

ALVERTON HOLNESS,

Appellant

v.

MONTGOMERY COUNTY  
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 01-42

### OPINION

This is an appeal of the denial of Appellant's request to transfer his son from Francis Scott Key Middle School to White Oak Middle School in Montgomery County. The local board has submitted a motion for summary affirmance maintaining that its decision is not arbitrary, unreasonable, or illegal. Appellant has submitted a letter opposing the local board's motion.

### FACTUAL BACKGROUND

Alex is assigned to attend sixth grade at Francis Scott Key Middle School for the 2001-2002 school year. On February 26, 2001, Appellant requested that Alex be permitted to transfer to White Oak Middle School for the 2001-2002 school year because he and his wife are impressed with some of the educational program features at that school, including the block scheduling of classes, interdisciplinary instructional teams, student advisory periods, and the William and Mary Language Arts Program. Alex's parents believe that he will benefit greatly from the educational methods utilized at White Oak.<sup>1</sup>

Appellant's request was denied by the field office supervisor on May 10, 2001. An appeal to the deputy superintendent of schools was referred to a hearing officer, Ms. Terrill Meyer, who conducted a review of the matter and submitted a memorandum recommending that the denial of the transfer be affirmed because of the absence of a hardship. On the basis of this recommendation, the deputy superintendent affirmed the denial of the transfer request on June 14, 2001.

Thereafter, Appellant appealed the denial to the local board. By memorandum dated June 27, 2001, the superintendent responded, in part:

The focus of this transfer request is centered on the parents' desire to have Alex attend White Oak Middle School instead of Francis Scott Key Middle School, his school of assignment. Mr. Alverton Holness, Alex's father, states in his letter of appeal that he and his

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<sup>1</sup>Alex was an A student at Cannon Road Elementary School.

wife are impressed with the block scheduling, interdisciplinary instructional teams, student advisory period, and the William and Mary Language Arts Program available at White Oak Middle School.

Ms. Terrill Meyer, hearing officer, reviewed this case and found that, except for the block schedule, Francis Scott Key Middle School offers all the programmatic features found at White Oak Middle School. Although the block schedule may be an advantage for some students or in some classes, the traditional sequencing of periods has been shown to be effective as well. There is no reason to believe that Alex would not continue to achieve at an outstanding level in the traditional format. The matter thus comes down to a preference for one school over another.

The superintendent noted that both schools have projected overenrollment: Francis Scott Key at 105 percent and White Oak at 103 percent. He further noted that out of 35 requests for transfer into White Oak, 18 had been approved, and that out of 46 requests for transfer out of Francis Scott Key, 33 had been approved.<sup>2</sup>

In a unanimous decision issued August 28, 2001, the local board upheld the denial of the transfer request finding an absence of documented hardship.<sup>3</sup>

## 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 the 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). 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). 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,

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<sup>2</sup>For Francis Scott Key, the approvals included 2 based on an older sibling at the requested school, 1 based on a move, 15 based on continuation in the feeder pattern, 8 based on admission to magnet programs, and 7 based on documented hardship. Of the approvals for White Oak, 1 was based on an older sibling already at White Oak, 11 on continuation of feeder pattern, and 6 on the basis of a documented hardship.

<sup>3</sup>Two board members did not participate in consideration of the appeal.

371-72 (1992).

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 when the student is ready to move to the next education level, such as elementary to middle school or middle school to high school; or (3) a documented hardship. Appellant requested the transfer based primarily on his desire to have his son attend a school with certain programmatic features. Therefore hardship is the only applicable factor in this case.

The State Board has repeatedly held that the desire to partake in particular courses or programs does not constitute a unique hardship sufficient to create an exception to the general principle that students are presumed to attend their assigned schools. *See, e.g., Dennis v. Board of Education of Montgomery County*, 7 Op. MSBE 953 (1998) (desire to participate in particular courses does not constitute hardship); *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); *Williams v. Board of Education of Montgomery County*, 5 Op. MSBE 507 (1990) (denial of transfer to program offering advanced German); *Sklar v. Board of Education of Montgomery County*, 5 Op. MSBE 443 (1989) (denial of request to attend school offering four years of Latin, note taking/study skills course, and piano).

Here as the local board noted, with the exception of block scheduling, Francis Scott Key employs all of the instructional methods and programs that are available at White Oak. The absence of block scheduling does not constitute a hardship warranting a transfer. Accordingly, we do not find that the local board acted arbitrarily, unreasonably, or illegally in this matter.

## CONCLUSION

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

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December 5, 2001