

J.L and Y.L.,

Appellant,

v.

MONTGOMERY COUNTY  
BOARD OF EDUCATION

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 21-52

## OPINION

### INTRODUCTION

Appellants appeal the decision of the Montgomery County Board of Education (“local board”) denying their son admission to the Science, Math, Computer Science Magnet Program at Montgomery Blair High School (“Magnet Program”). The local board responded to the appeal maintaining that its decision was not arbitrary, unreasonable or illegal. Appellants filed a reply and the local board responded.

### FACTUAL BACKGROUND

Montgomery County Public Schools (“MCPS”) offers various specialized regional/countywide criteria-based high school programs like the Blair Magnet Program. Students must submit an application and meet specific criteria in order to participate in one of these specialized programs. The demand for participation in these programs is very high, which results in a very competitive process.

Applications for the Blair Magnet Program for the 2021-2022 school year were due on November 6, 2020. Eligibility was based on multiple indicators including: student application/personal submission; pre-COVID and 2020 report cards; reading level; external assessment in math (NWEA); and student services (e.g. ESOL, FARMS, IEP, 504 Plan).<sup>1</sup> (Local Bd. Ex. 1). The admission process was blind to a student’s name, race, and school of attendance. (Local Bd. Ex. 2).

For the 2021-2022 school year, 840 students applied for the 100 available seats in the incoming Blair Magnet Program class. *Id.* In January 2021, the Review Committee evaluated each student’s application and academic record. (Local Bd. Ex. 1). Early in 2021, students received notice that they were invited to attend the Magnet Program, were placed on a wait list, or were not selected for admission. (Local Bd. Ex. 2). Appellants’ son, K.L., received notice that he was not selected for admission to the Magnet Program.

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<sup>1</sup> Due to COVID limitations with in-person instruction and test security, the Cognitive Abilities Assessment (“CogAT”) and scored essay were not administered in 2020 and were not considered for admission to the criteria-based programs for the 2021-2022 school year. In addition, teacher recommendations were not required due to conditions associated with virtual-only instruction.

The application procedures allow for an appeal of the Review Committee's decision if (1) there is new information that was not available at the time of the initial review of the student's application that significantly changes the student's academic profile; or (2) there is a hardship or unique circumstance. Additional external tests and sample work are not considered in an appeal. Pursuant to this process, on or about February 5, 2021, Appellants appealed the Review Committee's decision denying K.L.'s application for admission to the Magnet Program. Appellants included letters from themselves and K.L., as well as K.L.'s December 21, 2021 interim grades.

By letter dated March 5, 2021, Peter Ostrander, Magnet Coordinator, informed the Appellants that, after reviewing the original application and the appeal materials, the Appeals Committee upheld the decision denying admission to the program. He advised Appellants to have discussions with their son's home high school to determine what courses or programs were available to best meet his academic needs and interests.

Appellants appealed the decision to Dr. Janet Wilson, Chief of Teaching, Learning and Schools, acting as the Superintendent's Designee. They included samples of K.L.'s academic performance and accomplishments. On May 21, 2021, Dr. Wilson advised Appellants that she was upholding the Appeal Committee's decision because the appeal did not meet the appeal criteria. Dr. Wilson recommended that Appellants contact the counseling department at their home high school to learn more about enriched programming for their son.

On June 14, 2021, Appellants appealed Dr. Wilson's decision to the local board. They stated their belief that K.L.'s accomplishments had been ignored throughout the application and appeal process. They submitted updated academic and performance data, including K.L.'s MP3 Report Card for 2020-2021, notice of his qualification for a May 2021 American Computer Science League competition, and his various awards and accomplishments. Appellants and K.L. both stated that K.L. had to adjust to learning in the virtual environment during the pandemic.

On July 1, 2021, by memorandum to the local board, Dr. Monifa McKnight, Interim Superintendent, responded to the appeal recommending that the local board uphold the decision. She explained that selection for admission to the Magnet Program was highly competitive with applications far exceeding the available seats in the program, and that the competitive process resulted in the denial of admission of many highly qualified candidates with outstanding academic records and computer-related extracurricular experiences due to lack of space. She explained that K.L.'s academic profile was similar to many other students who were denied entry into the program. Dr. McKnight also identified various programmatic and other opportunities for K.L. to explore while attending his home school, including the Academy of Information Technology; Science, Technology and Research Scholars; internship opportunities, student-led clubs and organizations with a computer science and engineering focus; and the dual enrollment program at Montgomery College.

On July 27, 2021, the local board issued a written decision affirming the denial of admission to the Magnet Program. The local board recognized that although K.L. is an outstanding student of high ability, many outstanding students were denied admission because the admission process was highly competitive.

