

DESBELE S.

Appellant

v.

MONTGOMERY COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 11-55

OPINION

INTRODUCTION

Appellant challenges the decision of the Montgomery County Board of Education (local board) denying his request to transfer his son to Wheaton Woods Elementary School from Sargent Shriver Elementary School. The local board filed a response to the appeal maintaining that its decision is not arbitrary, unreasonable or illegal.

FACTUAL BACKGROUND

Appellant's son, T.S., attended Wheaton Woods Elementary School (Wheaton Woods) for Head Start. When the family moved across the street to a bigger apartment, the school system informed Appellant that the change in residence changed the school attendance area, and thus changed the school T.S. would be assigned to for kindergarten.

On March 30, 2011, Appellant submitted a request for change of school assignment requesting that T.S. be transferred from his assigned school, Sargent Shriver Elementary School (Shriver), back to Wheaton Woods. The Appellant explained that he (Appellant) has a disability which requires many doctor appointments. He stated that Wheaton Woods, which is across the street from his apartment, is a more convenient school for pick up, and for his family members who help out when he and his wife are unavailable. The Disciplinary Review and School Assignment Unit Supervisor denied the request because the circumstances did not qualify under the hardship criterion. (Response, Attach. 1).

Appellant appealed the denial to Larry A. Bowers, Chief Operating Officer and Superintendent's Designee. (Response, Attach. 2). Mr. Bowers assigned the matter to Hearing Officer, Janice N. Faden. Hearing Officer Faden investigated the case. She spoke with Appellant, who informed her that his back problems require doctor or physical therapist appointments three or four times a week thus requiring him to rely on the parents of T.S.'s

friends for support and child care. Appellant noted, however, that these appointments could be scheduled during the school day given that neither he nor his wife are employed. Hearing Officer Faden concluded that the request was based on convenience rather than an existing hardship. She recommended that the denial be upheld. Mr. Bowers adopted Ms. Faden's recommendation and denied the requested transfer. (Response, Attach. 3).

Appellant appealed the denial to the local board reiterating his previous concerns. (Response, Attach. 4). The local Superintendent responded to the appeal in a June 7, 2011 memorandum to the local board. He noted that there were no barriers preventing Appellant from scheduling his medical appointments during the school day so that child care arrangements would be unnecessary. He further noted that, in event of an emergency, Appellant would have to make back-up child care arrangements. He then recommended that the denial of the transfer be upheld for lack of unique hardship. (Response, Attach. 5).

On June 27, 2011, the local board affirmed the denial of the transfer request. (Response, Attach. 6).

This appeal followed.

STANDARD OF REVIEW

The standard of review in a student transfer case 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 Bell v. Montgomery County Bd. of Educ.*, MSBE Op. No. 05-02 (2002); *Breads v. Bd. of Educ. of Montgomery County*, 7 Op. MSBE 507 (1997); *Mr. & Mrs. David G. v. Montgomery Co. Bd. of Educ.*, MSBE Op. No.10-14 (2010).

LEGAL ANALYSIS

It is well settled that there is no right to attend a particular school. *Bernstein v. Bd. of Educ. of Prince George's County*, 245 MD 464, 472 (1967); *Mr. & Mrs. David G. v. Montgomery Co. Bd. of Educ.*, MSBE Op. No. 10-14 (2010). Montgomery County's transfer policy provides that transfer requests will be granted if a student demonstrates a documented, unique hardship. Documented hardships do not include problems that are common to large numbers of families absent additional compelling factors.

Appellant requests a transfer based on his need to arrange for child care during his medical appointments which occur several times per week. As the local board noted, however, the Appellant can schedule his appointments during the school day thus eliminating the child care problem. Moreover, the State Board has held on numerous occasions that child care issues do not constitute a hardship under the school system's transfer policy. *See Mr. and Mrs. David G. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 10-14 (2010); *A.T. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 07-0 (2007), and cases cited therein. There is simply no unique hardship that would justify a transfer in this case.

CONCLUSION

For the reasons stated above, we affirm the decision of the Montgomery County Board of Education denying the Appellant's request to transfer his son to Wheaton Woods Elementary School.



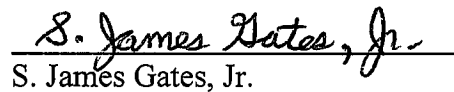
James H. DeGraffenreidt, Jr.
President



Charlene M. Dukes
Vice President



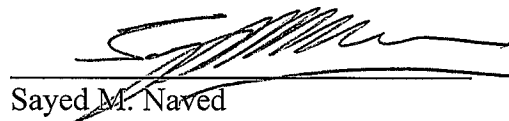
Mary Kay Finnan



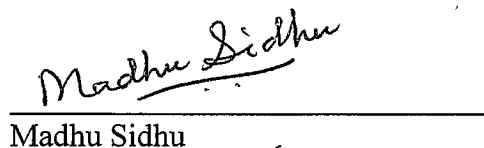
S. James Gates, Jr.



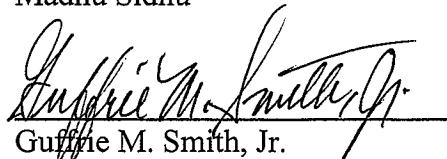
Luisa Montero-Diaz



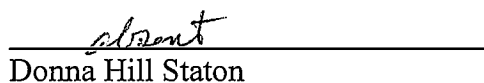
Sayed M. Naved



Madhu Sidhu



Guffie M. Smith, Jr.



Donna Hill Staton

absent

Ivan C.A. Walks

Kate Walsh

Kate Walsh

December 6, 2011