's] life." The reasons for the transfer request were fully explained in the decision of the local board as follows:

Selina attended William Winchester Elementary School and East Middle School as an out-of-district student. Her sisters attended school as out-of-district students. The family lives at 2323 Albert Rill Road, Hampstead, Maryland, in the designated attendance area for North Carroll High School. However, the family business, Rill's Bus Services, operates from 218 Dutrow Road, Westminster, Maryland, which is where Selina's grandparents reside. Selina has periodically lived with her grandparents on Dutrow Road, in the designated attendance area for Winters Mill. Selina's parents work in the family business, must arrive at work early, and work unpredictable work hours. Selina, too, works at the family business at Dutrow Road. The Grotes own a townhouse at 154 South Court Street, Westminster, Maryland, where Selina's sister resides with her children, and which is also the designated attendance area for Winters Mill. Periodically, Selina baby-sits at South Court Street. In addition to work, the Grotes' social and

church life revolves around and in Westminster. Selina has been active in the Charles Carroll Recreation Council softball program.

Local Board Decision at 2. Winters Mill is a “closed school” due to overcrowding at that school.¹ Appellants’ request was denied by the pupil personnel worker because it did not meet the requirements for an out-of-district transfer to a closed school.

Appellants appealed the denial to the Director of Student Services, acting as the superintendent’s designee, who also denied their request stating:

Although your desire for Selina to attend Winters Mill High School is certainly understandable, such a request does not meet the criteria for an out-of-district placement in a “closed” school. Once a school population has grown to the point that it becomes “closed”, it becomes necessary to place limits on students who do not reside in the attendance district. Your request does not fall within the stated reasons for approval of a student to attend a “closed” school nor does it rise to the level of a “documented hardship” as outlined in our regulations. Therefore, I am affirming the decision made by Mrs. Green denying your request for Selina’s placement at Winters Mill High School. Mrs. Green’s decision to deny your out-of-district request is consistent with Carroll County Board of Education Policy JEA and the regulation “Students Attending Schools Outside of Attendance Areas.” Mrs. Green’s decision was not arbitrary, unreasonable, or illegal. *See 5/5/03 letter from Cynthia A. Little.*

Appellants further appealed the denial of their transfer request to the local board. In a unanimous decision, the local board upheld the decision of the superintendent’s designee denying the transfer request.

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 the decision is shown to be arbitrary, unreasonable, or illegal. *See, e.g., Breads v. Board of Education 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 Education of Montgomery County*, 6 MSBE 351, 356 (1992). Socio-economic level, building utilization, enrollment levels, and the educational

¹A Carroll County school is designated as closed when its projected enrollment is at or above 90% of its functional capacity for each grade level. Administrative regulation JEA at IV.A.

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 her home school to some other school of choice. *Slater v. Board of Education of Montgomery County*, 6 Op. MSBE 365, 371-72 (1992).

In response to the tremendous increase in student enrollment in Carroll County Public Schools, Carroll County Board of Education Policy JEA - “Students Attending Schools Out-of-Attendance Areas” was revised in an effort to tighten the out-of-district policy and reduce the number of out-of-district placements in the county.² The administrative regulations implementing Policy JEA were also revised to ensure consistent and efficient application of the modified policy. Policy JEA permits students to attend schools outside of their respective attendance area under certain circumstances upon the approval of the superintendent or his designee. The regulations specify that out-of-district student transfer applications will be denied unless one of the following conditions is met:

- A. An in-coming Kindergarten student may pre-enroll in the requested out-of-district school. Once the out-of-district application has been approved, the enrollment process can be completed at the out-of-district school. (This is for the Kindergarten year only. As a First Grader, the student will be considered a new out-of-district applicant.)
- B. Student is a member of an in-county family with specific proof of plans to move into the requested school district within 90 days (must provide contract at time of application).
- C. Student is a senior who wishes to complete the high school program where the student attended and successfully completed the eleventh grade
- D. Student’s parent/guardian is a contracted staff member at the requested school.

The regulations also contain an exception for “rare and unusual circumstances when a documented hardship is deemed to exist by Pupil Services staff.” The regulations state at IV.H:

Problems that are common to large numbers of families do not constitute a hardship, absent additional compelling factors.

²Over the past twenty years, Carroll County’s population has increased tremendously. In 1980, the population of Carroll County was 97,924, and the student population of the Carroll County Public Schools was 20,069. Since that time, the population of Carroll County has grown to over 158,760, and the student population has climbed to over 28,000.

Exceptions will not be made for redistricting, family convenience, participation in extra curricular activities, provisions of daycare/supervision not otherwise covered by this regulation, separation/divorce, or the student's desire to remain with the same peer group at the same school.

Based on Policy JEA and its regulations, the only exception that could be applicable in this case is the one for "rare and unusual circumstances when a documented hardship is deemed to exist."

We find that the local board's decision is consistent with local policy and the administrative regulations. Under the policy and regulations there is no provision allowing a transfer to a closed school for the reasons articulated by the Appellants. In fact, the regulations specifically exclude problems that are considered common to large numbers of families. As already noted by the local board in its decision, "[r]easons relating to employment and involvement in the community of the closed school are common to many families." Local Board Decision at 5. Additionally, the local board's decision is consistent with prior similar cases. *See Hard v. Carroll County Board of Education*, MSBE Opinion No. 02-57 (December 4, 2002). (Parents' request for exception to school redistricting denied.) Although Appellants maintain that making an exception in this case would not be detrimental to the local board's policy because North Carroll High is also an overcrowded school, it is within the local board's discretion to determine that the circumstances here fail to demonstrate a rare and unusual circumstance.

As the Court of Appeals has long held, there is no right to attend a particular school. *Bernstein v. Board of Education of Prince George's County*, 245 Md. 464, 472 (1967); cf. *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). Based on the evidence presented, we do not believe that the local board's decision was arbitrary, unreasonable, or illegal.

CONCLUSION

For all of these reasons, we affirm the decision of the Carroll County Board of Education denying the transfer request.

Edward L. Root
President

JoAnn T. Bell
Vice President

Philip S. Benzil

Dunbar Brooks

Calvin D. Disney

Clarence A. Hawkins

Walter S. Levin, Esquire

Karabelle Pizzigati

Maria C. Torres-Queral

John L. Wisthoff

February 25, 2004