

ALEXANDER LONGOBARDO,

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 99-3

OPINION

In this appeal, a mother of a student in the Northeast Consortium in Montgomery County contests the denial of her request to have her son reassigned from James Hubert Blake High School¹ to Springbrook High School. Appellant cites her desire to have Alexander participate in the JROTC program at Springbrook, as well as concerns regarding transportation. The local board has filed a Motion for Summary Affirmance maintaining that Appellant's claimed hardship is insufficient to override the school system's need to assure an adequate grade ten enrollment at the newly opened Blake High School. Appellant submitted a reply reiterating her position.

BACKGROUND

Blake High School was opened for the 1998-99 school year to relieve overcrowding at nearby area schools in communities designated as part of the Northeast Consortium. The Consortium consists of those areas formerly served by Springbrook and Paint Branch High Schools, and some areas formerly served by Sherwood. Students in the Northeast Consortium were assigned to schools by means of a "preferred choice" system which guaranteed admission to the school associated with the geographic area forming the base population for that particular facility while also providing choice among the three high schools.

The parameters for selecting students based on their preferred choice were adopted by the local board on November 25, 1996. At that time, the local board directed that the three high schools involved "operate within the 80 to 100 percent utilization range and with race/ethnic compositions that fall within the range currently existing in the three high schools, and with male or female composition of each of the three high schools falling in the 45 to 55 percent range." Memo dated October 27, 1997 from Vance to local board members.

¹Northeast High School was renamed James Hubert Blake High School.

Parents and students were asked to choose from among the three schools of attendance for the 1998-99 school year and to rank their choices in order of preference. Students who selected their base area high school as their first choice were guaranteed that assignment. Students who made no selection were automatically assigned to their base area high school. (Memorandum from Vance to Local Board dated July 28, 1997).

The first round of student assignments was completed by the end of January, 1998. By memorandum on that same date, the superintendent reported the following to the local board members:

As anticipated, the percent of Grade 10 students who received their first choice was lower than that for ninth grade students because a significant number of tenth graders included in the base area for James Hubert Blake High School had chosen to remain, not surprisingly, at their current high school. This would have resulted in a Grade 10 enrollment that was too small to offer an instructionally viable program at the new James Hubert Blake High School.

The superintendent further indicated that there would be a second round computerized student assignment process by the end of May for those students who did not receive their first choice assignment in round one.

While in the ninth grade at Springbrook High School, Alexander Longobardo selected Blake as his first choice school for the 1998-99 school year, and he was assigned to Blake which is the school of his base area assignment.² By letters dated May 15, 1998, Appellant and her son subsequently requested that Alexander be permitted to remain at Springbrook for the 1998-99 school year, rather than attend the assigned Blake High School.³ Alexander's request indicated that he had selected Blake as his first choice because he mistakenly thought it offered the JROTC program. (Letter requesting reassignment). Alexander was participating in the JROTC at Springbrook and had selected the program on his class registration card for the following year. The deputy superintendent denied the request stating:

²Blake High School is Alexander's home school because he resides within a geographic area of the consortium forming the school's population base.

³Alexander participated in the second round assignment. Although Appellant indicates that she found the second round preference form in Alexander's book-bag in early April, after the March 30 deadline, she and her son submitted letters in May 1998, requesting Alexander's reassignment to Springbrook. The local board indicates that these letters of request were considered as part of the second round selection process.

Even though you indicate that Alexander received his first choice of James Hubert Blake High School, your appeal states that he made his choice in the mistaken belief that he could participate in the Naval JROTC program. Alexander now wants to remain at Springbrook High School where he participated in the JROTC program in ninth grade.

Based on all of the information provided to me, including your reasons for appealing the assignment, I do not find extenuating circumstances that warrant overriding the assignment process in order to grant your new first choice. I am denying your appeal; Alexander remains assigned to James Hubert Blake High School. I believe the assignment process has been a fair one. The individual choices have been granted whenever possible, consistent with assignment criteria.

Appellant appealed the denial to the local board, reiterating her reasons for wanting Alexander to remain at Springbrook High School. In a memorandum to the local board dated July 24, 1998, the superintendent responded:

In the investigation of the appeal to the superintendent, Mr. Raymond DeBalso, hearing officer for appeals to Northeast Consortium assignment decisions, reviewed the appeal letter and consulted with Dr. Sullivan in the Northeast Consortium office. Mr. DeBalso was never able to reach Ms. Longobardo by telephone. His investigation indicated that Alexander had selected James Hubert Blake High School as his preference and received his first choice. However, Ms. Longobardo's appeal is based on Alexander's interest in continuing in the Naval JROTC program in which he participated as a 9th grader at Springbrook High School. She also noted the greater distance from her home to James Hubert Blake High School and the difficulties she may encounter in transporting her son whenever that becomes necessary.

