

JOHN & VALERIE LANE,

Appellants

v.

MONTGOMERY COUNTY  
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 02-02

### OPINION

This is an appeal of the denial of a request for the admission of Appellants' daughter into the International Baccalaureate ("IB") Program at Richard Montgomery High School for the 2001-2002 school year. The local board has filed a Motion for Summary Affirmance maintaining that its decision was not arbitrary, unreasonable or illegal. Appellants have filed a reply opposing the motion.

### FACTUAL BACKGROUND

On November 30, 2000, Hilary's parents applied for Hilary's admission to the International Baccalaureate Program at Richard Montgomery High School for the 2001-2002 school year.<sup>1</sup> The screening and selection committee that reviews applications for admission into the program bases the admission decision on information received as part of the application process; data collected from the current school, including grades from the 7<sup>th</sup> grade and the first semester of the 8<sup>th</sup> grade year in English, math, science and foreign language; teacher recommendations; the student's expressed interest, motivation and work habits; and the results of a standardized test, the American Guidance Service ("AGS") Math and Verbal Test. The averages of the AGS test scores for students accepted to the IB Program at Richard Montgomery for the 2001-2002 school year were as follows: AGS Math, 82 percentile; AGS Verbal, 91 percentile. Hilary's scores were AGS Math, 17 percentile; AGS Verbal, 24 percentile. Appellants' request for admission was denied by the screening and selection committee.

Hilary and her parents appealed the denial. After reviewing all of Hilary's application materials, including the additional information submitted by Appellants, the appeals committee upheld the decision of the original screening and selection committee to deny Hilary's admission into the program.

On further appeal, the matter was reviewed by Ms. Judie Muntner, Associate Superintendent. In a memorandum to Dr. James A. Williams, Deputy Superintendent of Schools, Ms. Muntner recommended that the denial of admission be upheld. Ms. Muntner did

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<sup>1</sup>The IB Program is funded for only 100 students per grade level. Over 900 students applied for the 100 available seats for the 2001-02 school year.

note that Hilary’s teachers and the principals of her former elementary and middle schools recommended her admission to the program, and corroborated the fact that Hilary had a history of strong academic performance and that she demonstrated initiative and maturity as she took risks and accepted challenges. However, Ms. Muntner also noted that no student was accepted to the IB Program with both test scores well below the mean for accepted students. Dr. Williams upheld the decision denying Hilary’s admission to the IB Program.

The matter was appealed to the local board. In a unanimous opinion issued August 28, 2001, the local board upheld the decision, stating in part:<sup>2</sup>

Upon review of the materials submitted, the Board is satisfied that a reasonable basis exists for the denial of admission into the International Baccalaureate Program at Richard Montgomery High School, and that the decision was neither arbitrary nor capricious. The professional judgment of the administrators and superintendent should be respected in the absence of a showing that the decision was arbitrary or capricious.

...

Faced with a large applicant pool, the administrators have compared Hilary’s qualifications properly alongside other applicants to the International Baccalaureate program. Nonetheless, in view of Hilary’s record of academic achievement and her keen desire to be challenged, the Board is hereby extending the opportunity for Hilary to enroll, as a transfer student, in the International Baccalaureate Program at either Springbrook High School or Bethesda Chevy-Chase High School. In all other respects, the Board hereby affirms the decision of the deputy superintendent of schools.

## ANALYSIS

The State Board has long held that “[a]bsent a claim of deprivation of equal educational opportunity or unconstitutional discrimination because of race or religion, there is no right or privilege to attend a particular school.” *Bernstein v. Board of Education of Prince George’s County*, 245 Md. 464, 472 (1966). Most recently, in *Philip Twu v. Montgomery County Board of Education*, MSBE Opinion No. 01-11 (February 27, 2001), the State Board upheld the local

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<sup>2</sup>Five members affirmed the denial; two board members did not participate in the decision; and one board member concurred with the decision denying admission of Hilary into the IB Program at Richard Montgomery but found it premature to offer Hilary acceptance into the IB Programs at Springbrook or Bethesda Chevy Chase absent any expression of interest in those programs by her.

board's decision denying Philip admission into either the IB Program at Richard Montgomery or the Montgomery Blair Magnet program based on Philip's admission test scores and grade point average. Philip's AGS math score was higher than the average AGS math score for entering students and his AGS verbal score was much closer to the average AGS verbal score of entering students than is Hilary's in the present case. *See also Czerska v. Board of Education of Montgomery County*, 7 Op. MSBE 642 (1997) (upholding local board's denial of a student's admission to the Montgomery Blair Magnet Program because the student's test scores were below the average scores of students accepted into the program); *Skjerven v. Montgomery County Board of Education*, 7 Op. MSBE 1249 (1998) (upholding local board's denial of student's admission into the Highly Gifted Center Program at Lucy Barnsley Elementary School based on test scores insufficient for acceptance into the program).

Here, despite Hilary's excellent academic, extra-curricular, and personal achievements, her test scores were well below average for the IB Program at Richard Montgomery. Contrary to Appellants' assertion, the fact that Hilary was denied admission into the program because of low test scores does not mean that the screening and selection committee failed to consider multiple criteria in its decision making process. Rather, as the local board notes, these objective evaluation criteria substantially outweighed other factors in light of the applicant pool. In a highly competitive program with a finite number of slots, individuals with excellent qualifications sometimes do not get accepted because there are others who are still more qualified. *See Board Memorandum at 5.*

Additionally, the local board offered Appellants the opportunity for Hilary to participate in one of two other IB Programs in the County. Appellants declined to accept either of these options because they felt the programs did not match the rigor and curriculum of the IB Program at Richard Montgomery and transportation was problematic.

## CONCLUSION

Based on the above reasons, we find that the local board did not act arbitrarily, unreasonably, or illegally in this matter. We therefore affirm the decision of the Board of Education of Montgomery County.<sup>3</sup>

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Marilyn D. Maultsby  
President

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<sup>3</sup>Appellants also assert that four glowing letters of reference from Hilary's 8<sup>th</sup> grade teachers were not considered. However, there is no evidence in the record to support the assertion. Moreover, Mrs. Muntner referenced the fact that Hilary's teachers and principal recommended her admission to the IB program; and the local board offered Hilary admission to two other IB programs based on her academic achievement.

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JoAnn T. Bell

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Philip S. Benzil

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Reginald L. Dunn

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Clarence A. Hawkins

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Walter S. Levin, Esquire

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Karabelle Pizzigati

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Edward L. Root

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John L. Wisthoff

January 29, 2002