

JENNIFER O.,

Appellant

v.

ANNE ARUNDEL COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 10-45

OPINION

INTRODUCTION

The Appellant is appealing the decision of the Anne Arundel County Board of Education (“local board”) denying an out-of-area transfer request for her children to attend a different elementary school than the one that serves the family’s residence. The local board filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal and should be upheld. The Appellant opposed the local board’s Motion and the local board filed a response.

FACTUAL BACKGROUND

On April 26, 2010, the Appellant applied for an out-of-area transfer to have her twin children attend kindergarten at Four Seasons Elementary School (“Four Seasons”) at the start of the 2010-2011 school year, rather than their assigned school Brock Bridge Elementary School (“Brock Bridge”). Appellant requested the transfer claiming that the start time for Brock Bridge was too late given the constraints of her work schedule and her husband’s nursing school schedule,¹ and that the before and after school care available at Brock Bridge was too expensive. (Transfer request, 4/26/10). She stated that if the children attended Four Seasons she would have no child care costs due to the school’s start and end times.² (*Id.*). Sharon Ferralli, Principal of Four Seasons, denied the Appellant’s request. (Ferralli Letter, 5/14/10).

Appellant appealed Ms. Ferralli’s decision to the local Superintendent. Dr. Leon Washington, the Superintendent’s designee, denied the appeal because it was based on “an inappropriate reason.” (Washington Letter, 5/26/10).

Appellant appealed Dr. Washington’s denial to the local board. (Letter of Appeal, 6/9/10). The local board conducted an appeal hearing on June 14, 2010. On June 29, 2010, the

¹Brock Bridge starts at 9:20 a.m. and ends at 3:45 p.m. (T.5 – 6).

²Four Seasons starts at 8:55 a.m. and ends at 3:20 p.m. (T.5 – 6)

local board issued its decision affirming Dr. Washington's denial of the transfer request. The local board noted that transfers are not granted based on the convenience of school start times, that child care was available at Brock Bridge, and that the Appellant had not provided evidence of any special circumstances that would necessitate a transfer as required by Administrative Regulation JAB-RA. (Local Board Decision).

This appeal ensued.

STANDARD OF REVIEW

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

LEGAL ANALYSIS

Local board policy and regulation permit out-of-area transfers for various reasons – professional recommendations, moving in or out of a school district, continuation of a transfer in the feeder system from elementary to middle school or middle to high school, for children of full-time school based employees to attend the school where the parent works, for student adjustment issues, and daycare. (Policy JAB; Regulation JAB-RA). Although daycare is a recognized basis for granting a student transfer, transfers granted on that basis are given only for the student to attend the home school serving the address of a specific daycare facility. (Regulation JAB-RA (C)(9)(a)(1)). The policy and regulation also allow the local Superintendent or his designee to grant “Special Placements” to “individual students whose particular circumstances or needs warrant it.” (Policy JAB(C)(1)(c); Regulation JAB-RA(C)(6)).

One reason Appellant gave for the transfer request was that the start and end times for Brock Bridge were not convenient for her and her husband's schedules. Under local board policy, inconvenient scheduling is not a reason for granting a transfer. Next Appellant explained that she wanted to eliminate the cost of before and after school care at Brock Bridge. While we are sympathetic to the Appellant's situation and understand her desire to make the circumstances more convenient and affordable for her family, as the local board pointed out, child care is available at Brock Bridge. The Appellant was not seeking to enroll her children at a daycare facility served by Four Seasons as required by the school system's transfer policy, she was simply seeking to eliminate the cost of child care at Brock Bridge by requesting a transfer to a school that met the needs of her schedule. Because the local board followed its stated policy, we do not find the local board's decision to be arbitrary, unreasonable or illegal.

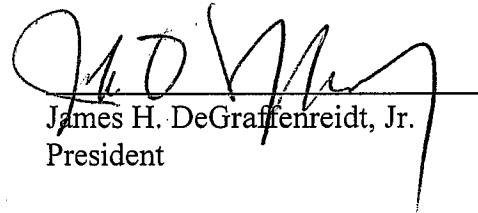
The courts and this Board have long held that there is no right to attend a particular school. See *Bernstein v. Board of Educ. of Prince George's County*, 245 Md. 464, 472 (1967); *Goldberg v. Montgomery County Bd. of Educ.*, MSBE Op. No. 05-35 (2005); *Chacon v. Montgomery County Bd. of Educ.*, MSBE Op. No. 01-39 (2001); *Williams v. Board of Educ. of*

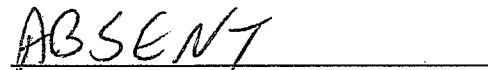
Montgomery County, 5 Ops. MSBE 507 (1990).

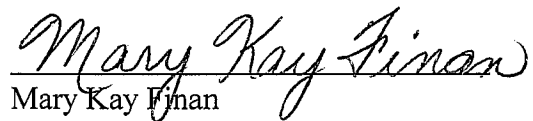
In her appeal to the State Board, the Appellant claims that the family's circumstances have changed since the time the local board issued its decision. She explains that her husband has taken on a new job that sometimes requires after school care beyond the time provided at the child care center at Brock Bridge. (Letter of Appeal to State Board). She has submitted documentation concerning after school care at a daycare facility in the Four Seasons area which can provide care up until 6:30 p.m. and is more affordable than the Brock Bridge option. The State Board has consistently declined to review issues that have not been reviewed initially by the local board. See *Craven v. Board of Educ. of Montgomery County*, 7 Op. MSBE 870 (1997); *Hart v. Board of Educ. of St. Mary's County*, 7 Op. MSBE 740 (1997). Because this is new information that was not before the local board at the time it rendered its decision on Appellant's transfer request, the State Board will not consider it. Rather, the Appellant must raise this information with the local board directly.

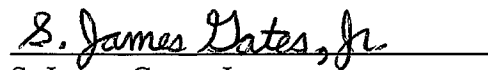
CONCLUSION

For these reasons, we recommend that the decision of the local board be affirmed.



James H. DeGraffenreidt, Jr.
President

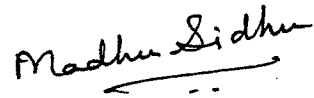

Charlene M. Dukes
Vice President

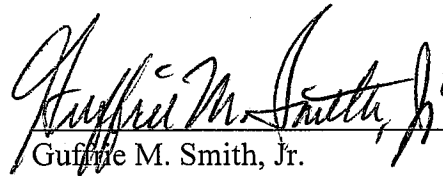

Mary Kay Finan



S. James Gates, Jr.

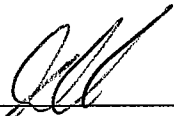
ABSENT
Luisa Montero-Diaz



Sayed M. Naved


Madhu Sidhu


Guffie M. Smith, Jr.


Donna Hill Staton


Ivan C.A. Walks


Kate Walsh

October 26, 2010