

E [REDACTED] V.

Appellant,

v.

HOWARD COUNTY
BOARD OF EDUCATION

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 20-42

OPINION

INTRODUCTION

This is an appeal of the Howard County Board of Education's ("local board") split decision resulting in the denial of Appellant's request to reassign her daughter to [REDACTED] High School (" [REDACTED] HS"). Appellant requested the reassignment based primarily on mental health concerns. The local board filed a Memorandum in Response to Appeal maintaining that the decision denying the reassignment was not arbitrary, unreasonable, or illegal because the reassignment request did not meet the criteria for reassignment under the school system's policy. The Appellant did not respond to the local board's Memorandum.

FACTUAL BACKGROUND

Appellant's daughter, [REDACTED] is a rising ninth grade student who resides in the geographic attendance area assigned to [REDACTED] High School (" [REDACTED] HS"). Prior to the local board's November 21, 2019 redistricting decision for the Howard County Public School System ("HCPSS"), effective for the 2020-2021 school year, [REDACTED] HS was the assigned high school serving the geographic attendance area where Appellant resides. [REDACTED]'s older brother, who is in his senior year, will be attending [REDACTED] HS pursuant to an exemption to the redistricting for rising seniors who wanted to remain at their previously assigned high school.

On or about January 13, 2020, Appellant submitted a School Reassignment Request Form seeking to have [REDACTED] attend [REDACTED] HS instead of [REDACTED] HS. In her letter attached to the request, Appellant explained that she is a single mother who relocated to Maryland from New York two years ago with no family or friends in the area. She stated, without any elaboration, that "due to the nature and sensitivity" of her work at the Department of Defense, she needs her two children to attend the same school. Although Appellant stated she would like [REDACTED] to attend [REDACTED] HS with her brother for the convenience of driving to school, she also stated that she is concerned for her daughter's mental health having to adjust to a new school and make new friends after moving to Maryland in the 7th grade. (Local Bd. Attach. A).

By letter dated May 5, 2020, Kris Woodson, Specialist for Student Reassignment and Residency, acting as the Superintendent's Designee, advised Appellant that her request for reassignment was denied because it failed to meet the standard of a documented unique hardship required for transfer under the school system's Policy 9000 – Student Residency, Eligibility,

Enrollment and Assignment. *Id.* Ms. Woodson also explained that per Policy 9000, reassignments are not granted for addressing the impact of a redistricting or for siblings to remain at the same school. *Id.*

On or about May 28, 2020, Appellant appealed Ms. Woodson's decision to the local board stating:¹

We moved to MD from [REDACTED] almost 2 years ago. I am a single mother working and we have no other family or friends in this area. [REDACTED] will lose any supports she may have already established by attending a new High School. She is having difficulty adjusting with making and keeping friends. She is still struggling with the move and having to adapt so many times within such a short period of time. She expresses the frustration this is causing her because she was also placed in 3 different [e]lementary schools in 6 years. She continues to express her sadness and feelings of loneliness if having to attend another new school while still adjusting to moving to a new state with absolutely no emotional supports.

Id. To support her appeal, Appellant attached a May 18, 2020 letter from her daughter's pediatrician from an office visit that same day. The letter states as follows:

[REDACTED] suffered from an adjustment reaction and psychological distress due to the relocation of the family from [REDACTED] to MD two years ago. Due to the plans for redistricting of Howard County Schools, [REDACTED] is now slated to attend [REDACTED] High School. She has developed a strong support and friendship network at her current school and the majority of those friends will be attending [REDACTED]. In addition, her older sibling has been permitted to continue his schooling at [REDACTED] because it [is] his senior year. This change for [REDACTED] is producing significant psychological distress and I would recommend to prevent worsening of her adjustment disorder she be permitted to continue her education at [REDACTED] High School next year.

Id.

In response to the appeal, Restia Whitaker, Coordinator of Pupil Support Services, and Ms. Woodson provided a report to the local board recommending that the reassignment request be denied because it did not meet the criteria set forth in Policy 9000. (Local Bd. Attach. C). They stated that Appellant failed to establish a documented, unique hardship because the letter from [REDACTED]'s pediatrician was insufficient to verify the basis for the request since she is not a mental health professional, such as a licensed therapist, psychologist or psychiatrist, and the documentation failed to outline the steps taken to address the condition or other treatment. *Id.*

¹Appellant incorrectly requested an "administrative transfer" to [REDACTED] HS in the Appeal Information Form that she submitted to the local board, which was not the applicable provision for a student reassignment in this case. Nevertheless, the local board considered the appeal under the unique hardship standard, which is the appropriate standard here.

