

ALLEN S.,

Appellant

v.

ANNE ARUNDEL COUNTY
BOARD OF EDUCATION

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 18-01

OPINION

INTRODUCTION

Allen S. (Appellant) appeals the decision of the Anne Arundel County Board of Education (local board) denying an out-of-area school transfer for his son. The local board filed a Motion for Summary Affirmance, maintaining that its decision was not arbitrary, unreasonable, or illegal. Appellant responded and the local board replied.

FACTUAL BACKGROUND

Appellant's son, B.S., was assigned to attend Old Mill High School (Old Mill) for ninth grade during the 2017-18 school year. On April 1, 2017, Appellant filed a Request for an Out of Area Transfer with Anne Arundel County Public Schools (AACPS) so that his son could attend Severna Park High School (Severna Park) rather than Old Mill. Appellant did not provide a reason for the transfer request. (Motion, Ex. 1).

On April 10, 2017, AACPS denied the transfer request because the reasons offered for the transfer were "inconsistent with regulation." (Motion, Ex. 1). The AACPS coordinator for pupil personnel workers called Appellant the same day to discuss the school system's transfer policies. Appellant explained that his son is on a STEM¹ waiting list and that he is not interested in having his son pursue the International Baccalaureate (IB) program offered at Old Mill. Appellant stated that he believed his son's best opportunity for getting into medical school would be by attending Severna Park. (Motion, Ex. 5).

Appellant appealed the transfer denial decision. He argued that his son was an excellent student, but that he had not been selected for any STEM programs in middle or high school. Appellant stated that he wanted his son to have better educational opportunities and more academic challenges, which he believed could only occur at Severna Park. He enclosed a character reference letter from one of B.S.'s teachers. (Motion, Ex. 4).

¹ STEM stands for science, technology, engineering, and math. AACPS offers STEM Magnet Programs at some of its schools, though Severna Park is not one of them. See <https://www.aacps.org/stem> (last accessed November 9, 2017).

On May 11, 2017, the superintendent's designee denied the transfer. She informed Appellant that transfers are permitted "when space and facilities are available to accommodate the transferring student and the reason for the transfer falls under our guidelines." Because the request did not fit within AACPS regulations, she denied it. Around this same time, a pupil personnel worker also reached out to the family by phone to discuss the appeals process and Appellant's concerns. (Motion, Ex. 5, 6).

Appellant appealed to the local board. On August 29, 2017, the local board affirmed the denial of the transfer. (Motion, Opinion and Order).

This timely appeal followed.

STANDARD OF REVIEW

The standard of review in a student transfer decision is that the local board is considered *prima facie* correct, and the State Board may not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. COMAR 13A.01.05.05A; *see Ralph and Tremaine N. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 17-30 (2017).

LEGAL ANALYSIS

AACPS has developed geographic zones for school attendance and created policies aimed at governing transfers within the school system. Students must attend school in the attendance area where their bona fide residence is located. (AACPS Regulation JAB; Motion, Ex. 2). Students may, however, request transfers to other schools based on a professional recommendation (from a medical or mental health care provider); because a student is continuing in a special program at the school; if the student is moving into or out of an attendance area; if the student is the child of a full-time employee at the school; or, for students in K-8, there is a daycare-related documented hardship. (AACPS Policy JAB; AACPS Regulation JAB; Motion, Ex. 1 and 2).

The transfer request and special programs

Appellant argues that his son will not have the same educational opportunities at Old Mill that he would have had at Severna Park. Appellant explains that he wanted his son to be accepted into one of the county's STEM Magnet Programs and disagrees with AACPS's current lottery system. Appellant included with his appeal his son's Math and English Language Arts scores, as well as other school awards and a letter of recommendation from a teacher.

