

JOSE IGLESIAS,

Appellant

v.

MONTGOMERY COUNTY  
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 02-50

### OPINION

This is an appeal of the decision of the Montgomery County Board of Education (“local board”) affirming the denial of Appellant’s requests for the transfer of his twin daughters from John F. Kennedy to Albert Einstein High School so that they may be with their friends. The local board has submitted a Motion to Dismiss, or, in the Alternative, Motion for Summary Affirmance maintaining that its decision was consistent with existing policies and practices and was neither arbitrary, unreasonable, nor illegal. Appellant has submitted a reply opposing the Motion.

### FACTUAL BACKGROUND

Appellant is the father of Jessica and Elsa who live in Silver Spring. Prior to moving in August of 2001, the family lived in the attendance area served by Sligo Middle School and Einstein High School (“Einstein”). In August of 2001, the family moved and the girls attended E. Brooke Lee Middle School for the 2001-2002 school year. E. Brooke Lee Middle School feeds into Kennedy High School (“Kennedy”), which is the girls’ zoned school for the 2002-2003 school year.

On or about March 18, 2002, Appellant submitted “Request for Change of School Assignment” forms asking that his daughters be permitted to transfer to Einstein based upon a “hardship”. The transfer requests were accompanied by identical notes from both students entitled “hardship”, stating that their mother worked near Einstein and could drop them off at school. On March 28, 2002, the requests were denied because the circumstances did not fit the hardship exception. (Request for Change of School Assignment).

Appellant appealed the denials to the Deputy Superintendent, (Letter of Appeal, April 3, 2002), who assigned the matter to a hearing officer, Laurence E. Jeweler. Mr. Jeweler spoke with Appellant, who stated that his daughters did not have a sense of belonging at Kennedy. He also predicted that they would not be happy there and that they have friends from elementary school who would be attending Einstein. (Motion to Dismiss, August 2, 2002, p. 2). On April 25, 2002, Mr. Jeweler filed a report with the Deputy Superintendent of Schools, Dr. Williams, in which he recommended against approval of the transfer request due to the absence of hardship. (Memorandum of Recommendation, April 25, 2002). Dr. Williams adopted that recommendation by letter dated April 29, 2002. (Letter of Response, April 29, 2002).

By letter dated May 7, 2002, Appellant appealed the denial of the transfer requests to the local board, again expressing his belief that his children should attend Einstein. (Letter of Appeal, May 7, 2002). The Superintendent replied by memorandum dated May 16, 2002, noting that no hardship had been presented and recommended against granting the transfers. (Letter of Response, May 16, 2002).

On June 11, 2002, the local board issued a written opinion denying the request for transfer for lack of documented hardship. (Local Board's Opinion, June 11, 2002).<sup>1</sup> In its opinion the local board also noted that MCPS would provide transportation to Kennedy from the Iglesias' home. (Local Board Opinion, p. 2). This appeal to the State Board followed.

### 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 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. Because Appellant does not allege that an older sibling attends Einstein or that E. Brooke Lee Middle School is a feeder school to Einstein, the only issue is whether Appellant has a documented hardship. As noted above, Appellant requested his daughters' transfers based on their desire to attend school with their friends.

Although Appellant would like his daughters to attend the same school where some of their friends from elementary and middle school are enrolled, this factor has not been deemed sufficient in other cases to support a student transfer. For example, in a very similar case, *Robert and Ruth Williams v. Montgomery County Board of Education*, 5 Op. MSBE 507 (1990), parents had asked that their daughter be granted a transfer from one high school to another because the parents felt she would have "a more rewarding and satisfying high school experience, educationally and socially, if she attend[ed] [the requested high school] with her friends." The State Board affirmed the local board's denial of the transfer and has done so in similar cases since then. *See, e.g., Raul Chacon v. Board of Education of Montgomery County*, Op. No. 01-39 (December 5, 2001) (desire to attend a school where he is already familiar with some of the students not sufficient); *Eddie and Dorothy Keels v. Board of Education of Howard County*, Op. No. 01-12 (March 28, 2001)(allegation of a more desirable peer group not sufficient

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<sup>1</sup>The opinion was 7 in favor, 1 opposed. The dissenter stated that he would have granted the transfers inasmuch as most of Elsa's and Jessica's schooling had been at schools that fed into Einstein High School.

to approve transfer), *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).

CONCLUSION

For all of these reasons, we do not find that the local board acted arbitrarily, unreasonably, or illegally in this matter. Accordingly, we affirm the decision of the Montgomery County Board of Education denying Appellant's transfer requests.

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October 30, 2002

John L. Wisthoff