

AMY RILL,

Appellant

v.

CARROLL COUNTY  
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 02-60

### OPINION

This is an appeal of the denial of Appellant's request to allow her son to continue as an out-of-district transfer at Taneytown Elementary School for the 2<sup>nd</sup> grade rather than attend his home school, Runnymede Elementary School. The local board has submitted a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable, or illegal. Appellant did not submit a reply.

### FACTUAL BACKGROUND

On April 9, 2002, Appellant submitted an out-of-district request form asking that her son John, then a first grade student at Taneytown Elementary, be allowed to remain at Taneytown for the second grade rather than attend Runnymede Elementary, stating "Childcare/supervision while I work" as the basis for her request.<sup>1</sup> John had attended Taneytown as an out-of-district student for kindergarten and first grade. His younger brother attends a EEEP program at Taneytown. Appellant's request was denied because the application was received past the April 1 due date.<sup>2</sup>

Appellant appealed the decision indicating that she had mistakenly overlooked the due date at the bottom of the out-of-district request form.<sup>3</sup> In her appeal, she indicated that her work schedule requires her to place John and his brother in daycare. The daycare they have attended since they were toddlers is located in the Taneytown district. Appellant maintained that if the transfer were not granted, she would have to resign from her job. The Director of Pupil Services, acting as the superintendent's designee, denied Appellant's request, stating:

Your son was an approved out-of-district student during the 2001-2002 school year. In February you were provided with an out-of-district application and a letter stating the due date.

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<sup>1</sup>The request was received by the Pupil Services Department on April 12, 2002.

<sup>2</sup>Parents of then current out-of-district students were provided with an out-of-district application and a letter stating the due date. Mrs. Rill does not dispute the fact that she did receive the form in February.

<sup>3</sup>Mrs. Rill indicates that she did not notice the April 1<sup>st</sup> deadline on the form.

Although you explained your reasons for submitting the form after the deadline date, the form was, nonetheless, received by the Pupil Services Department eleven days late.

The Carroll County Public Schools' Administrative Regulations state "Students approved for out-of-district enrollment during the 2001-2002 school year may be approved for continued out-of-district enrollment, through the current school level (Elementary, Middle, High), if, on an annual basis, they continue to meet the out-of-district regulations in place during the 2001-2002 school year with the exception of first grade students who must meet the requirements of the current regulation." However, the approval under this section of the regulation assumes compliance with the April 1<sup>st</sup> deadline which is stated on the application form.

*See 5/30/02 letter from Cynthia Little.*

Appellant further appealed the denial of the transfer request to the local board. The response of the superintendent's designee stated in part:

The decision made by Carroll County Public Schools' staff to deny the out-of-district placement of John is aligned with Carroll County Public Schools' Policy JEA and the administrative regulations regarding out-of-district placement. Policy JEA and the accompanying administrative regulations do not provide for an out-of-district placement when an application is submitted beyond the deadline date unless there are exigent circumstances. Exigent circumstances as defined in Policy JEA are "a sudden, unforeseen situation of such a dire nature that immediate assistance is imperative." The reason for Mrs. Rill's late application does not constitute an exigent circumstance. Further, the Rill's request does not meet the guideline for an exception to the regulation regarding "rare or unusual circumstance" nor is it a "documented hardship." The decision made by Carroll County Public Schools' staff is consistent with the decisions made regarding similar petitions for consideration of out-of-district placements.

By a vote of 4 to 1, the local board upheld the decision of the superintendent's designee denying the transfer request. The local board explained that compliance with the April 1 deadline for out-of-district requests is necessary to ensure the proper administration of the schools so that decisions on such requests can be rendered by May 1, as set forth in the administrative regulation. The local board further explained the numerous steps that were undertaken by the school system to notify parents of the April 1 deadline.

