

IN THE MATTER OF

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BEFORE THE

BOARD OF EDUCATION

OF

CARROLL COUNTY

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DECISION OF THE BOARD OF EDUCATION OF CARROLL COUNTY

This is an appeal before the Board of Education of Carroll County (the "Board") pursuant to Section 4-205(c) of the Education Article to the Annotated Code of Maryland regarding a request for an out-of-district transfer. _____ and _____ (_____), on behalf of their _____ ("_____"), have appealed the May 11, 2009, decision of Superintendent's Designee, Barbara Guthrie, in this matter. In her decision, Mrs. Guthrie upheld an earlier decision by Supervisor of Pupil Personnel Katherine Green, denying the _____ request that _____ be allowed to attend Manchester Valley High School ("Manchester Valley") for the 2009-2010 school year rather than attend North Carroll High School ("North Carroll"), _____ home attendance area school.

The Board has reviewed all of the written material submitted by the _____ and _____ as well as documentation submitted by Mrs. Guthrie in response to the appeal. Pursuant to its review, the Board has determined that this appeal may be decided under its Rules of Procedure without an evidentiary hearing or oral argument.¹ For the reasons set forth below, the Board has

¹ The Maryland State Board of Education (the "State Board") has held that a student transfer matter does not necessitate a full evidentiary hearing or oral argument. *See, e.g., Reed v. Carroll County Board of Education*, 7 Op. MSBE 1242, 1246 (1998); *Marshall v. Howard County Board of Education*, 70 Op. MSBE 596, 598 (1997). Additionally, in their Appeal Information Form, _____ and _____ indicated that an evidentiary hearing and oral argument before the Board was not necessary.

determined that the transfer decision is not arbitrary, unreasonable or illegal.² Accordingly, the Board shall affirm the decision upholding the denial of the requested out-of-district transfer.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The submitted a *Carroll County Public Schools Out-of-District Request* on February 18, 2009, seeking approval for to attend Manchester Valley for the 2009-2010 school year, grade year. In support of their request, the point out that a student with an excellent academic record, is the victim of a flawed feeder system, in that the majority of students with whom attended middle school now attend Manchester Valley, while is districted to attend North Carroll. The believe that the current districting unfairly and adversely impacts neighborhood families by separating students from the peers with which they have established friendships. As additional justification for the requested transfer the explain that is close friends with another Manchester Valley student, (' '), who has recently been diagnosed with The believe that can assist in monitoring for a reaction during athletic bus trips. The request for transfer to Manchester Valley is also supported by letters from , , and mother, .

Upon reviewing the application and Ms. Green's denial, Mrs. Guthrie met with and on May 4, 2009. Mrs. Guthrie explained to and that while is a dedicated and caring friend to coaches and other school personnel are

² A decision may be arbitrary or unreasonable if: a) it is contrary to sound educational policy; or b) a reasoning mind could not have reasonably reached the conclusion the Superintendent or his Designee reached. A decision may be illegal if it is one or more of the following: a) unconstitutional; b) exceeds the statutory authority or jurisdiction of the Superintendent; c) misconstrues the law; d) results from an unlawful procedure; e) is an abuse of discretionary powers; or f) is affected by any other error of law. See COMAR 13A.01.05.05. *See also Breads v. Board of Education of Montgomery County*, 7 Op. MSBE 507 (1997) (evaluating a student transfer appeal and noting that the State Board will not substitute its judgment for that of the local board unless the decision is shown to be arbitrary, unreasonable or illegal).

trained to respond to emergency medical situations and that the responsibility for a student's medical condition would not be delegated to another student. Mrs. Guthrie also reviewed the regulations regarding out-of district placement and provided _____ and _____ with a copy of the Administrative Regulations for Students Attending School Out of Attendance Areas.

Mrs. Guthrie affirmed the denial of the _____ request by letter dated May 11, 2009, reasoning that Ms. Green's decision was consistent with board Policy JEA and the Superintendent's regulations on "Students Attending Schools Outside of Attendance Areas." In her letter, Mrs. Guthrie explained that the _____ transfer request did not fall within the stated reasons for approval of a transfer to an "open" school nor did it rise to the level of a "significant, documented hardship."³

Manchester Valley is an "open" school because its student enrollment is less than ninety percent of its functional capacity. Consistent with Section 4-109 of the Education Article of the Annotated Code of Maryland, the Board of Education of Carroll County established Policy JEA which provides,

" . . .students shall attend the school located within the attendance area in which they actually reside. The Board of Education recognizes that in some specific and limited situations, students may be considered for placement outside of their designated attendance area. The Superintendent through the Student Services Department, is authorized to make such placement."

³ Section IV(G) of the Administrative Regulations implementing Board Policy JEA provides as follows:

An exception to the out-of-district regulation may be granted by the Supervisor of Pupil Personnel and Student Support Services in rare and unusual circumstances when a significant, documented hardship is deemed to exist by Student Services staff. Problems that are common to large families do not constitute a hardship, absent additional compelling factors. Exceptions will not be made for redistricting, family convenience, participation in extracurricular activities, provisions of daycare/supervision not otherwise covered by this regulation, separation/divorce, or the student's desire to remain with the same peer group/at the same school.

