

C.I.

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 22-21

OPINION

INTRODUCTION

Appellant appeals the decision of the Montgomery County Board of Education (“local board”) denying her daughter, ■■■, admission to the lottery pool for the Mathematics, Science, Computer Science Magnet Program at Roberto W. Clemente Middle School (“CMS”). The local board responded to the appeal maintaining that its decision was not arbitrary, unreasonable or illegal.

FACTUAL BACKGROUND

Montgomery County Public Schools (“MCPS”) offers various opportunities for rising grade 6 students who demonstrate the potential to be successful in enriched and accelerated programming. These opportunities are in both the local middle school magnet programs and regional middle school magnet programs. The regional magnet programs include the interest-based Middle School Magnet Consortium (“MSMC”). The MSMC is comprised of three schools, Argyle, Loiederman, and Parkland middle schools, each of which offers a magnet curriculum with a focus of certain subjects. Parkland Middle School (“PMS”) provides a focus on math and science. MCPS also offers regional magnet criteria-based programs. The regional criteria-based programs based on ■■■’s home high school are located at CMS and Dr. Martin Luther King, Jr. Middle School.

MCPS evaluates all grade 5 students for potential placement in one of the criteria-based regional magnet programs through its universal review process, which automatically considers students for the magnet program lottery without submission of applications. A student’s home high school determines the program location for which the student will be considered. This is a highly competitive process and no one student is guaranteed placement in a program as the number of students identified for potential placement vastly outweighs the number of magnet program spots. CMS has only fifty spots available for the magnet program.

The universal review process takes into consideration multiple criteria including grade 5 report cards, locally normed percentile ranks for the fall 2021 Measures of Adequate Progress in

Reading and Mathematics (MAP-R and MAP-M), instructional reading level, and student services. (Ex. 1).¹

On September 30, 2021, MCPS sent out a district-wide letter to all parents of grade 5 students notifying them of the MCPS local and regional middle school magnet programs and outlining all of the information above. (Ex. 2). In addition to the letter, MCPS posted detailed information about each program on the MCPS website.

In December 2021, MCPS conducted the universal review process for students entering grade 6 in the 2022-2023 school year and determined which students would be placed into the lottery for criteria-based magnet programs. As part of the universal review process, MCPS considered Appellant's daughter, ■■■, a rising grade 6 student, for the criteria-based magnet programs at CMS and Dr. Martin Luther King, Jr. Middle School. By letter dated January 13, 2022, MCPS notified Appellant that ■■■ was not entered into the lottery pool for either of these magnet programs. (Ex. 3).

The decision not to place a student in the lottery pool may be appealed to demonstrate that (1) a unique hardship impacted the student's academic profile; or (2) there were errors or missing information in the student's academic profile. (Ex. 1). Pursuant to this process, on January 21, 2022, Appellant appealed the decision not to place ■■■ in the lottery pool for the magnet program at CMS. She stated, "[t]here is a hardship or unique circumstance that impacted my student's academic profile that was not shared at the time of consideration." (Ex. 4). Appellant specified that the family was impacted by the death of her husband, and that as a single mother of multiple children, including one with special needs, she was unable to transport ■■■ to a magnet school that does not provide transportation. She also claimed that ■■■'s grades suffered from 2018-2020 due to the trauma of her father's terminal illness and death in 2019. *Id.*

On February 24, 2022, Jeannie Franklin, Director of Consortia Choice and Application, informed Appellant that a Level 1 appeal committee reviewed the appeal and ■■■'s student data, which included her MAP scores, grades, reading level, and student services, and upheld the decision not to place ■■■ in the lottery pool. (Ex. 5). She encouraged Appellant to learn more about the programming available at ■■■'s home middle school. *Id.*

An individual may appeal the Level 1 decision to demonstrate that: (1) there was an error in the original information submitted with the Level I appeal; or (2) there is new information or unique hardship that was not available at the time of the Level 1 appeal that significantly changes the academic profile of the student. *Id.* Thus, on February 24, 2022, Appellant appealed the Level 1 appeal committee's decision claiming that there was "new information that significantly changes the student's academic profile that was not available at the time of the Level 1 appeal." (Ex. 6). Appellant did not provide new information, but rather re-asserted her claim of hardship presented in the Level 1 appeal. *Id.*

A different appeal review committee convened to review Appellant's Level 2 appeal. The committee looked again at the information provided by Appellant and ■■■'s student data. The committee found that ■■■ did not meet the criteria to be included in the lottery pool and provided a detailed chart setting forth the Criteria for Central Recommendation in comparison to ■■■'s scores. (Ex.7). Although ■■■ met the recommended criteria for Reading and Science, she

¹ MCPS did not use the Cognitive Abilities Test ("CogAT") during review of the 2021-2022 school year. *Id.*

did not meet the recommended scores for Math. ■■■'s locally normed MAP-M score of 43 percent did not meet the required criteria score of 85 percent. Additionally, the recommended Math grade was an A and ■■■ received a B math grade. *Id.* The committee recommended to uphold the decision not to place ■■■ in the lottery and suggested that she explore the options at ■■■, as she had applied to and been accepted into the interest-based magnet program there.² By letter dated April 7, 2022, the Superintendent's Designee, Rischelle Reuben, Chief of Teaching, Learning, and Schools, notified Appellant that she had adopted the committee's recommendation. *Id.*

On April 7, 2022, Appellant appealed the decision of the Superintendent's Designee to the local board. (Ex. 8). She maintained that although ■■■ fell a grade short for the Math Central Recommendation, she is "fully positive that [■■■] is fully capable and competent to meet and excel in the Math, Science, & Comp Science program at [CMS], if given a chance." *Id.*

On May 3, 2022, by memorandum to the local board, Dr. Monifa McKnight, Interim Superintendent, responded to the appeal recommending that the local board uphold the Designee's decision. Dr. McKnight explained the competitive selection process and the limited number of program seats resulted in the denial of many candidates with outstanding ability. (Ex. 9). She noted that ■■■'s academic profile was similar to other students who were denied entry into the program.

