

A.B.,

Appellants

v.

MONTGOMERY COUNTY  
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 25-19

## OPINION

### INTRODUCTION

A.B. (“Appellant”) appeals the decision of the Montgomery County Board of Education (“local board”) denying her request for her son to change his choice of consortium school from ██████████ High School (“██████ HS”) to Paint Branch High School (“Paint Branch HS”) for the 2024-2025 school year. The local board filed a response to the appeal maintaining that its decision is not arbitrary, unreasonable, or illegal and should be upheld. The Appellant did not file a timely response.

### FACTUAL BACKGROUND

The factual and procedural background is complex. The Appellant’s son, Student X is currently repeating the ninth grade at ████████ HS. He previously attended Benjamin Banneker Middle School from 6th grade to 8th grade and has a history of chronic absenteeism since 2<sup>nd</sup> grade. (R. 37, 59). Appellant lives in the Northeast Consortium (“NEC”) attendance area. The NEC attendance area comprises three public high schools including Blake HS, Paint Branch HS, and Springbrook High School (“Springbrook HS”). Students are assigned to a base high school but are given the opportunity in 8<sup>th</sup> grade to rank their first or second choice. Montgomery County Public Schools (“MCPS”) assigns students to schools based on school capacity and projected enrollment. MCPS also considers the students’ gender and socioeconomic status to ensure comparable demographics at the three high schools. (R. 68-96).

Each school year during the month of February students in 9th, 10th, or 11th grades who wish to request a different NEC high school for the following school year may submit a Change of Choice Request Form. Change of Choice Request Forms become available mid-January at all three NEC high school counseling offices. The Change of Choice process considers various factors including school enrollment, the number of available seats, socioeconomic status, and gender when reassigning students to schools. *Id.* If a Change of Choice request is denied, the parent or guardian may appeal the decision in writing to the Division of Consortia Choice and Application Program Services Office (“DCCAPS”). (R. 91-94). The parent or guardian should indicate why a student’s school assignment should be changed and include any additional information and documentation that demonstrates a unique hardship supporting the request for a Change of Choice. (R. 95 - 96).

During the 2022-2023 school year, Appellant and Student X participated in the Consortia Choice Process and Student X was assigned to [REDACTED] HS, which was listed as his first choice on the NEC application. (R. 44, 59). For the 2023-2024 school year, Student X attended 9<sup>th</sup> grade at [REDACTED] HS and his educational records reflect that he missed 56 days of school and struggled academically. (R. 59, 63).

In February 2024, Appellant participated in the Change of Choice Process and requested Paint Branch HS for the 2024-2025 school year and stated that the reason she requested the transfer to Paint Branch HS was because of the science and medical specialties offered at that school. (R. 44). However, Student X remained at [REDACTED] HS for the 2024-2025 school year.

On April 5, 2024, Appellant appealed the assignment to the DCCAPS office. Appellant stated that she was going through a divorce and that as a single parent due to her work schedule it would be beneficial for Student X to attend Paint Branch HS so that he could take the public bus to school if he missed the school bus. (R. 1). On April 18, 2024, DCCAPS notified Appellant by letter that the request was denied for lack of unique hardship and informed her that she could file an appeal within 15 days and included instructions on how she could appeal the decision to the Division of Appeals. (R. 2). Appellant did not appeal the decision within the 15-day appeal period.

On July 15, 2024, Appellant wrote to DCCAPS to appeal the decision. (R. 3). In her appeal letter she stated that Student X missed almost 2 months of school due to unexplained abdominal pain and that his doctor had advised him to seek a psychological consultation and that she suspected the trigger was anxiety from school and Appellant thought a transfer would help alleviate the anxiety. (R. 3). On August 12, 2024, DCCAPS sent the Appellant another copy of the April 18, 2024 denial letter and indicated that even though the appeal deadline had passed, MCPS would still allow Appellant to appeal to the Division of Appeals. (R. 6).

Student X began the 2024-2025 school year at [REDACTED] HS as a repeat 9<sup>th</sup> grader. On September 16, 2024, Appellant attempted to appeal the decision to the local board. (R. 9). On September 16, 2024, the local board administrator notified Appellant that the appeal was not ready for review by the local board as the next level of appeal was to the Division of Appeals, and that Appellant had to first appeal to the Division of Appeals. The administrator forwarded the appeal information from Appellant to the Division of Appeals and provided Appellant with the contact information for her to proceed with the appeal. (R. 9).

