

N.S. AND B.J.,

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 22-23

OPINION

INTRODUCTION

Appellants appeal the decision of the Montgomery County Board of Education (“local board”) denying their daughter’s admission to the Global Ecology House, the Humanities House and the Science, Mathematics, Computer Science Magnet Programs at Poolesville High School (“PHS”)(collectively referred to as the “Magnet Programs”). The local board filed a memorandum in response to the appeal maintaining that its decision was not arbitrary, unreasonable or illegal. Appellant responded to the memorandum and the local board replied.

FACTUAL BACKGROUND

Montgomery County Public Schools (“MCPS”) offers various specialized regional/countywide criteria-based high school programs like the Magnet Programs at PHS. Students must submit an application and meet specific criteria in order to participate in one of these specialized programs. The criteria-based admission uses multiple measures to assess the students for admission into the programs.

The demand for participation in these programs is very high, with applications far exceeding the available slots allotted, resulting in a very competitive process. For the Magnet Programs at PHS, MCPS received over 700 applications for the 75 seats in the Global Ecology House; over 600 applications for the 50 seats in the Science, Mathematics, Computer Science Magnet Program; and over 500 applications for the 50 seats in the Humanities House.

In reviewing applications for the 2022-2023 school year, a review committee consisting of central office and PHS staff used a multiple measure approach to include both district-level and externally developed assessments on the candidates. The data considered the student applicant responses, grade 7 and grade 8 marking period 1 (“MP1”) report cards, student services, Measures of Academic Progress-Math (“MAP-M”) for math/science programs and Measures of Academics Progress-Reading (“MAP-R”) for humanities-based programs to screen and select students for the programs. (R.5). All decisions of the committee were based on the strength of the student’s entire academic profile to provide a broad view of the student without placing emphasis on any one indicator. *Id.*

Appellants’ daughter, ■■■■, applied for the Magnet Programs at PHS in the fall of 2021 for admission in the fall of 2022. By letters dated February 1, 2022, Allison Wilder, Magnet

Coordinator for PHS, advised Appellants that the review committee did not select █████ for admission to the Magnet Programs at PHS. (R.1).

The application procedures allow appeals of the decision denying entry into a magnet program if (1) there is new information that was not available at the time of the initial review of the student’s application that significantly changes the student’s academic profile; or (2) there is a hardship or unique circumstance. (R.10). The appeal procedures do not allow for the submission of additional external tests and sample work. *Id.*

Pursuant to this process, on February 2, 2022, Appellants filed a Level 1 appeal maintaining that there was new information that was not available at the time of the original selection decision. (R.3-4). Appellants stated that █████’s home school was not suitable due to general concerns about bullying and harassment. *Id.*

After reviewing the application and associated materials, by letters dated March 4, 2022, Ms. Wilder advised that the Level 1 appeal committee upheld the original decision denying admission into the Magnet Programs. (R.5-8). She advised Appellants that they could appeal if (1) there was an error in the information submitted to and reviewed by the Level 1 appeals committee; or (2) there was new information or hardship or unique circumstances that significantly changed the applicant’s academic profile that was not available at the time of the Level 1 appeal. *Id.*

On March 25, 2022, Appellants appealed the Level 1 appeal committee’s decision based on hardship or unique circumstance. They shared that █████ is an honor roll student enrolled in advanced math and English. Appellants maintained that the pandemic affected █████’s grades during grade 7. (R.13).

A different appeal committee convened to review Appellants’ Level 2 appeal. The committee looked again at the information provided by Appellants and the entirety of █████’s student profile. This included comparison of her MAP-M and MAP-R scores and her math, science, and humanities grades to the students who were not accepted into the Magnet Programs and were placed in the wait pool. The committee provided charts comparing █████’s MAP-M and MAP-R scores,¹ and her math, science, English, and social studies grades, to a sampling of three students in each of the Magnet Program wait pools to demonstrate that her profile was below that of other students who were not admitted into the Magnet Programs. (R.13-15). The MAP score comparison was as follows:

Global Ecology Program at PHS	<i>MAP-M Score</i>	<i>MAP-R Score</i>
WP Student A	291	244
WP Student B	288	256
WP Student C	255	260
█████	241	235

¹ The MAP score referenced on the chart for each student reflects the highest score attained on MAP by that student of the spring 2020-2021 and fall 2021-2022 tests. It appears that the Appellants have misinterpreted the scores as reflecting the highest MAP scores of all students placed in the wait pool for the Magnet Programs.

Science, Math, Computer Science Program at PHS	<i>MAP-M Score</i>
WP Student A	293
WP Student B	281
WP Student C	277
██████	241

Humanities Program at PHS	<i>MAP-R Score</i>
WP Student A	259
WP Student B	254
WP Student C	253
██████	235

The committee recommended to uphold the decision denying admission to the Magnet Programs. By letter dated May 25, 2022, the Superintendent’s Designee, Rischelle Reuben, Chief of Teaching, Learning, and Schools, notified Appellants that she had adopted the committee’s recommendation. (R.16).

