

TOMAS Y. AND SULMA C.

Appellant

v.

MONTGOMERY COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 13-07

OPINION

INTRODUCTION

Appellants appeal the decision of the Montgomery County Board of Education (Local Board) denying their request to transfer their son, D.P., to Parkland Magnet Middle School (Parkland) from Argyle Magnet Middle School (Argyle). The Local Board filed a Motion for Summary Affirmance maintaining that the decision is not arbitrary, unreasonable or illegal.

FACTUAL BACKGROUND

The Appellants live in an area of Montgomery County where students are assigned to one of three area middle schools, collectively referred to as the Middle School Magnet Consortium (Consortium). The three schools that comprise the Consortium are Argyle, Parkland and A. Mario Loiederman (Loidermann). Each school has a unique magnet curriculum. Loidermann offers a creative and performing arts focus, Parkland features aerospace technology and robotic engineering, and Argyle focuses on information technology.

Fifth graders who reside within the geographic boundaries of the Consortium may choose their middle school by submitting a form that ranks their school preferences. The choice process consists of two rounds. First, students submit choice forms in early fall. They are notified of school assignments in February. Students who do not receive their first choice may participate in a second round assignment process. They are notified of the results in March. If a school is oversubscribed, available seats are decided by lottery.

Appellants submitted a form for D.P. on November 27, 2011. His preferences were as follows: 1) Parkland; 2) Argyle; 3) Loidermann.

On February 3, 2012, Appellants were notified that D.P. was assigned to Argyle for the 2012-2013 school year. They decided to participate in the second round process and indicated again that D.P.'s first choice was Parkland.

On March 20, the Appellants were notified that D.P. remained assigned to Argyle for the 2012-2013 school year. The Appellants were also notified that parents who believe they have a unique, verifiable hardship may file an appeal with the Director of the Division of Consortia Choice and Application Program Services (DCCAPS).

The Appellants filed an appeal with the director of DCCAPS on March 26, 2012. Specifically, they indicated that D.P. wanted to attend Parkland because he wanted to study aerospace technology and robotics.

On May 1, 2012, the Appellants were notified that their appeal was denied. The director also indicated that if they chose to appeal further, they should direct their appeal to the Office of the Chief Operating Officer (COO) of the Local Board.

The Appellants appealed to the COO on May 10, 2012. They stated that Parkland was a better choice for D.P. than Argyle because it offered a program in robotics and was their neighborhood school. The Appellants also emphasized that it was safer for D.P. to attend to a school within walking distance from home.

The COO denied this request, stating that the Appellants' situation did not constitute a unique hardship and that D.P. would remain assigned to Argyle. The Appellants were also informed that they may participate in the choice process in 2013 if they remained dissatisfied with D.P.'s assignment. The COO emphasized that when a school has more students than available seats, its selection process would be determined by lottery. On May 17, 2012, the office of the COO informed Appellants that any further appeal should be sent to the Local Board.

The Local Board received the Appellants' appeal on June 12, 2012. The Superintendent responded to the appeal on June 25, 2012 and recommended that the appeal be denied. Specifically, the Superintendent stated that "a change of school choice is not granted based on a desire to access a particular program." The Local Board agreed with the Superintendent and concluded that D.P.'s desire to attend Parkland did not constitute unique hardship.

The Appellants filed an appeal with the State Board by a letter dated August 15, 2012. They stated that it was unreasonable for D.P. to attend a school other than his preferred choice and that his education would suffer as a result.

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. The local board's decision is considered *prima facie* correct unless the decision is shown to be arbitrary, unreasonable or illegal. COMAR 13A.01.05.05A.

ANALYSIS

The Appellants argue that having D.P. attend Argyle rather than Parkland would be detrimental to his education. They state that D.P. should attend Parkland because it is close to home and because many of his classmates were assigned there. They further argue that D.P.'s interest in robotics and technology will suffer at Argyle. In particular, the Appellants state that D.P.'s interest in school might wane and that D.P. may not be successful studying something other than robotics. The Appellants argue that it is therefore unreasonable for D.P. to attend a school other than Parkland.

It is well settled that there is no right to attend a particular school. *Mr. And Mrs. David G. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 10-14 (2010). The Local Board permits a student to participate in a choice process for his or her preferred school. If a student is not assigned to his or her preferred school, the Local Board permits a student to participate in a second round process. That process is considered a request for transfer. The Local Board permits a student to transfer from the student's assigned school to another based on the existence of a unique hardship.

The Local Board defines a unique hardship as circumstances unique to the family's individual and personal situation. Problems common to large numbers of families, such as issues involving course preferences, do not constitute unique hardship absent compelling factors.

The Appellants argue that because D.P. wants to study robotics, Argyle is a poor choice because Argyle specializes in information technology. Argyle does, however, offer a course that covers robotics and has a team that participates in robotics competition. D.P.'s interests can therefore be met at Argyle. Studying robotics at a school other than Parkland does not constitute unique hardship. The Local Board does not consider issues involving program or course preferences as unique hardship because they are common to large numbers of families.

D.P.'s desire to attend school with his classmates is a situation common to many students. A desire to attend school with classmates does not constitute unique hardship

The fact that Argyle is not D.P.'s neighborhood school does not constitute a unique hardship. Many students are assigned to schools outside of their home neighborhood. Furthermore, the Consortium covers a broad geographic area made up of several communities. Attending a school outside one's immediate neighborhood but within the Consortium territory is not at all uncommon.

CONCLUSION

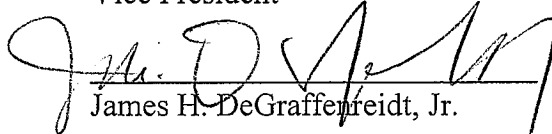
For these reasons, we affirm the Local Board's decision to deny the transfer.



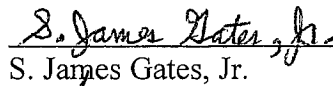
Charlene M. Dukes
President

Absent

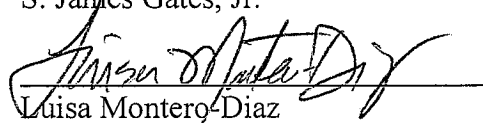
Mary Kay Finan
Vice President



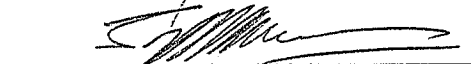
James H. DeGraffenreidt, Jr.



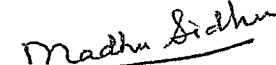
S. James Gates, Jr.
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Luisa Montero-Diaz




Sayed M. Naved




Madhu Sidhu
Madhu Sidhu



Donna Hill Staton
Donna Hill Staton



Ivan C.A. Walks



Guffie M. Smith, Jr.

Kate Walsh*

January 22, 2013

* Ms. Walsh's term expired on June 30, 2012. She served as a Board Member until her successor was appointed on January 4, 2013.