

A [REDACTED] A.

Appellant,

v.

HOWARD COUNTY
BOARD OF EDUCATION

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 20-39

OPINION

INTRODUCTION

A [REDACTED] A. (“Appellant”) appeals the decision of the Howard County Board of Education (“local board”) denying her reassignment request for her daughter to attend [REDACTED] Middle School (“[REDACTED] MS”) for the 2020-2021 school year, instead of [REDACTED] Middle School (“[REDACTED] MS”), as assigned. The local board filed a response maintaining that its decision is not arbitrary, unreasonable, or illegal, and should be upheld. Appellant replied.

FACTUAL BACKGROUND

In January of 2019, the local board initiated a system wide boundary review, and on November 21, 2019, it approved a redistricting beginning in the 2020-2021 school year. The redistricting reassigned 5,402 students to different schools than they would have attended before redistricting.

On December 30, 2019, Appellant submitted a reassignment request to the Student Reassignment Office for her daughter, [REDACTED], to attend [REDACTED] MS instead of [REDACTED] MS. Appellant’s request stated that her daughter’s current school assignment posed a unique documented hardship for their family which qualified M.A. for a reassignment under Policy 9000 (IV)(K)(5). Appellant stated [REDACTED] walk to [REDACTED] would be 21 minutes from her home instead of 5 minutes to [REDACTED], and that [REDACTED] would be unable to walk to school with her high school age siblings who attend [REDACTED] High School. Appellant stated that the increased distance of the walk to [REDACTED] MS posed a safety concern because of vehicular accidents involving children and fear of child abductions. Appellant argued that her family is unable to assume the financial burden of transporting [REDACTED] to school, which is necessary to ensure her safety. Finally, Appellant stated that [REDACTED]’s school assignment violates local policies to provide a safe and supportive school environment, anti-discrimination, and equitable use of public school facilities by community and civic groups.

On February 14, 2020, Kris Woodson, Specialist from the Student Residency and Reassignment Office, acting as the Superintendent’s Designee, sent Appellant a letter informing her that the reassignment request was denied because she failed to provide evidence that her

daughter's current school assignment posed a unique and documented hardship under school system policy.

On March 30, 2020, Appellant appealed the decision to the local board. In response to the appeal, Restia Whitaker, Coordinator of Pupil Support Services, and Ms. Woodson provided a report to the local board recommending that the reassignment request be denied because it did not meet the unique hardship criteria set forth in Policy 9000. Reassignments are not granted to address the impact of a redistricting. Nor are they granted to accommodate childcare arrangements, such as siblings walking to school together, based on concerns about walking safety or distances to school.

On June 15, 2020, the local board issued its decision denying the Appellant's reassignment request. The local board stated that it carefully considered the Appellant's arguments and concluded that they do not support her claim that [REDACTED] current school assignment poses a unique and documented hardship under Policy 9000. The issues of the walking distance and childcare costs are common issues to many families who must make accommodations for their children to get to and from school.

The local board noted that Policy 9020, *Student's Rights and Responsibilities*, which states generally that "students must be provided the opportunity to excel in a safe and supportive environment . . .", was not violated by the failure to grant the reassignment, and that there was no evidence that [REDACTED] MS will not provide a safe and supportive school environment for [REDACTED]. Although not an appeal of the redistricting, the local board noted that the redistricting was done in a neutral, non-discriminatory manner and no preference was given for certain neighborhoods or student populations. Further, the policy on use of school facilities by community and civic groups was inapplicable to the reassignment decision. A student's participation in community and civic activities at the school is at the discretion of families. The local board voted 7-0 to uphold the decision of the Designee.

On July 14, 2020 Appellant appealed the local board's decision to this Board. She raises all arguments previously asserted and a new argument that COVID-19 has posed a greater burden on her family because as a registered nurse and she is considered an essential worker. Thus, she maintains that the local board's decision is unfair.

STANDARD OF REVIEW

Decisions of a local board involving a local policy or a controversy and dispute regarding the rules and regulations of the local board shall be considered prima facie correct. The State Board may not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. COMAR 13A.01.05.06A. 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.01.05.06B. A decision may be found illegal if it is: (1) unconstitutional; (2) exceeds the statutory authority or jurisdiction of the local board; (3) misconstrues the law; (4) results from an unlawful procedure; (5) is an abuse of discretionary powers; or (6) is affected by any other error or law. COMAR 13A.01.05.06C.

