

JOHN AND CAROLANN M.,

Appellant

v.

CHARLES COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 14-48

OPINION

INTRODUCTION

Appellants have appealed the decision of the Charles County Board of Education (local board) denying their request to have their son transferred to Theodore Davis Middle School (Davis) after he was rezoned to Matthew Henson Middle School (Matthew Henson) based on a redistricting. The local board has filed a Motion for Summary Affirmance maintaining that its decision was not arbitrary, unreasonable, or illegal. The Appellants did not respond to the local board's Motion.

FACTUAL BACKGROUND

The Appellants' son, J.M., attended William A. Diggs Elementary School for 5th grade. For the 2014-2015 school year, J.M. was assigned to attend the 6th grade at Matthew Henson Middle School based on changes made during a redistricting in Charles County. Prior to the redistricting, J.M. would have attended Theodore Davis Middle School.

On April 9, 2014, the Appellants submitted a transfer request to the Office of Student Services asking that J.M. be transferred from Matthew Henson to Davis. Appellants argued that they had moved to their current address specifically so that J.M. could eventually attend Davis. Appellants also argued that Matthew Henson is generally an unsafe environment and that the building has graffiti on it. (*See* BOE Ex. 4). By letter dated May 12, 2014, the Director of Student Services, Patricia Vaira, denied the request because it did not meet the transfer guidelines. (Motion, Ex.5).

Appellants appealed Ms. Vaira's denial. In their appeal, the Appellants argued that their son should be allowed to attend Davis because they live so close to the school and the neighborhood across the street is zoned for Davis. (Motion, Ex.6). They also reiterated their safety concerns. *Id.* By letter dated May 20, 2014, Sylvia Lawson, Assistant Superintendent of School Administration, advised that she was affirming Ms. Vaira's decision because the transfer request did not meet the guidelines established by the transfer policy. (Motion, Ex.7).

The Appellants appealed the decision to the local board. In their appeal, the Appellants made the same arguments. They also added that they believed their son would be "pegged and

treated poorly” at Matthew Henson because the school received copies of the transfer request and school personnel would know that Appellants do not want their son at the school. (Motion, Ex.8). In a decision issued June 10, 2014, the local board upheld the decision of the Assistant Superintendent denying Appellants’ transfer request because the Appellants had not set forth any basis for granting the transfer under the policy. (Motion, Ex.1).

This appeal to the State Board followed.

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 13.A.01.05.05A.

LEGAL ANALYSIS

In Charles County Public Schools (CCPS), students are required to attend the school to which they are assigned unless they are granted a transfer. Policy 5126. The relevant portion of the transfer policy applicable to this case provides that, if the receiving school has adequate space to accommodate additional students outside of their residence zone, a transfer may be granted to a student who has demonstrated an “unusual hardship.” Superintendent’s Rule 5126. Unusual hardship cases are determined on a case-by-case basis and transfers are not granted for issues that are common to large numbers of families, such as the need for a particular schedule, sibling enrollment, redistricting, or typical day care issues. *Id.*

Appellants requested the transfer because they want their son to attend Davis, which is the school he was slated to attend prior to the redistricting. They state that they intentionally purchased their home in the geographic area in which it is located for this purpose and that the redistricting should not have occurred. This is not a basis for transfer under the policy, which specifically states that redistrictings are not considered an unusual hardship. Superintendent’s Rule 5126.

Appellants also argue that the transfer should be granted because their home is closer to Davis than it is to Matthew Henson. The State Board has held that proximity to a school is not a sufficient reason to justify a transfer based on hardship. *See Tom & Judy M. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 09-37 (2009); *Brande v. Montgomery County Bd. of Educ.*, MSBE Op. No. 05-05 (2005); *Wuu & Liu v. Montgomery County Bd. of Educ.*, MSBE Op. No. 04-40 (2004).

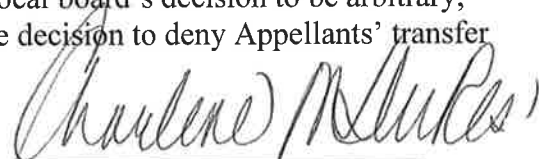
In addition, Appellants maintain that the transfer should be granted because Matthew Henson has an unsafe school environment based on a lack of cleanliness, “shady characters and activities,” graffiti on the building, and “curtains half hanging in the windows.” These allegations about an unsafe school environment do not provide justification for transfer under the policy. *See, e.g. Tom & Judy M. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 09-37 (2009) (“Although Appellants have cited a safety concern as one of the bases for the transfer

request, they have presented no evidence that Northwest cannot provide their [child] with a safe school environment.”); *A.F. v. Prince George’s County Bd. of Educ.*, MSBE Op. No. 07-12(2007) (“We do not believe that Appellant’s safety concern satisfies the hardship exception or any other bases for a transfer under the local board’s policy.”).

Finally, Appellants state that they want their son to attend Davis because they believe that their son will get a better education there. The State Board has already recognized that the desire to attend a school perceived as being academically better than the assigned school does not rise to the level of a unique hardship. *Joe and Donna M. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 11-54 (2011).


CONCLUSION

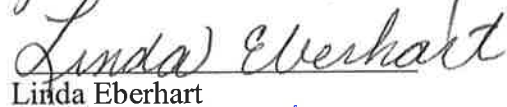
For all of these reasons, we do not find the local board’s decision to be arbitrary, unreasonable, or illegal. Accordingly, we affirm the decision to deny Appellants’ transfer request.



Charlene M. Dukes
President
Absent


Mary Kay Finan
Vice President



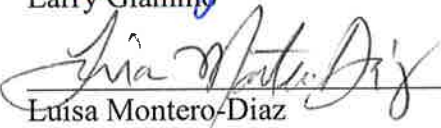
James H. DeGraffenreidt, Jr.


Linda Eberhart
Absent


S. James Gates, Jr.



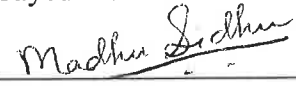
Larry Giammo



Luisa Montero-Diaz



Sayed M. Naved



Madhu Sidhu

Donna Hill Staton

Donna Hill Staton

Guffie M. Smith, Jr.

Guffie M. Smith, Jr.

August 26, 2014