In her appeal to the Board of Education, Ms. Longobardo shared information about the change in Alexander's life circumstances because his father left the family. She also speaks of the ROTC program and distance issues mentioned earlier.

I concur with Mrs. Gemberling's decision that the reasons stated by Ms. Longobardo in her appeal do not constitute a compelling hardship to outweigh the need to maintain the enrollment in Grade 10 for a viable academic program at James Hubert Blake High School. . . .

The local board was unable to either affirm or reverse the decision of the deputy superintendent by a majority vote of its full membership. However, the local board did determine that Alexander should be allowed to register in the Naval JROTC program at Springbrook while enrolled at Blake.⁴ Four board members voted to affirm the decision of the deputy superintendent for the reasons stated in the superintendent's memorandum dated July 24, 1998, and Mrs. Gemberling's letter dated June 12, 1998. Three board members voted to reverse. This appeal followed.

In her reply to the local board's Motion for Summary Affirmance, Appellant acknowledges that the school year is partially completed. She indicates that Alexander has made new friends and seems to be adjusting to Blake, despite his desire to participate in the JROTC program. While she has not withdrawn her appeal, Appellant is uncertain whether her son would choose to go to Springbrook at this point in the school year should the transfer request be granted.

ANALYSIS

In numerous opinions, 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). "Race, socio-economic level, building utilization, enrollment levels, and the educational 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). The standard of review that the State Board applies in reviewing student transfer decisions is that the State Board will not substitute its judgment for that of the local board unless the local board decision is shown to be arbitrary, unreasonable or illegal. *Michael & Barbara Breads v. Board of Education of Montgomery County*, MSBE Opinion No. 97-1 (January 29, 1997).

Alexander's placement at Blake High School is entirely consistent with the procedures concerning the consortium student assignment process. The procedure provides that students whose first choice is their base school are guaranteed that selection. *See* memo dated July 28, 1998 from Vance regarding consortium student assignment process. Here, by his own admission, Alexander selected Blake as his first choice high school. *See* Letter from A. Longobardo to Local Superintendent dated May 15, 1998. Even if his mother did not sign a preference form, as she claims, the effect would be as though no preference form were submitted, and Alexander would have been assigned to his base school at Blake anyway. It appears that the student, in ninth grade at the time, did not keep his parent informed.

⁴Alexander did not partake in the JROTC program because he did not want to miss classes at Blake during the school day and his mother had no means by which to transport him to Springbrook during the school day.

When Alexander requested the change in assignment, the request was denied based on the need to ensure a viable tenth grade class at Blake. Many Northeast Consortium students entering the tenth grade requested changes because a large number of them desired to remain at their current school and did not receive their first choice. It is entirely reasonable for the school system to ensure an instructionally viable program by making sure that there is enrollment in the new school sufficient to have a tenth grade class.⁵

While Appellant has enunciated a very strong desire for Alexander to attend Springbrook in order to participate in the Navy JROTC program, the State Board has held that there is no entitlement to a particular course of study. *See, e.g., Peter Dennis v. Board of Education of Montgomery County*, MSBE Opinion No. 98-2 (January 25, 1998) (upholding denial of transfer request to participate in particular programs); *Sklar v. Board of Education of Montgomery County*, 5 Op. MSBE 443 (1989) (upholding denial of request to attend school offering program in Latin, note taking/study skills course, and piano); *Schiller v. Board of Education of Montgomery County*, 3 Op. MSBE 365 (1984) (upholding denial of transfer request to attend school with JROTC program). Moreover, Alexander was permitted to participate in the JROTC at Springbrook while enrolled as a student at Blake.

With regard to Appellant's transportation concerns, student transportation to and from the campuses in the Northeast Consortium is provided in accordance with MCPS Policy EEA Student Transportation. *See* memo dated July 28, 1998 from Vance regarding consortium student assignment process. There is no evidence that the transportation provided for Alexander to and from Blake High School is inconsistent with the policy or otherwise unreasonable. Appellant is concerned with the amount of time it will take her to travel the distances between her home, Blake High School and her office in the event that her son is unable to take the bus on a given day. Because bus transportation is available, Appellant's argument on this ground has no merit.

CONCLUSION

For these reasons, we affirm the decision of the Board of Education of Montgomery County.

Walter Sondheim, Jr.
President

Edward Andrews

⁵There are two other cases concerning transfer requests out of Blake High School: *Kellen Henderson v. Board of Education of Montgomery County* (MSDE Opinion No. 98-54, Dec. 9, 1998) (upholding transfer denial in order to ensure adequate enrollment at Blake High School); *Heather Upchurch v. Board of Education of Montgomery County* (upholding transfer denial in order to ensure adequate enrollment at Blake High School. MSBE Opinion No. 99-7, Jan. 26, 1999).

Vice President
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Adrienne L. Ottaviani

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* Ms. Bell and Ms. Maulsby are newly appointed members of the State Board of Education and did not participate in the review of this appeal.

January 26, 1999