LEGAL ANALYSIS

It is well established that there is no right or privilege to attend a particular school. See *Bernstein v. Bd. of Educ. of Prince George's County*, 245 Md. 464, 472 (1967); *Carolyn B. v. Anne Arundel County Bd. of Educ.*, MSBE Op. No. 15-20 (2015). Pursuant to local board policy 9000(IV)(J), “[a]ll schools will have attendance areas determined by the Board. A student attending a public school in Howard County will attend the designated school serving the school attendance area in which the parents have bona fide residence unless reassignment is granted or administrative placement occurs.” Policy 9000(IV)(K)(5), permits “[i]n rare circumstances, the Superintendent/Designee, in consultation with school-based administrators, may grant parent requests for individual exceptions to the student reassignment standards based on documented unique hardship situations.”

Assigned School's Distance from Home

Appellant argues that it is a unique hardship for ██████ to walk the 21 minutes to ██████ instead of the five minutes to ██████. Appellant asserts that the extra 16 minute walk poses safety concerns and that ██████ would be unable to walk with her siblings to school. The increased distance or time it takes to get to a student's school of assignment as compared to the requested school is not a unique hardship. See *John and Carolann M. v. Charles County Bd. of Educ.*, MSBE Op. No. 14-48 (2014); *Mary Ann K. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 10-52 (2010); *Taryana C. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 10-06 (2010). Many students will face traveling extra distances to attend new schools after the redistricting. Moreover, the local board provides a free school bus to middle school students who live a mile away, or more, from their assigned school. Appellant's choice not to allow ██████ to use school transportation does not support the unique hardship argument.

Appellant also states, without any support, that the additional distance to ██████ poses a safety concern because of possible vehicle accidents and child abductions. This Board has held that walking route safety concerns are an issue to common to many and are insufficient to justify a transfer. See *J.D. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 20-32 (2020). We understand that Appellant worries about ██████ safety and would prefer for her children to walk to school together, but the inability to do so does not present a unique hardship. Moreover, Appellant has presented no evidence to support her claim of safety concerns. We note that the Howard County Police Department's Annual Crime Report (2018) reflects no cases of child abduction in Howard County. In addition, the school system provides guidance on its website to support safe walking for student pedestrians.

Miscellaneous Local Policies

Appellant maintains that the local board's decision denying the reassignment given the distance of the assigned school from Appellant's home violates the “safe and supportive environment” provisions of local policy. There is no evidence that ██████ MS cannot provide a “safe and supportive environment” for ██████.¹ Appellants claim that the denial of the reassignment somehow implicates the school system's policy on use of school facilities by

¹ In the State Board appeal, Appellant raises a new argument maintaining that requiring her child to attend a school further away from her home does not align with the educational equity provisions of Maryland's Recovery Plan for Education. Appellant was assigned to a school based on her geographic attendance area and was denied a reassignment based on lack of a unique hardship. She has presented no evidence of educational inequity.

community groups is misplaced. It has no bearing on the issues here. The Appellant also appears to challenge the redistricting decision, raising concerns about potential influence by affluent residents in the County. This appeal is not a challenge to the redistricting; rather it concerns the denial of the student reassignment request. The redistricting is the subject of a separate appeal that follows a different process, thus we will not address any such claims here.

Essential Worker

Appellant argues in her appeal to this Board that as a nurse and front line essential worker during the pandemic, the local board's reassignment decision is unfair and poses an inequitable financial burden on her family. She did not raise this issue with the local board, however we will briefly address it here. The State Board recognizes the heroic efforts front line medical workers provide during the COVID-19 pandemic. Appellant's argument, however, is unsupported by any evidence demonstrating unfairness or an inequitable financial burden on her family. Thus, we find that Appellant has failed to show a unique hardship on this basis.

CONCLUSION

For the reasons stated above, we find that the local board's decision is not arbitrary, unreasonable or illegal. Accordingly, we affirm the denial of the Appellant's school reassignment request.

Signatures on File:

Clarence C. Crawford
President

Jean C. Halle
Vice-President

Shawn D. Bartley

Gail H. Bates

Charles R. Dashiell, Jr.

Susan J. Getty

Vermelle D. Greene

Rose Maria Li

Rachel McCusker

Joan Mele-McCarthy

Lori Morrow

Warner I. Sumpter

Holly C. Wilcox

October 27, 2020