On May 27, 2022, Appellants appealed the decision of the Superintendent’s Designee to the local board. (R.19-26). Appellants asserted that the impact of ██████’s grandfather’s death abroad due to COVID-19, as well as the stress of her mother being unable to return from abroad to Maryland for two months after the funeral due to unavailability of flights, impacted ██████’s grades during the first half of 7th grade. Appellants maintain that ██████ returned to getting straight A’s every single marking period after recovering from that stressful period. *Id.*

On June 15, 2022, by memorandum to the local board, Dr. Monifa McKnight, Interim Superintendent, responded to the appeal recommending that the local board uphold the Designee’s decision. Dr. McKnight explained the highly competitive selection process and the limited number of program seats resulting in the denial of many candidates with outstanding ability. (R.29-31). She noted that ██████’s academic profile was similar to other students who were denied entry into the program. *Id.*

On July 26, 2022, the local board issued a written decision affirming the denial of admission to the magnet program. (R.33-34). The local board recognized that although ██████ is an outstanding student of high ability, many outstanding students were denied entry to the lottery pool. *Id.* The local board also encouraged Appellant to explore options available at ██████’s home school. *Id.*

STANDARD OF REVIEW

Local board decisions involving a local policy or a controversy and dispute regarding the rules and regulations of the local board are considered *prima facie* correct. The State Board will not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. COMAR 13A.01.05.06A. The Appellant has the burden of proof by a preponderance of the evidence. COMAR 13A.01.05.06D.

LEGAL ANALYSIS

The State Board has long recognized that local school systems use of “multiple criteria to evaluate students in order to reach a broad cross section of those who are qualified” to enroll in enriched programs is not arbitrary and unreasonable. *See Li Z. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 19-41 (2019). Furthermore, the State Board has held that “there is nothing arbitrary, unreasonable, or illegal about the local board following its established criteria and denying a student entry into the [specialized program] on that basis.” *See Amanda B. v. Baltimore County Bd. of Educ.*, MSBE Op. No. 14-24 (2014). Appellants have failed to demonstrate that the school system did not follow its procedures in evaluating the application for admission or in the appeal.

Appellants argue that a unique hardship impacted ██████’s academic profile maintaining that her grades for the first half of 7th grade suffered when her grandfather abroad passed away due to COVID-19 and her mother was unable to return home from abroad for two months after the funeral. Both the Level 1 and Level 2 appeal committees determined that the difficulties faced by ██████ did not alter their decision to deny entry into the Magnet Programs. The Level 2 committee provided examples to show that ██████’s academic profile, including her MAP scores, fell below that of students in the wait pools² who were not accepted into the Magnet Programs. The local board concurred with the decision. While we are sympathetic to ██████’s case, we do not find that the decision of the local board to uphold denial of admission to the Magnet Programs was arbitrary or unreasonable.


Appellants also argue that, to justify its decision, the local board should have confirmed whether ██████’s scores were lower than the lowest score of all of the students admitted to the Magnet Programs. As explained above, MCPS employs a multiple-measures approach for admission to its criteria-based programs that considers various factors. The specific data requested by Appellants would not be dispositive of the admission decisions. Appellants also question the data sampling of the academic profile of the three students in the wait pools provided by the Level 2 committee. That data, however, was used to demonstrate that the decision denying ██████ entry to the Magnet Programs was reasonable given that her academic profile, in particular her MAP scores, was below that of other students who were not admitted.

Not all students can partake in specialized programs and there is no right to attend any particular school or program. *See Catherine H. v. Prince George’s County Bd. of Educ.*, MSBE Op. No. 17-25 (2017) and cases cited therein. School systems have finite resources and devise procedures for fair opportunity for admission. MCPS uses equitable approaches for these application processes to increase access for all students at the secondary level.

CONCLUSION

For the reasons stated above, we find that the Appellants have failed to show by a preponderance of the evidence that the decision of the local board was arbitrary, unreasonable, or illegal. Accordingly, we affirm the decision denying admission to the Magnet Programs.

² The wait pool is a wait list of qualified applicants who will be reviewed further if spots in the program become available. <https://docs.google.com/document/d/1C989LF9flq6edVO3vsz1D3sJnHG76chgEWWnUNSE-3E/edit>



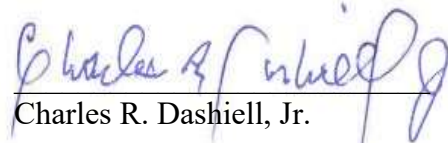
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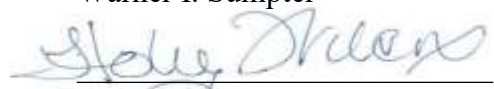
Joan Mele-McCarthy



Lori Morrow



Warner I. Sumpter



Holly C. Wilcox

Dissent of Shawn D. Bartley:

I am not certain the magnet school process meets the objectives of Maryland's Blueprint by delivering opportunity and promise of a better future to EVERY Maryland Child. A child's desire to be included in a public school program should not be forfeited by a selection committee and

then eventually a random lottery. It's in the best interest of all students in Montgomery County that the county change the process and lottery with more than deliberate speed.

Absent:

Gail H. Bates

Vermelle D. Greene

September 27, 2022