## STANDARD OF REVIEW

Local board decisions involving a local policy or a controversy and dispute regarding the rules and regulations of the local board are considered *prima facie* correct. The State Board will not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. COMAR 13A.01.05.06A. The Appellant has the burden of proof by a preponderance of the evidence. COMAR 13A.01.05.06D.

## LEGAL ANALYSIS

Appellants have failed to demonstrate that the school system did not follow its procedures in evaluating the application for admission or in the appeal. An appeal of the Review Committee's decision must be based on either (1) new information that was not available at the time of the initial review of the student's application that significantly changes the academic profile of the student; or (2) a hardship or unique circumstance. The record does not support a finding that the Appellants met this standard. Although Appellants generally asserted that the pandemic presented challenges for K.L. in terms of adjusting to virtual learning, the pandemic adversely affected many MCPS students. There is no evidence of hardship or a unique circumstance here. Nor did Appellants present any new information that was previously unavailable at the time of initial review that significantly changes K.L.'s academic profile.

The Appellants argue that the local board erred because the school system failed to consider K.L.'s updated and highest NWEA score of 291, which he received in spring of 2021, and instead only considered his score of 261 from fall 2020. They argue that a score of 291 is similar or higher than the scores of some of the students admitted to the Magnet Program, as set forth in the local board's Ex. 3 in response to the appeal. The scores listed on Ex. 3, which were the scores used by the Review Committee in assessing the applicants, are the NWEA scores from winter 2019 and fall 2020. Admission decisions were announced in January, 2021, thus the committee did not consider applicant scores on the spring 2021 math assessment. There was no basis for MCPS to reevaluate K.L. on appeal using his spring 2021 because there was no spring 2021 comparison data for applicants to the Magnet Program. Students were evaluated using comparative NWEA data that existed at specified points in time. The appeal procedures do not allow for continuous updating of child's NWEA progress after the deadline. To do so would result in a never-ending process of continuous test score updates. The record demonstrates that K.L.'s fall 2020 NWEA score fell below that achieved by other students who were denied admission, placed on the wait list and/or selected for admission to the Magnet Program. (Local Bd. Ex. 4). While K.L.'s spring 2021 score may be higher when compared to the earlier scores, it is to be expected that scores will increase over time as learning progresses.

Appellants believe that their son should have been admitted to the Magnet Program based on his stellar academic and other achievements, and his strong dedication and interest in the subject. Like other appeals involving special program admissions, this is a case in which the number of applicants for the Magnet Program far exceeded the available spaces, making it highly competitive. The result was that many very capable students were not admitted. Indeed, the local board stated that less than 20% of the applicants were selected for admission to the Program. MCPS personnel reviewed K.L.'s application as part of the original admission process and on appeal. He is clearly an outstanding and impressive student of high ability. But the

Review Committee had to choose from many high-achieving applicants among the 840 applications for the students who would be admitted to the Magnet Program.

Appellants maintain that K.L. is being denied “an opportunity to an education which is equal to that of the program to which he applied.” Not all students can partake in specialized programs and there is no right to attend any particular school or program. *See Catherine H. v. Prince George’s County Bd. of Educ.*, MSBE Op. No. 17-25 (2017) and cases cited therein. School systems have finite resources and devise procedures for fair opportunity for admission. MCPS has worked hard to use equitable approaches for these application processes to increase access for all students at the secondary level. Nonetheless, inability to participate in a specialized program does not mean that a student has no opportunity for rigorous academic programming. The record reflects that there are other opportunities for K.L. at his home school or through a dual enrollment program at Montgomery College.

Finally, the Appellants assert in their appeal that they were not provided an evidentiary hearing before the local board. There is no requirement for an evidentiary hearing in a case such as this. The local board reviewed the Appellants’ appeal materials and considered the Interim Superintendent’s response to the appeal. The local board determined that the matter could be adjudicated on the written record without an evidentiary hearing or oral argument. *See Nicole K. v. Charles County Bd. of Educ.*, MSBE Op. No. 16-14 (no constitutional or statutory basis for an evidentiary hearing); *Robinson v. Charles County Bd. of Educ.*, MSBE Op. No 11-21 (2011)(due process does not require a hearing when there are no disputes of material fact).

CONCLUSION

For the reasons stated above, we affirm the local board’s decision to deny K.L.’s admission to the Blair Magnet Program.

Signatures on File:

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Clarence C. Crawford  
President

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Charles R. Dashiell, Jr.  
Vice-President

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Shawn D. Bartley

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Gail H. Bates

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Chuen-Chin Bianca Chang

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Susan J. Getty

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Jean C. Halle

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Rachel McCusker

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Lori Morrow

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Warner I. Sumpter

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Holly C. Wilcox

Absent:  
Vermelle Greene  
Joan Mele-McCarthy

October 26, 2021