When asked for documentation from a mental health professional, Appellant advised that there was none. *Id.*

They also stated that Appellant's situation was not unique in that due to the redistricting more than 5000 students would be attending new schools in Howard County for the 2020-2021 school year and [REDACTED], like many other students, was not among an exempted category of students. Many of those students have concerns about moving to a new school, adjusting to a new school environment and making new friends, and the schools have supports to help students with that transition. *Id.* Furthermore, because K.M. is a rising ninth grader, she is going to experience a significant school transition regardless of the assigned school. Additionally, Ms. Whitaker and Ms. Woodson noted that Policy 9000 specifically prohibits the reassignment of students to address the impact of redistricting, as well as reassignments for siblings to attend the same school. *Id.*

In a Decision issued May 12, 2020, the local board was unable to attain a majority vote of four members to either affirm or reverse the denial of the reassignment request by Ms. Woodson. (Local Bd. Attach. B). Three members voted to uphold the denial finding that reassignment requests based upon claimed mental distress should be supported by a professional trained to identify and treat mental health conditions and, thus, Appellant failed to provide evidence of a documented unique hardship. *Id.* Three local board members voted to reverse the denial finding that the pediatrician's note was sufficient to confirm the mental health condition. *Id.* One local board member abstained. *Id.* Because the local board did not reach a majority decision, Ms. Woodson's decision denying the reassignment remained in effect.

This appeal followed.

STANDARD OF REVIEW

The standard of review in a student transfer decision is that the decision 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. COMAR 13A.01.05.06A. A decision is arbitrary or unreasonable if "it is contrary to sound educational policy" or if "a reasoning mind could not have reasonably reached the conclusion the local board or local superintendent reached. COMAR 13A.01.05.06B. The Appellant has the burden of proof by a preponderance of the evidence. COMAR 13A.01.05.06D. Because the local board did not attain the necessary votes to either affirm or reverse the decision of the Superintendent's Designee denying the reassignment request in this case, we apply this standard to our review of her decision.

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 HCPSS, 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(5)). 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. The Policy states that reassignment will not be granted based on the need for a particular schedule or class; for siblings to remain enrolled in the same school; to accommodate child care arrangements; and to address the impact of redistricting decisions. (Policy 9000.IV.K.6).

Documented Unique Hardship Exception

With regard to a unique hardship, Appellant maintains that [REDACTED]’s mental health needs require her to attend [REDACTED] instead of [REDACTED] HS in order to avoid another transition and to maintain her network of friends.

In order to justify a transfer based on a medical need, an appellant must demonstrate a link between the student’s medical condition and the necessity for transfer to the requested school. *Shervon D. v. Howard County Bd. of Educ.*, MSBE Op. No 17-10 (2017); *Philip and Deborah W. v. Prince George’s County Bd. of Educ.*, MSBE Op. No. 11-48 (2011). The fact that a documented medical condition exists is not itself sufficient to grant approval of a transfer. *See Timothy and Michelle W. v. Howard County Bd. of Educ.*, MSBE Op. No. 09-18 (2009). Documentation should include information about the diagnosis, treatment, and expected outcomes for the student. In addition, an appellant must show that health professionals at the assigned school cannot support the medical condition. *Shervon D., supra*. “Brief statements” from medical professionals fall short of “the type of detailed explanation needed regarding the necessity for the transfer and the intended outcome.” *Carolyn B. v. Anne Arundel County Bd. of Educ.*, MSBE Op. No. 15-20 (2015).

Here, Ms. Woodson and Ms. Whitaker indicated that the Student Assignment Office requires medical documentation supporting a reassignment request based on a mental health condition to come from a mental health professional, rather than a general practitioner or pediatrician. It is our view that this is unreasonable as a *per se* rule. Although they are not mental health specialists, general practitioners and pediatricians are not precluded from diagnosing or treating mental health disorders. Thus, the focus must be on the content of the documentation from the health professional that Appellant submitted to support her request.

The local board’s decision in this case was split because three board members found “that reassignment requests based upon claimed mental distress should be supported by a professional trained to identify and treat mental health conditions” and that “Appellant failed to provide adequate documented evidence of a unique hardship” because she did not provide such information. Thus, at least three members of the split board did not focus on the content of the documentation simply because it was from [REDACTED]’s pediatrician and not a mental health specialist.

CONCLUSION

Given our view that requiring the documentation supporting a reassignment request based on mental health issues to come only from a mental health specialist is *per se* unreasonable, we remand the case to the local board for it to reconsider the evidence in a manner consistent with our decision.

Signatures on File:

Clarence C. Crawford
President

Jean C. Halle
Vice-President

Shawn D. Bartley

Gail H. Bates

Charles R. Dashiell, Jr.

Susan J. Getty

Vermelle D. Greene

Rose Maria Li

Rachel McCusker

Joan Mele-McCarthy

Lori Morrow

Warner I. Sumpter

Holly C. Wilcox

October 27, 2020