

CATHERINE H.,

Appellant

v.

PRINCE GEORGE'S
COUNTY BOARD OF
EDUCATION

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 17-02

OPINION

INTRODUCTION

Appellant challenges the decision of the Prince George's County Board of Education (local board) denying her request for a transfer for her son from Thomas Johnson Middle School (Thomas Johnson) to Martin Luther King, Jr. Middle School (MLK). The local board filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal. Appellant opposed the Motion and the local board replied.

FACTUAL BACKGROUND

Appellant's son is in the 6th grade. Thomas Johnson is the school serving the Appellant's geographic attendance area. On May 11, 2016, Appellant submitted a student transfer request form asking that her son be permitted to attend MLK instead of Thomas Johnson. MLK was listed under the heading "schools with available seats for FY2016-2017 student transfers" which was part of a school system news release dated May 6, 2016. The Office of Student Records, Transfers and Archival Services denied the request on June 21, 2016 due to a lack of available seats in the grade requested at MLK.

By letter dated July 2, 2016, Appellant appealed the decision of the Office of Student Records and Transfers. (Motion, Ex. 1). She argued that class size should not be the determinative factor in denying the appeal because "there simply is no perfect number of seats" for a class. She also argued that teachers and administrators have made room for students in classrooms in the past for any number of reasons. In addition, she stated, "What concerns us most is that our neighbor, a Thomas Johnson student who would be riding [my son's] bus, attacked my son a few months ago unprovoked and injured him badly enough to send him to the doctor and dentist." *Id.*

By letter dated July 5, 2016, Aaron E. Price, Sr., Chief Hearing Officer of the Office of Appeals, acting as the CEO's designee, advised the Appellant that her transfer request was denied. He explained that, pursuant to Administrative Procedure 5110.3, transfers are granted only if space is available in the requested school and that MLK was already at its State Rated Capacity. (Motion, Ex. 2). The letter did not address the Appellant's safety concern.

By letter dated July 9, 2016, Appellant appealed Mr. Price's decision to the local board. (Motion, Ex. 3). In addition to restating her prior arguments, Appellant provided additional

detail about the attack on her son by their neighbor. Appellant stated that the then 6th grader told her son he was beating him up because “he wanted to be in a gang,” and that he could “kill one of [the son’s] relatives if he wanted” to do so. She again raised concerns about sending her son to the same school as the child that threatened and beat him. She also noted that Thomas Johnson is a turnaround school, where students have some of the lowest achieving performance on assessments, while MLK is not. *Id.*

Mr. Price responded to the appeal. He recommended that the local board deny the transfer because MLK was at its State-Rated Capacity. He also stated that MLK was “never listed as a school available for transfer.” (Motion, Ex. 4). Appellant responded to Mr. Price’s recommendation, pointing out that a PGCPSS news release website contained a document issued May 6, 2016, listing MLK as a school “with available seats for FY2016-2017 student transfers.” (See Motion, Ex. 4).

The local board considered the appeal on August 25, 2016, and issued its written decision through a letter from local board counsel dated September 19, 2016. The local board upheld the decision of the CEO’s designee denying the transfer request based on lack of space at MLK. The local board also found that “there were no significant procedural irregularities observed that have prejudiced the child or parents in the process.” (Motion, Ex. 5). The local board’s decision did not address the safety issue raised by the Appellant.

STANDARD OF REVIEW

When reviewing a student transfer decision, the decision of the local board is presumed to be *prima facie* correct. COMAR 13A.01.05.05A. 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. *Id.*; See *Alexandra and Christopher K. v. Charles County Bd. of Educ.*, MSBE Op. No. 13-06 (2013). A decision may be arbitrary or unreasonable if it is (1) contrary to sound educational policy or (2) a reasoning mind could not have reasonably reached the conclusion the local board or superintendent reached. COMAR 13A.01.05.05B.

LEGAL ANALYSIS

Appellant’s primary reason for seeking a transfer in this case is her concern for the safety of her son after he sustained a beating from a Thomas Johnson student last year. The incident resulted in injury to her son and serious threats to her family. The student lives in the Appellant’s neighborhood and presumably would be riding the same school bus as her son. Appellant has reported that during the short time that her son attended Thomas Johnson this school year, the student at issue entered her son’s classroom, where he did not belong, and was told to leave before any incident could ensue.¹ Unfortunately, the local board’s decision fails to address Appellant’s safety concern, which is a salient and important issue in this case. Thus, this Board is left with no rationale to review regarding the primary basis for the transfer request.

¹ Appellant is currently home schooling her son.

CONCLUSION

For the reasons stated above, we remand this case to the local board for it to provide a rationale addressing the safety issue raised by the Appellant. The local board shall transmit the rationale to the State Board within 30 days of the date of this decision.

Signatures on File:

Andrew R. Smarick
President

Michele Jenkins Guyton

Laurie Halverson

Stephanie R. Iszard

Rose Maria Li

Madhu Sidhu

Laura Weeldreyer

Absent:

Chester E. Finn, Jr., Vice President

Jannette O'Neill González

Barbara J. Shreeve

Guffrie M. Smith, Jr.

January 24, 2017