Appellant replied to the memorandum, stating her belief that the decision not to admit her daughter to the CMS magnet program was based, in part, on her math grades from 2018-2020. (Ex. 10). Appellant argued that ■■■'s grades were impacted as a result of the pandemic and her father's terminal illness and death. *Id.* Appellant reiterated that transporting her daughter from their home in ■■■ to ■■■ presents a hardship. *Id.*

On June 7, 2022, the local board issued a written decision affirming the denial of admission to the lottery pool. (Ex. 11). The local board recognized that although ■■■ is an outstanding student of high ability, many outstanding students were denied entry to the lottery pool. *Id.* The local board also encouraged Appellant to explore options available at ■■■'s home school.

This appeal followed. During the pendency of the appeal, the 2022-2023 school year began. MCPS has confirmed that ■■■ is enrolled and attending school at ■■■.

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 its 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.

² The Appellant acknowledged ■■■'s acceptance into this program in her appeal but maintained that she is unable to provide transportation to ■■■ due to the distance and her other responsibilities.

LEGAL ANALYSIS

The State Board has long recognized that it is not arbitrary or unreasonable for local school systems to use “multiple criteria to evaluate students in order to reach a broad cross section of those who are qualified” to enroll in enriched programs. *See Li Z. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 19-41 (2019). Furthermore, the State Board has held that “there is nothing arbitrary, unreasonable, or illegal about the local board following its established criteria and denying a student entry into the [specialized program] on that basis.” *See Amanda B. v. Baltimore County Bd. of Educ.*, MSBE Op. No. 14-24 (2014). Appellant does not argue that the school system failed to follow its procedures in evaluating the criteria for admission or in the appeal.

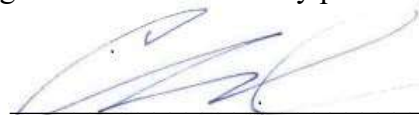
Appellant argues instead that a unique hardship impacted ■■■’s academic profile because her grades suffered due to her father’s long illness and ultimate death in 2019. Both the Level 1 and Level 2 appeal committees determined that the difficulties faced by ■■■ did not alter their decision to deny her entry into the lottery pool. The local board concurred. Regardless of the B grade that ■■■ received in math instead of the recommended grade of A, her fall 2021 MAP-M score of 43 percent demonstrates a very wide disparity from the recommended criteria score of 85 percent. While we are sympathetic to the circumstances here and recognize the difficulties faced by the Appellant and her family, based on this record we do not find that the decision of the local board to uphold denial of entry to the lottery pool was arbitrary or unreasonable.

Appellant further argues that as a single parent with a special needs child, her other obligations prevent her from driving ■■■ to the interest-based magnet program at ■■■, where she was accepted, and that this is a unique hardship that should alter the lottery pool determination so she does not have to dedicate additional funds and resources for transportation. We recognize that Appellant is dealing with various challenges that affect her schedule, but the issue of transportation is not relevant to the decision about placement in the lottery pool. Rather, the relevant considerations are the established criteria for placement in the lottery pool, unique hardship affecting the academic profile, or errors or missing information in her academic profile. Further, there is no legal requirement for a school system to provide transportation to all public school students for all programs. *See Md. Code Ann., Educ. §7-801(b)*.

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 uses equitable approaches for these application processes to increase access for all students at the middle school level.

CONCLUSION


For the reasons stated above, we find that the Appellant has failed to show by a preponderance of the evidence that the local board’s decision was arbitrary, unreasonable, or illegal. Accordingly, we affirm the decision denying inclusion in the lottery pool for admission to the CMS magnet program.



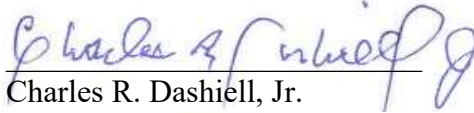
Clarence C. Crawford
President



Susan J. Getty
Vice-President



Chuen-Chin Bianca Chang



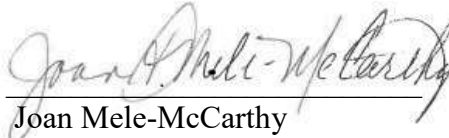
Charles R. Dashiell, Jr.



Jean Halle



Rachel McCusker



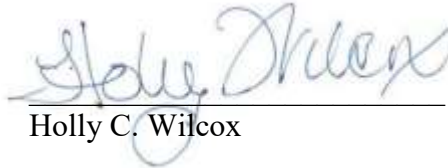
Joan Mele-McCarthy



Lori Morrow



Warner I. Sumpter



Holly C. Wilcox

Dissent of Shawn D. Bartley:

I am not certain the magnet school process meets the objectives of Maryland's Blueprint by delivering opportunity and promise of a better future to EVERY Maryland Child. A child's desire to be included in a public school program should not be forfeited by a selection committee and then eventually a random lottery. It's in the best interest of all students in Montgomery County that the county change the process and lottery with more than deliberate speed.

Absent:

Gail H. Bates
Vermelle D. Greene

September 27, 2022