

K.E. AND G.E.,

Appellants

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 25-05

OPINION

INTRODUCTION

K.E. and G.E. (“Appellants”) appeal the decision of the Montgomery County Board of Education (“local board”) affirming the denial of their Change of School Assignment (“COSA”) request for the 2024-2025 school year for their daughter to attend the Primary Years Programme, accredited by the International Baccalaureate organization, (“PYP-IB”) at [REDACTED] Elementary School (“[REDACTED]”). They are a military family and sought a unique hardship request based on the likelihood that the student’s father will receive reassignment orders in the future and there may be a similar PYP-IB program in the area where the family relocates. The local board filed a response to the appeal maintaining that its decision is not arbitrary, unreasonable, or illegal and should be upheld. Appellants responded, and the local board replied.

FACTUAL BACKGROUND

Appellants’ daughter, Student X, is currently a kindergarten student residing in the attendance area for [REDACTED] Elementary School. On March 26, 2024, the Appellants submitted a COSA request requesting that their daughter be transferred from [REDACTED] to [REDACTED] in order to attend the PYP-IB. (R. 1-3). Admission to PYP-IB at [REDACTED] is contingent upon the student living in the [REDACTED] attendance area. (R. 11). The basis for the COSA request was for a unique hardship based upon the student’s father’s military status and the Appellants described the unique hardship as, “[m]ilitary family; requesting to have the [PYP-IB] education curriculum which allows continuity of education with all the moving our family does.” (R. 1-3).

On April 3, 2024, the Division of Pupil Personnel and Attendance Services for Montgomery County Public Schools (“MCPS”) denied the request citing that it does not meet the unique hardship criteria. (R. 4). Shortly thereafter, the Appellants filed a timely appeal to Dana Edwards, Chief of District Operations and the Superintendent’s Designee for COSA appeals. (R. 5 & Local Bd. Response, p. 2). In their appeal, the Appellants argued that the unique hardship standard was met because the Navy frequently reassigns the student’s father to new duty posts, and that participating in the PYP-IB program is the best way for Student X’s education to maintain consistency across the country and the world (R. 5-8).

The Superintendent's Designee referred the matter to Hearing Officer, Heidi J. Balter, for review. (R. 10-11). As a part of the review, Ms. Balter communicated with the student's mother and reviewed the documents submitted. Ms. Balter found that the Appellants failed to present evidence of a unique hardship and recommended denial of the COSA request. (R.11). She stated the following:

in Board Policy JEE, Student Transfers, students are expected to attend the school within the established area in which they reside, but there are provisions for transfer in the case of a unique hardship...The desire to have [Student X] attend a school that offers a specific program does not meet the criteria of a unique hardship.

(R. 11). By letter July 11, 2024, the Superintendent's Designee advised the Appellants that she adopted Ms. Balter's findings and recommendations, and she denied the COSA request. (R. 9).

On July 22, 2024, the Appellants filed an appeal with the local board. (R. 12 - 15). In their appeal, the Appellants argue that they meet the hardship standard because of the short period to report from one duty station to another, the stress on the family members, and the uncertainty related to a new school. (R. 12-13). The Appellants also raised the issue of equity of the placement of the PYP-IB program in only one school and its designation as a local program, which is only available to students who live within that school's attendance area. The Appellants assert, they cannot afford to buy or rent in the attendance area. *Id.*

On August 7, 2024, Superintendent, Thomas W. Taylor, submitted a Memorandum to the local board in response to the appeal requesting the local board to uphold the COSA denial. (R. 19-20). Dr. Taylor noted that the PYP-IB is a pedagogy, not a curriculum and that it is not a substitution for the common core standards that are taught in all the elementary schools across the district. *Id.* Additionally, Dr. Taylor noted that MCPS offers a variety of specialty programs throughout the district and that all elementary schools have a variety of instructional and enrichment programs to meet the needs of students. Some programs are regional or countywide, available to all students through an application process or lottery, and some are local programs available to the students living within that school's attendance zone. *Id.*

The Appellants submitted a response to the Memorandum. (R. 21 – 25). On August 19, 2024, the local board reviewed the complete record in closed session. On September 12, 2024, the local board issued its Decision and Order affirming the denial of the COSA request. (R. 28 - 30). The local board recognized the sacrifices the military family makes for the country and considered that the family frequently moves as a result. (R. 28). However, the local board found that pursuant to local board policy JEE, the likelihood that the family will move in the future does not establish a unique hardship to grant the transfer request. "Many families face relocation during their child's school years and must become acquainted with a new school, new curriculum, new teachers with new teaching methods, and new students." (R. 28-29). Moreover, the continuity of curriculum the Appellants sought would not have been mitigated by the school transfer. "PYP is a pedagogy – a method of teaching- not a curriculum. Common core standards still apply to students at [REDACTED] which is the same as [REDACTED] As such, a transfer

to [REDACTED] will not necessarily achieve the result that the family desires.” (R. 29). The local board voted 6-2 to affirm the denial of the COSA. (R. 29-30).

On October 10, 2024, the Appellants appealed the local board’s decision to the State Board. (R. 34). In their appeal to the State Board, the Appellants also advocate for a local board policy change. They argue that it is unfair for the local board policy to admit students to the PYP-IB based upon attendance zone, rather than through an application process or lottery basis which would make the program accessible to students who do not have the financial means to live in the [REDACTED] attendance area. (Appeal, p. 1).

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 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 Appellants have the burden of proof by a preponderance of the evidence. COMAR 13A.01.05.06D.

