

J.F. AND P.J. MONTERROSA,

Appellants

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 00-52

OPINION

This is an appeal of the denial of Appellants' request to transfer their son from Northwest High School to Poolesville High School in Montgomery County. Appellants maintain that Poolesville is a better school setting for their son because Poolesville's school population is smaller than Northwest; their son is shy; and some of their son's friends from private school will be attending Poolesville. The local board has submitted a Motion for Summary Affirmance maintaining that Appellants' transfer request failed to meet any of the criteria for approving a student transfer and that the local board's decision is not arbitrary, unreasonable or illegal. Despite being given the opportunity to do so, Appellants have not submitted an opposition to the local board's motion.

FACTUAL BACKGROUND

When this dispute arose, Nicholas was enrolled to attend 9th grade at Northwest High School in Montgomery County for the 2000-01 school year. On January 7, 2000, Appellants requested that Nicholas be transferred to Poolesville High School for the 2000-2001 school year based on their desire to have Nicholas in a smaller school setting with his friends from Butler School.¹

Appellants' transfer request was denied by the field office supervisor. Appellants challenged this decision explaining that Nicholas was shy and failed to thrive in larger school settings. In their appeal letter to the superintendent, Appellants stated that "[Northwest] is an extremely large school and Nick would surely fall through the cracks as he did in elementary school. Poolesville is a smaller more nurturing school where Nick would be allowed to make a smoother transition that will surely benefit him throughout his High School years." The superintendent's designee assigned a hearing officer, Laurence E. Jeweler, to further investigate the transfer request. The hearing officer's report confirmed that class sizes at both high schools would be roughly the same. He suggested to Appellants that they contact the counselor at Northwest to discuss their son's situation and to work with the school to facilitate an appropriate program for him. Finding no hardship in this case, the hearing officer recommended that the

¹Butler School is a small private Montessori school. Nicholas attended Butler School for the 7th and 8th grades.

transfer request be denied. The superintendent's designee adopted the hearing officer's report.

Appellants appealed the denial to the local board requesting that Nicholas be allowed to attend Poolesville where Appellants believe that his "chance for a smooth transition and academic development will be better." In response to the appeal, the superintendent submitted a memorandum dated June 9, 2000 stating as follows:

Although transition from a small private school to a large public school requires some adjustment, counselors are available to help make the transition as smooth as possible. Since there is no documentation of hardship, Mr. Jeweler's recommendation that the Monterrosa's work with the counselor at Northwest High School in order to facilitate a successful transition for Nicholas is appropriate.

The superintendent further noted that as of the date of his memorandum, Appellants had not contacted the guidance department to discuss their concerns regarding their son.

In an opinion issued June 26, 2000, a majority of five members of the local board upheld the decision to deny the transfer request, based on the reasons contained in the superintendent's June 9, 2000 memorandum and the hearing officer's April 28, 2000 report. Three board members dissented and would have granted the transfer request based on the reasons advanced by Appellants.

ANALYSIS

The standard of review that the State Board applies in reviewing a student transfer decision is that the State Board will not substitute its judgment for that of the local board unless that decision is shown to be arbitrary, unreasonable or illegal. *See, e.g., Breads v. Board of Education of Montgomery County*, 7 Op. MSBE 507 (1997).

Montgomery County Public Schools ("MCPS") Regulation JEE-RA - Transfer of Students lists three criteria for consideration of a student transfer: (1) an older sibling attending the requested school at the same time; (2) continuation of a feeder pattern at the time the student is ready to move to the next education level, such as elementary to middle school or middle school to high school; and (3) a documented hardship. Appellants requested their son's transfer based on their desire to have Nicholas attend a smaller high school with his friends due to his shyness. Because the first two criteria do not apply in this case, the only issue here is whether Appellant has a documented hardship.

Although Appellants would like Nicholas to attend the same school where some of his friends from Butler School are enrolled, this factor has not been deemed sufficient in other cases to support a student transfer. *See, e.g., Skardis v. Montgomery County Board of Education*, 7

Op. MSBE 1055 (1998) (desire to attend high school with middle school peer group not sufficient to approve transfer); *Diehl v. Montgomery County Board of Education*, 7 Op. MSBE 589 (1997) (desire to join peer group not sufficient to warrant student transfer).

With regard to Appellants' concerns about Nicholas being in a smaller school environment, the Court of Appeals has held that there is no right to attend a particular school. *See Bernstein v. Board of Education of Prince Georges County*, 245 Md. 464, 472 (1967); *accord, Dennis v. Board of Education of Montgomery County*, 7 Op. MSBE 953 (1998) (desire to participate in particular courses does not constitute unique hardship sufficient to override utilization concerns); *Marshall v. Board of Education of Howard County*, 7 Op. MSBE 596 (1997) (no entitlement to attend four-year communications program offered at Mount Hebron); *Slater v. Board of Education of Montgomery County*, 6 Op. MSBE 365 (1992) (affirming denial of transfer to school alleged to better serve student's abilities and welfare); *Williams v. Board of Education of Montgomery County*, 5 Op. MSBE 507 (1990) (affirming denial of transfer to program offering advanced German); *Sklar v. Board of Education of Montgomery County*, 5 Op. MSBE 443 (1989) (affirming denial of request to attend school offering four years of Latin, note taking/study skills course, and piano). Moreover, we note that the class sizes at both Northwest and Poolesville are comparable.

With respect to Appellants' concern about Nicholas' transition to high school, there are avenues available to help ensure that the transition is a smooth one. We believe, as the superintendent suggested, that Appellants should avail themselves of the services provided by the school to assist them, such as contacting the school's guidance department.

CONCLUSION

Based on our review of the record, we do not find that the local board's decision was arbitrary, unreasonable or illegal. Accordingly, we affirm the decision of the Board of Education of Montgomery County.

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December 5, 2000