On September 23 and 24, 2024, Appellant submitted an appeal to the Division of Appeals. (R. 10-11). Ms. Dana Edwards, Chief of District Operations and the Superintendent's Designee for appeals, referred the matter to Ms. Gay Melnick, for review. Appellant explained to Ms. Melnick that Student X is treated badly at [REDACTED] HS, which causes him to have stomach pain and miss school. Appellant reported that Student X would not tell her exactly what was going on at school but she reported that he has more friends at Paint Branch HS, and this could help with his anxiety and depression. (R. 36). Appellant also reported that she was in the process of getting a divorce and that if Student X becomes ill at school, Paint Branch HS is more convenient as he could take public transportation to get home. *Id.*

As part of her review, Ms. Melnick communicated with the guidance counselor at [REDACTED] HS. The counselor reported that she had spoken to Student X who told her that he wants to go to Paint Branch HS because they have advanced placement courses he wants to explore and because he has more friends there. Ms. Melnick also found that the school does not have any bullying reports on file for Student X and the student well-being team has not met to discuss him. *Id.*

On November 13, 2024, Ms. Melnick informed Appellant that Paint Branch HS was over capacity and because of this she could not offer a transfer there but that she could offer to transfer Student X to Springbrook HS. (R. 16). Appellant declined this offer. (R. 18).

In support of her appeal, Appellant submitted a letter dated August 31, 2024, from W [REDACTED] D [REDACTED] PhD, stating that he met with Student X's brother on August 21, 2024, and determined that he has severe anxiety and a school phobia and recommended a transfer to a different school. (R. 15, 36). The letter does not include a practice name, was not on letterhead, and did not identify any licensing credentials giving Dr. D [REDACTED] authority to make a diagnosis or to provide therapy. Appellant provided an updated letter dated August 31, 2024 from Dr. D [REDACTED] referring to Student X and explained that she had submitted the wrong letter. (R. 8, 22, 36). The updated letter lacks the same credentialing information and states that Student X suffers from a psychosomatic illness, severe anxiety, and a school phobia and recommends an alternative school placement. (R. 8). The letter also states, in the "event that the illness does not resolve with and [sic] alternative placement it is recommended that the patient seek continued psychotherapy." *Id.* Ms. Melnick found inconsistencies in the updated letter which made her doubt the letter's authenticity. (R. 36). Appellant also provided additional medical information for Student X related to his gastrointestinal issues dated May 2024 in which all test results were found to be normal. (R. 24 – 33).

Ms. Melnick recommended that the transfer request be denied because local board policy, JEE, *Student Transfers*, provides that when there are extenuating circumstances involving the emotional well-being of a student, parents should provide documentation of ongoing treatment by a health care provider of issues related to the student's physical, mental, or emotional well-being that are directly related to or significantly impacted by the school environment. (R. 35 - 37). Ms. Melnick concluded that Appellant did not provide any documentation from a health care provider authorized to provide mental health treatment and no evidence of on-going treatment for a mental health condition. *Id.* As a result, Ms. Melnick recommended that the transfer request be denied. (R. 37).

On November 25, 2024, Appellant appealed Ms. Melnick's recommendation to the State Board prior to receiving a decision from the Superintendent's Designee or the local board.<sup>1</sup> By letter dated December 3, 2024, the Superintendent's Designee advised Appellant that she adopted Ms. Melnick's findings and recommendations, and she denied the transfer request. (R. 38).

On December 10, 2024, Appellant filed an appeal with the local board. (R. 39). In her appeal, Appellant stated that Student X was facing significant mental health challenges and that

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<sup>1</sup> Eventually, Appellant exhausted her administrative remedies, and the State Board accepted her appeal.

his psychotherapist gave her a letter stating that he would benefit from the specific programs and resources at Paint Branch HS as they align closely with his educational goals and personal interests. (R. 39 - 40). She also stated that Springbrook HS does not offer more AP classes for health and sciences and that Student X does not know anyone there. *Id.*

On January 16, 2025, Thomas Taylor, Superintendent of Schools, submitted a Memorandum to the local board in response to the appeal requesting the local board to uphold the denial of the transfer to Paint Branch HS. (R. 44 - 45). On January 25, 2025, Appellant responded to the Superintendent's Memorandum. (R. 48 - 49). On February 20, 2025, the local board issued a unanimous decision upholding the denial of the Change of School Assignment ("COSA") request. (R. 51 - 52). The local board stated:

The record establishes that the rationale for [Appellant's] transfer request has shifted multiple times. Initially, the transfer was requested for academic reasons. Subsequently, [Appellant] indicated that changes in the family dynamic merited a transfer that would allow [Student X] to attend a school closer to home...[Appellant then indicated] that Student X faced mental health challenges that were impacting his academic success; however, independently verifiable documentation from a health care provider authorized to provide mental health treatment has not been provided and there is no evidence of ongoing treatment. Medical documentation initially submitted by [Appellant] referred to another individual, not [Student X]....[and the updated letter provided by Appellant] included several text features which suggested that the document had been altered.

*Id.*

This appeal followed.