LEGAL ANALYSIS

The State Board acknowledges that military families relocate frequently as part of their service to the Nation. The Maryland State Department of Education, and the Maryland local school systems have adopted The Interstate Compact on Educational Opportunity for Military Children, which will ensure that the children of military families are afforded the same opportunities for educational success as other children. However, 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 Cnty*, 245 Md. 464, 472 (1967); *Carolyn B. v. Anne Arundel Cnty Bd. of Educ.*, MSBE Op. No. 15-20 (2015). Thousands of students every year seek to transfer between schools in Montgomery County. For this reason, consistent with statutory authority granted to the local board under §§ 4-108 and 4-109 of the Education Article, the local board has determined the geographical attendance area for each school and has developed particular criteria to guide its process for determining which students are eligible to change schools. The State Board has long recognized that student transfer decisions are a matter of local concern, controlled by local policy and regulations. *T.M. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 23-23 (2023).

MCPS permits students to apply for a COSA based on a “unique hardship” when there are “extenuating circumstances related to their specific physical, mental, or emotional well-being or their family’s individual or personal situation that could be mitigated by a change of school environment.” (R. 88 - 94, Policy JEE at C.1.a). However, “problems that are common to large numbers of families, ... do not constitute a unique hardship, absent other compelling factors.” *Id.* The local board, while sympathetic that the family moves frequently, noted that it was not a unique hardship under Policy JEE because many families face relocation during the child’s school years. Like many families, it is not unusual for military families to enroll their children in multiple schools over time due to relocation. The local board also found that a COSA based on the desire to participate in particular courses, or a program of study, runs counter to MCPS policy because it is an issue common to large numbers of families who may prefer the course offerings of one school over another.

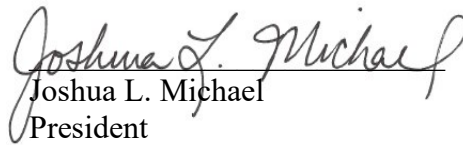
The State Board has consistently upheld cases denying COSA requests based on a desire to participate in particular classes or programs. *Angela & Dennis B. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 04-39 (2004)(affirming denial of transfer request based on desire to participate in IB program offered only to students living in the school’s attendance area); *see also Karina D. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 19-01 (2019)(affirming denial of transfer request based on a desire to participate in business and finance course); *William Wu & Linda Liu v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 04-40 (2004)(desire to participate in advanced studies in art and Chinese offered at Quince Orchard High School not a valid basis for transfer).

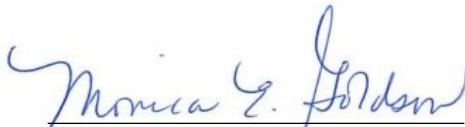
Likewise, the State Board has also consistently upheld the denial of a COSA based on a parent’s desire to have their child attend a school they believe will better serve the child’s abilities and welfare. *See Angela & Dennis B.*, MSBE Op. No. 04-39 (2004)(Appellants desire to place their daughter in the IB program that they feel can better serve her needs is not a recognized hardship); *see also Orit Lowy Chicherio v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 06-03 (2006)(desire to attend a fine arts program because it is better to further the student’s artistic, musical, and journalistic talents was not sufficient to justify transfer request); *Slater v. Montgomery Cnty. Bd. of Educ.*, 6 MSBE 365 (1992). As the local board noted that the student will receive a comparable educational program in both schools as PYP is a pedagogy, not a curriculum, and common core standards apply to students at both [REDACTED] and [REDACTED]

Appellants also seek a change to the local board policies for the admission selection of the PYP-IB. The Appellants argue that the policies and procedures are unlawful because they are economically discriminatory. However, there is no evidence of any unlawful discriminatory intent in the local board’s decision to have an IB-PYP program within the attendance area of [REDACTED] *C.C., et al., v. Frederick Cnty. Bd. of Educ.*, MSBE Op. No. 24-23 (2024)(Appellants disagreement in the allocation of resources does not mean there was discriminatory intent in the policy). Furthermore, it is well settled that the State Board appeals process is not the appropriate mechanism for seeking local board policy change. *P.B. and M.C. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 22-01 (2022)(the quasi-judicial appeals process is not the appropriate avenue for systemic change)(citing decisions). Changes to the local board policies should be addressed through the local board policy development process.

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 the COSA request.



Joshua L. Michael
President




Monica Goldson
Vice-President




Chet Chesterfield



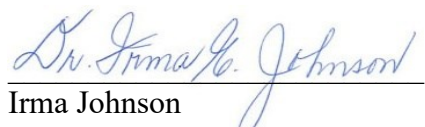
Kenny Clash



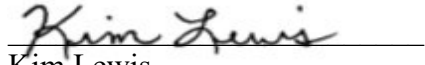
Clarence C. Crawford



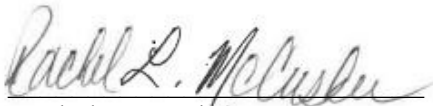
Nick Greer



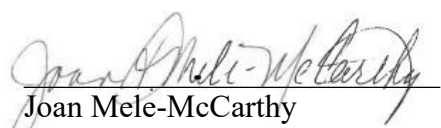
Irma Johnson



Kim Lewis



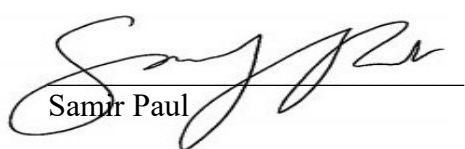
Rachel McCusker



Joan Mele-McCarthy



Xiomara Medina



Samir Paul

Absent:
Chuen-Chin Bianca Chang

January 28, 2025