AACPS's transfer policy provides for transfers in only a limited number of circumstances, and Appellant has not argued that his son falls into any of the allowable categories. We have previously affirmed denials of school transfers under AACPS's transfer policy, concluding that it does not lead to arbitrary, unreasonable, or illegal results. *See, e.g., Carolyn B. v. Anne Arundel County Bd. of Educ.*, MSBE Op. No. 15-20 (2015); *Deborah M. v. Anne Arundel County Bd. of Educ.*, MSBE Op. No. 14-58 (2014). Although Appellant is disappointed that his son did not get into his preferred school, he has failed to meet his burden to show that AACPS acted in an arbitrary, unreasonable, or illegal fashion by denying the transfer request. There is no right to attend a particular school, including "attendance at schools that

parents believe are better academically or otherwise than the child’s assigned school.” *Ralph and Tremaine N. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 17-30 (2017).

In addition to challenging the transfer decision, Appellant also complains about his son’s placement on a STEM Magnet Program waiting list. We observe that Appellant’s requested transfer school – Severna Park – is not one of the schools that offers a STEM Magnet Program. Moreover, Appellant did not appeal the school system’s Magnet Program admissions decision. Even were Appellant to have timely appealed that decision, we have concluded that there is nothing arbitrary, unreasonable, or illegal about a local board following its established criteria – in this case, a lottery system – for determining which students will attend particular magnet programs. *See Amanda B. v. Bd. of Educ. of Baltimore County*, MSBE Op. No. 14-24 (2014).

Changes in AACPS policy

Appellant argues that AACPS should change its transfer policies because they are obsolete and not appropriate for the 21st century. He advocates instead for a statewide policy that would require all high schools in the State to accept 15 to 20 percent of their students from outside of their designated attendance areas if those students have a grade point average of 3.8 or better. Appellant criticizes the current attendance policy, which he believes requires parents to buy expensive homes in certain parts of the county in order to attend better schools. Appellant urges the State Board to “overwrite” AACPS’s policy and allow his son to attend Severna Park. On a related note, Appellant argues that AACPS’s current lottery system for STEM Magnet Programs is based too much on luck and that more rigorous academic credentials should be required of students who apply. We have long held that the appeals process is not the appropriate mechanism for seeking such policy changes, and that such decisions belong instead with the local board. *See Jared H. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 16-37 (2016).

Voucher for nonpublic school

Finally, Appellant requests a voucher so that his son can attend a nonpublic school if his transfer request is denied. The Broadening Options and Opportunities for Students Today (BOOST)² program provides scholarships to some Maryland students who are eligible for free or reduced-price meals to attend eligible nonpublic schools. Awards are granted based on household income, with the lowest income students served first. The BOOST Advisory Board, not the State Board, awards the scholarships to eligible students. The program is closed for the 2017-18 school year, but, if eligible, Appellant’s son may apply for a scholarship beginning in March 2018 for the following school year. There is no guarantee, however, that he would receive a BOOST scholarship.

CONCLUSION

We affirm the decision of the local board because it is not arbitrary, unreasonable, or illegal.

² Details on the program are available at <http://www.marylandpublicschools.org/Pages/boost/index.aspx> (last accessed November 9, 2017).

Signatures on File:

Andrew R. Smarick
President

Chester E. Finn, Jr.
Vice-President

Michele Jenkins Guyton

Justin Hartings

Stephanie R. Iszard

Rose Maria Li

Michael Phillips

Abstention:

I have carefully read the opinion in *Allen S. v. Anne Arundel County Board of Education*.

Because I believe that the Anne Arundel County Board of Education behaved consistently with its legally established school transfer guidelines, I did not vote against the decision by my colleagues to affirm the actions of that local board. However, because I believe that public school districts should have, to the greatest extent possible, a rational ranking/preference system available to all parents for high school admissions into high schools across that district, and because in this case, the local district's guidelines do not simply focus on space and facilities availability but rather mix them with other selected special treatment categories such as teachers with children, I abstained from the vote. Most basically, I fail to see a compelling rationale for restricting parental choice when "space and facilities" may be available in the school preferred by the parent even after the local district has afforded that choice to its preferred categories of parents. In such instances, a system should be in place to enable parents an equal opportunity to have their children considered for transfer.

Signature on File:

David Steiner

January 30, 2018