

L ■■■■■ J. and M ■■■■■ N.,

Appellants

v.

HOWARD COUNTY
BOARD OF EDUCATION

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 22-04

OPINION

INTRODUCTION

L ■■■■■ J. and M ■■■■■ N. (“Appellants”) filed an appeal of the Howard County Board of Education’s (“local board”) split decision that resulted in upholding the decision of the Superintendent’s Designee denying Appellants’ request for school reassignment for their child. The local board filed a Memorandum in Response to Appeal. Appellants responded and the local board replied.

FACTUAL BACKGROUND

During the 2020-2021 school year, Appellants’ child (“the student”) was in 10th grade at ■■■■■ High School (“■HS”) in Howard County Public Schools (“HCPS”). During the COVID-19 pandemic, Appellants suffered financial hardship. One parent was out of work for a period, and the family was managing significant debt and expenses. As a result, Appellants decided to place their home on the market and move into an apartment that was located outside of the school boundaries for ■HS. Appellants planned to choose an apartment located within the school boundaries for ■■■■■ High School (“■HS”).

In anticipation of this move, which was expected to occur sometime in May, Appellants submitted a Student Reassignment Request Form to the Student Reassignment Office at HCPS on February 18, 2021. (Response, Ex. 2-48). Appellants sought transfer approval prior to signing a lease. The Student Reassignment Office informed Appellants that requests for reassignment would not be considered until July 1, 2021. The Office recommended delaying the sale of Appellants’ home for as long as possible to allow the student to attain Junior status, which under HCPS policy would guarantee the student’s placement at ■HS. (Response, Ex. 2 - Designee Response).

However, on March 10, 2021, Appellants submitted a new Student Reassignment Request Form with additional documentation. Appellants submitted a letter explaining the positive experience the student was having at ■HS both in terms of their peer group and their relationship to their teachers and classes. The letter also described in detail Appellants’ financial hardship, including evidence of their debt. (Response, Ex. 2-8, 9).

On July 7, 2021, the Student Reassignment Office sent a reminder to Appellants to provide any additional documentation to support their request. Appellants did not submit any additional documentation at that time. (Response, Ex. 2-62).

On July 26, 2021, Kris Woodson, Student Residency and Reassignment Specialist, acting as the Superintendent's Designee, sent Appellants a letter denying their request. The letter stated that the financial hardship cited by Appellants "did not constitute a unique hardship, as district-wide, thousands of families have experienced unprecedented financial hardship during the COVID-19 pandemic." The letter included appeal information for the local board. (Response, Ex. 2-47).

On August 16, 2021, Appellants appealed Ms. Woodson's decision to the local board via email, followed by hand delivered supporting documentation on August 18, 2021. Appellants reiterated their argument that their financial hardship should be a considered factor in keeping the student at ■HS. Appellants also provided a new basis for the requested transfer. Specifically, Appellants shared that their child is diagnosed with a condition known as dermatomyositis. This autoimmune condition can result in dermatologic manifestations (i.e., rashes) on the face, hands, arms, and legs. (Response, Ex. 2 - local board appeal).

Appellants alleged that stress could be a trigger for flare-ups of the condition. Appellants explained that the student previously was teased for the condition and underperformed at school. However, at ■HS, the student found a safe and supportive environment where the student formed strong friendships, earned straight As, and developed strong academic interests. Appellants were concerned about the stress of transferring to a new school on the student's physical and mental health. Appellants submitted additional supporting evidence, including a letter from the student's physician, a letter from a mental health provider, and a statement from the student in support of their appeal. (Response, Ex. 2 - local board appeal).

On September 4, 2021, Appellants emailed the local board to submit additional information for consideration. Appellants alleged that the student had a nosebleed at school the prior week. Appellants maintained that nosebleeds are an indicator of imminent flare-up of the student's condition, which they felt demonstrated the urgency of the situation. (Response, Ex. 2).

The local board considered this matter and was unable to attain the votes necessary to affirm or reverse the decision of the Superintendent's Designee. Three members voted to overturn the decision of the Superintendent's Designee and three members voted to affirm the decision. Those in favor of overturning the denial found that Appellants submitted sufficient evidence of their financial situation and the student's medical condition to warrant a unique hardship under Policy 9000. The three members in favor of affirming found the submitted documentation did not clearly support a link between the student's medical condition, outcomes, and the need for a transfer. As there was no majority vote, the decision of the Superintendent's Designee to deny the reassignment request remained in effect. (Response, Ex. 1).

This appeal followed.

STANDARD OF REVIEW

Decisions of a local board involving local policy or a controversy and dispute regarding the rules and regulations of the local board shall be 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. Because the local board did not attain the necessary votes to either affirm or reverse decision of the Superintendent's Designee denying Appellants' request, we apply this standard to our review of the decision. *J.D. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 20-32 (2020).

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). In HCPS, pursuant to Policy 9000, students are required to attend their assigned school unless they are granted a special exception to attend a school outside their geographic attendance area. (Policy 9000.IV.J). The exception applicable to this case is “[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.” (Policy 9000.IV.K.4). Under the unique hardship exception, the parents of the student bear the burden of presenting documented evidence of the unique hardship establishing the need for the reassignment.

Appellants ask this Board to overturn the local board's decision, which allows the decision of the Superintendent's Designee denying their request for reassignment under the unique hardship exception to remain in effect. Appellants' argument in support of their request focuses on the impact of the school reassignment on their child. Specifically, Appellants are concerned about the stress of the enrollment at the new school on the student's mental and emotional well-being, as well as a possible reoccurrence of the student's medical condition due to stress.

In support of their argument that denial of a transfer back to ■HS is detrimental to the student, Appellants submit a new, more detailed letter to this Board from their physician dated October 14, 2021. This letter expands upon the letter originally submitted to the local board by the same physician. Under COMAR 13A.01.05.04C, the State Board may receive additional evidence if “it is shown to the satisfaction of the State Board that the additional evidence is material and that there were good reasons for the failure to offer the evidence in the proceedings before the local board[.]” The local board objects to the inclusion of this new evidence arguing that it is not material.

To be material, the evidence must be “of such a nature that knowledge of the item would affect a person's decision-making.” *Shervon D. v. Howard County Bd. of Educ.*, MSBE Op. No. 17-10 (2017). Appellants argue that this new letter from the physician is material because it details the student's disease, as well as the doctor's opinion that a transfer is necessary to protect the student's health. The local board argues that the letter is not material as it fails to establish a unique hardship for a medical transfer. We agree with Appellants that the letter is material. The

physician is an expert who has treated the student since 2008. His letter outlines how stress can exacerbate the student’s diagnosed condition, the medical treatment that may be necessary in response to a medical flare-up, as well the physician’s opinion about why a transfer back to ■HS is appropriate. This is relevant to Appellant’s argument that the student’s medical condition presents a unique hardship. Because we find the letter is material to the decision, we remand this matter to the local board for further proceedings to consider the additional evidence.

CONCLUSION

We remand the matter to the local board to review the physician’s letter dated October 14, 2021 to determine whether to grant the student reassignment request.

Signatures on File:

Clarence C. Crawford
President

Charles R. Dashiell, Jr.
Vice-President

Shawn D. Bartley

Gail H. Bates

Susan J. Getty

Jean C. Halle

Rachel McCusker

Joan Mele-McCarthy

Lori Morrow

Holly C. Wilcox

Absent:
Vermelle Greene
Warner I. Sumpter

Abstain:
Chuen-Chin Bianca Chang

January 25, 2022