The administrative regulations for Policy JEA applicable to open schools provide limited reasons for which a student may be allowed to attend an open school, specifically, certain childcare situations for students attending Kindergarten through eighth grade, moving during the current school year, senior year of high school status, and rules applicable to school based staff members. None of these exceptions apply to this case. Additionally, the administrative regulations allow the staff to consider “rare and unusual circumstances when a documented hardship is deemed to exist.”

is commended for dedication to friend and for the desire to support by assisting in monitoring her . However, neither the desire to be with one’s friends nor the desire of one student to assist another with a medical condition is a valid basis for an out-of-district transfer under the applicable administrative regulations. The Carroll County Public Schools is unable to delegate the responsibility for monitoring a students’ medical condition to another student.

Additionally, the fact that has been the subject of previous redistricting decisions during tenure in Carroll County Public Schools is not sufficient justification for the requested transfer under the administrative regulations for Policy JEA. Redistricting decisions reflect the Board’s desire to efficiently and effectively allocate the resources, facilities, and staff of the Carroll County Public School System in a manner that maximizes the educational experience of the children of Carroll County as a whole. While redistricting decisions may not always prove to be individually satisfying to every student affected by them, this will not serve as a justification for granting an out-of-district transfer under the administrative regulations for Policy JEA. As the discussed above, the record does not indicate that either inability to attend Manchester Valley with and to assist in monitoring , nor

history of redistricting, constitutes a qualifying hardship under the administrative regulations for Policy JEA.

The Maryland Court of Appeals has held that, “[a]bsent a claim of deprivation of equal educational opportunity or unconstitutional discrimination because of race or religion, there is no right or privilege to attend a particular school.” *Bernstein v. Board of Education of Prince George’s County*, 245 Md. 464, 472 (1967). Likewise, the State Board has repeatedly held that students are not entitled to attend a particular school. *See, e.g., Antila v. Montgomery County Board of Education*, MSBE Op. No. 06-01 (Jan. 25, 2006); *Goldberg v. Montgomery County Bd. Of Educ.*, MSBE Op. No. 05-35 (October 26, 2005); *Botzer v. Montgomery County Board of Education*, MSBE Op. No. 04-39 (Oct. 27, 2004); *Liu v. Montgomery County Board of Education*, MSBE Op. No. 04-40 (Oct. 27, 2004); *Chacon v. Montgomery County Bd. of Educ.*, MSBE Op. No. 01-39 (December 5, 2001);

As we have determined on numerous occasions, student transfer decisions require the balancing of system-wide considerations as compared to the concerns of the student and his or her family. The State Board has previously determined that, “[r]ace, socio-economic level, building utilization, enrollment levels, and the educational program needs of the individual student are legally permissible and proper subjects of consideration in weighing the impact of a request for a student to transfer from his or her ‘home’ school to some other school of choice.” *See Reed v. Carroll County Bd. of Educ.*, 7 Op. MSBE 1242 (1998) (denying the student’s continued out-of-district transfer due to overcrowding).

Balancing these considerations in the matter before us, we have determined the fact that, although, Manchester Valley is “open” due to enrollment numbers less than 90 percent of capacity, desire to attend school with or other friends attending Manchester

Valley is not a valid justification for the transfer. We have factored into our analysis individual circumstances in considering the instant appeal. In so doing, we have further determined that there is no reason to conclude that the reasons outlined by the amount to a documented hardship. In fact redistricting is specifically listed as a factor that does not constitute a documented hardship under Section IV(G) of the Administrative Regulations implementing Board Policy JEA.

Based upon our review of the record, we find that the reasons advanced by the do not constitute a hardship sufficient to overturn the transfer decision. In addition, this Board finds that the have not demonstrated that the decision regarding the denial of the requested out-of-district transfer of was arbitrary, unreasonable or illegal. To the contrary, we find that the decision of Ms. Green that was affirmed by Mrs. Guthrie as the Superintendent's Designee, set forth a rational basis for denying the requested transfer, which is consistent with Board policy, the Superintendent's administrative regulations, and prior decisions by this Board.

The Board recognizes that the appropriate utilization of schools is of extreme importance in making out-of-district transfer decisions. Under the facts of this case, Manchester Valley is an "open" school. The Board has taken into account and has weighed the reasons advanced by the against the concerns of the school system regarding utilization of the Manchester Valley facility. The decision of this Board is that the circumstances presented by the do not reflect a unique, personal hardship sufficient to justify a reversal of the transfer decision when balanced against the adverse impact on Manchester Valley. In view of the fact that the have failed to establish a unique hardship sufficient to warrant attendance at Manchester Valley and have failed to demonstrate that the Superintendent's decision was

arbitrary, unreasonable or illegal, the Board will uphold the decision of the Superintendent's designee in denying the requested transfer of _____ from North Carroll to Manchester Valley for the 2009-2010 school year.

DECISION

For the reasons discussed above, this Board affirms the decision upholding the denial of the out-of-district transfer request. Should they choose to do so, the _____ may appeal this decision to the Maryland State Board of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, in writing, within thirty (30) days of the date of this decision.

08/12/09
Date

Patricia W. Gadberry
Patricia W. Gadberry, Vice President

Gary W. Bauer
Gary W. Bauer

Cynthia L. Foley
Cynthia L. Foley

Jennifer A. Seidel
Jennifer A. Seidel

Dissenting:

Barbara Shreeve
Barbara Shreeve, President