## 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, 371-72 (1992).

In response to the tremendous increase in student enrollment in Carroll County Public Schools, Carroll County Board of Education Policy JEA - “Students Attending Schools Out-of-Attendance Areas” was revised on December 12, 2001, in an effort to tighten the out-of-district policy and reduce the number of out-of-district placements in the county. The administrative regulations implementing the policy were also revised for the 2002-2003 school year. Carroll County Board Policy JEA permits students to attend schools outside of their respective attendance area under certain circumstances upon the approval of the superintendent or his designee. The regulations also state that “[a]pplications and all supporting documentation must be received by Pupil Services no later than April 1.” Regulations at IV.D. The April 1 deadline as set forth in the administrative regulations was one of the revisions for consideration of out-of-district requests for the 2002-2003 school year.

As explained in the local board’s decision, there is a reasonable and rational basis for instituting the April 1 deadline. The deadline was intended to allow parents adequate time to make their requests for the following fall with sufficient time to appeal or make other arrangements if their requests were denied. Additionally, the deadline was intended to reduce the tremendous amount of time spent by staff reviewing out-of-district requests in the late spring and summer months when staffing decisions are made and planning for the school year occurs since fluctuations in student enrollment affect the staffing and planning decisions.

Appellant maintains that she was unaware of the April 1 deadline.<sup>4</sup> The local board

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<sup>4</sup>In her appeal to the State Board, Appellant refers to an out-of-district request by another student submitted beyond the April 1 deadline which was initially denied, but ultimately granted by the superintendent’s designee. That case involved the request of a student who was in an out-of-district kindergarten placement during the 2001-2002 school year who made application to an open school. Based on the information provided by Appellant, it appears that the school system extended the April 1 out-of-district application deadline for such students and imposed a May 31, 2002 deadline instead. The deadline extension is not applicable to this case as John was a first grade student during the 2001-2002 school year.

notes, however, that significant steps were taken to notify parents of the deadline. Notice of the April 1 deadline was included and underlined at the bottom of the application form. It stated: “Requests must be received by the Pupil Services Department no later than April 1<sup>st</sup> to be considered for the following year.” (Emphasis in original). Additionally, on February 1, 2002, the school system mailed applications for out-of-district transfer requests to the parents of each student who was an out-of-district student the previous year. The cover letter stated: “If you wish for your child to receive consideration to continue as an out-of-district student for the 2002-2003 school year, please complete the attached form and return all four copies to the Pupil Services Department by April 1, 2002.” Moreover, Appellant does not dispute the fact that she received the form well in advance of the filing deadline.<sup>5</sup>

The school system also published the deadline in local newspapers, including the *Carroll Sun* on February 5, 2002, and the *Carroll County Times* on March 26, 2002. The deadline was posted on the Carroll County Public Schools’ website, and the out-of-district administrative regulations were discussed at a local board public work session which was advertised in various papers, on local television, and on the school system’s website. Based on all of these actions, we find that the school system took appropriate steps to inform the public of the deadline, and that the administrative regulation is clear concerning the April 1 deadline for consideration of an out-of-district request.

The Court of Appeals has ruled 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). While the local board’s policy on out-of-district requests to open schools provides for transfers based on specified daycare reasons, the policy assumes compliance with the April 1<sup>st</sup> filing deadline. Appellant has not offered any basis other than forgetfulness for missing the deadline. The State Board has strictly enforced the 30-day filing deadline for appeals. *See, e.g., Schwalm v. Montgomery County Board of Education*, 7 Op. MSBE 1326 (1998) and cases cited therein (appeal one day late dismissed for untimeliness.) Similarly, we know of no basis not to uphold the local board’s enforcement of its out-of-district transfer deadline in this case.

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<sup>5</sup>We find that *L. Rodney Jones v. Carroll County Board of Education*, MSBE Opinion No. 01-02 (January 31, 2001), cited in the dissent to the local board’s decision, is distinguishable from this case. In *Jones*, the State Board overturned the local board’s decision not to consider information contained in an Appeal Information Form that was filed after the 10 day deadline for submitting the form. The State Board permitted the review of information contained in Mr. Jones’ Appeal Information Form only because Mr. Jones was not made aware of the 10 day deadline since neither the Appeal Information Form nor the letter informing Jones of the appeal procedures noted the deadline. Here, the record is clear that Appellant had received notice in February of the April 1<sup>st</sup> filing deadline.

## CONCLUSION

For all of these reasons, we affirm the decision of the Board of Education of Carroll County denying the student transfer request.

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December 4, 2002