

DENISE & RANDALL M.,

Appellant

v.

ANNE ARUNDEL COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 10-54

OPINION

INTRODUCTION

The Appellants appealed the denial of their request for an out-of-area transfer for their daughter. The Anne Arundel County Board of Education (“local board”) filed a Motion for Summary Affirmance. The Appellants responded.

FACTUAL BACKGROUND

The Appellants’ daughter, V.M., is an incoming high school student, whose home school is Glen Burnie High School (“Glen Burnie”). Her parents filed a request for an out-of-area transfer to Northeast High School (“Northeast”) because V.M. has attended elementary and middle schools in the Northeast feeder system on out-of-area transfers since third grade. Apparently, there was sufficient capacity in those schools to allow the out-of-area transfers to be granted. The superintendent denied the most recent request for an out-of-area transfer to Northeast because Northeast is involved in a major construction project and has restricted capacity.

The Appellants appealed that decision to the local board which conducted an evidentiary hearing on June 15, 2010. After hearing testimony from the local school system about the construction project at Northeast and the reduced capacity there (T. 7-10), the local board heard from V.M. and her parents. Both parents testified that their daughter was a very good student, and that she had a hard time making new friends. Both parents testified that they worried that their daughter would not succeed at Glen Burnie.

The local board issued a decision on June 30, 2010 denying the out-of-area transfer request because Northeast was “entering a major construction phase which will require a limit on the number of students who can attend the school.” Decision at 3. This appeal ensued.

STANDARD OF REVIEW

Because this appeal involves a decision of the local board involving a local policy, the local board's decision 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.01.05.03E(1).

LEGAL ANALYSIS

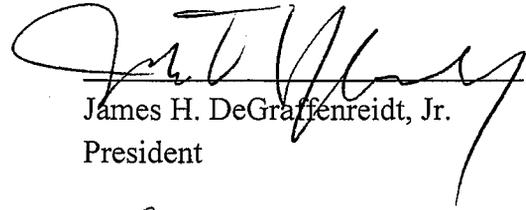
The Appellants advocate strongly for their daughter's transfer to Northeast. She had received out-of-area transfers in the past to stay in the Northeast feeder schools. Transfers occur, however, within the rules developed by the local board for orderly feeder pattern attendance and enrollment decisions. Unfortunately, those decisions cannot be individualized to each student.

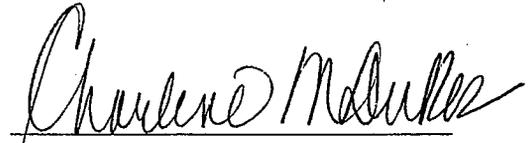
In Anne Arundel County Public Schools, Regulation JAB.RA.C.8.b provides that "(a)pproval of out-of-area transfers is subject to temporary reassignment of students by the Superintendent because of school construction, renovations or any emergency situation." Here, Northeast is under construction and will be for the next three years. The building will not be able to accommodate its full State Rated Capacity because portions of the building will be closed and portable classrooms will be in use. As the Regulation states, the granting of out-of-area transfers is always subject to issues such as school construction having an impact on the assignment of students. Thus, the general feeder pattern rules had to be followed in this case because of the major construction project and need to limit capacity at Northeast. In our view, those were valid reasons to deny the out-of-area transfer request.

We recognize that those valid reasons do not alleviate the concern of these parents for their daughter's success and happiness in school. The law, however, supports the decision of the local board. As the courts of this State and the Maryland State Board of Education have long held that there is no right to attend a particular school or particular class. *See Bernstein v. Board of Educ. of Prince George's County*, 245 Md. 464 (1967); *Goldberg v. Montgomery County Bd. of Educ.*, MSBE Op. No. 05-35 (2005); *Chacon v. Montgomery County Bd. of Educ.*, MSBE Op. No. 01-39 (2001); and *Williams v. Board of Educ. of Montgomery County*, 5 Op. MSBE 507 (1990).

CONCLUSION

For all of the reasons set forth above, the decision of the local board is affirmed.


James H. DeGraffenreidt, Jr.
President

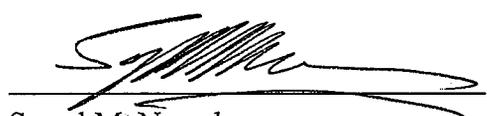

Charlene M. Dukes
Vice President

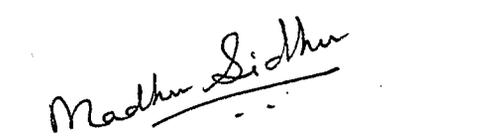

Mary Kay Finan

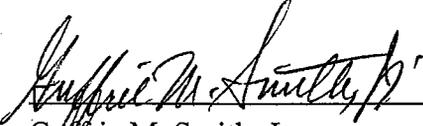


S. James Gates, Jr.


Luisa Montero-Diaz

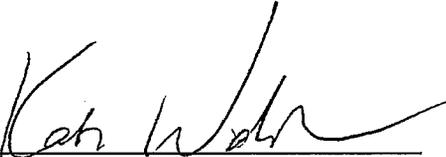

Sayed M. Naved


Madhu Sidhu


Guffie M. Smith, Jr.


Donna Hill Staton


Ivan C.A. Walks


Kate Walsh

December 14, 2010