#### STANDARD OF REVIEW

Decisions of a local board involving a local policy or a controversy and dispute regarding the rules and regulations of the local board shall be considered prima facie correct. 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 may be arbitrary or unreasonable if it is (1) contrary to sound educational policy or (2) a reasoning mind could not have reasonably reached the conclusion the local board or superintendent reached. COMAR 13A.01.05.06B. A decision may be found illegal if it is: (1) unconstitutional; (2) exceeds the statutory authority or jurisdiction of the local board; (3) misconstrues the law; (4) results from an unlawful procedure; (5) is an abuse of discretionary powers; or (6) is affected by any other error or law. COMAR 13A.01.05.06C. The Appellants have the burden of proof by the preponderance of the evidence. COMAR 13A.01.05.06D.

## 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 Cnty.*, 245 Md. 464, 472 (1967); *Carolyn B. v. Anne Arundel Cnty Bd. of Educ.*, MSBE Op. No. 15-20 (2015). Thousands of students every year seek to transfer between schools in Montgomery County. For this reason, the MCPS has developed criteria to guide its process for determining which students are eligible to change schools.

In the 8<sup>th</sup> grade, Student X was given the opportunity to rank his preference as to which NEC high school he would like to attend, and he was granted his first choice of █████ HS. After his first year at █████ HS, Appellant attempted to change Student X's consortium school to Paint Branch HS. Her stated reason for the initial transfer request to Paint Branch HS was so that Student X could engage with the science and medical specialty programs and AP classes offered at Paint Branch HS. She was advised that a transfer request based on the desire to participate in particular courses or a program of study is not permitted under local board policy because a large number of families may prefer the course offerings of one school over another. We have held that such requests are not consistent with local board policy. *Karina D. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 19-01 (2019).

When Appellant was notified that Paint Branch HS could not accept him under the terms of the Change of Choice Process of the consortium schools because Paint Branch HS was overcapacity, Student X was offered an opportunity to transfer to Springbrook HS, but Appellant rejected this offer. Instead, she pursued a transfer to Paint Branch HS based upon unique hardship.

MCPS permits students to Request for Change of School Assignment ("COSA") based on a "unique hardship" when there are "extenuating circumstances related to their specific physical, mental, or emotional well-being or their family's individual or personal situation that could be mitigated by a change of school environment." (R. 97 - 103, Policy JEE at C.1.a). However, "problems that are common to large numbers of families ... do not constitute a unique hardship, absent other compelling factors." *Id.* MCPS policy specifically requires that hardship requests must be accompanied by documentation that can be independently verified, or the request will be denied. *Id.* When there are extenuating circumstances involving the physical, mental, or emotional well-being of the student, MCPS policy requires the COSA request to include documentation of ongoing treatment by a health care provider of issues related to the student's physical, mental, or emotional well-being that are directly related to or significantly impacted by the school environment. (R. 98, Policy JEE at C.1.a.2).

Appellant maintains that Student X's mental health needs require him to attend Paint Branch HS instead of his assigned high school. Appellant reports that Student X is having problems at █████ HS but the record reveals that Appellant never engaged with school staff to report any bullying or engaged with the school counseling office to address Student X's anxiety. Appellant speculates that because Student X has more friends at Paint Branch HS this may help with his anxiety, but we consistently have held that the desire to be with an established peer group is not a unique hardship. *C.K. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 20-40 (2020); *Dan and Lauren T. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 20-34 (2020).

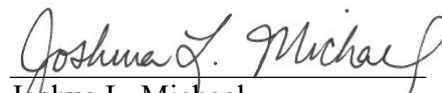
Furthermore, Appellant's medical evidence does not establish the need for the transfer as required by local board policy. To justify a transfer based on a medical need, an appellant must demonstrate a link between the student's medical condition and the necessity for transfer to the requested school. *Shervon D. v. Howard Cnty. Bd. of Educ.*, MSBE Op. No 17-10 (2017); *Philip and Deborah W. v. Prince George's Cnty. Bd. of Educ.*, MSBE Op. No. 11-48 (2011). "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 Cnty. Bd. of Educ.*, MSBE Op. No 15-20 (2015). Further, an appellant must establish that health professionals at the student's assigned school cannot support the medical condition. *Carolyn B. v. Anne Arundel Cnty. Bd. of Educ.*, MSBE Op. No. 15-20 (2015). The fact that a documented medical condition exists is not itself sufficient to grant approval of a transfer. *Timothy and Michelle W. v. Howard Cnty. Bd. of Educ.*, MSBE Op. No. 09-18 (2009).

Appellant has failed to offer any credible evidence that [REDACTED] HS is unable to meet Student X's medical needs. Appellant also has failed to offer documentation evidencing ongoing treatment by a health care provider that can be independently verified as required by local board policy. The August 31<sup>st</sup> letter from Dr. D [REDACTED] that the Appellant relies upon to support the transfer recommends a transfer to an "alternative school placement" which has been offered by MCPS. *See* R. 8. The August 31<sup>st</sup> letter does not state that therapy is ongoing but rather states that therapy will be pursued if the transfer does not resolve the illness. *Id.* We find that it was reasonable for the local board to question the authenticity of this letter. Moreover, even if the letter is authentic, the document does not contain the specificity required to support the request consistent with our previous decisions on this issue.

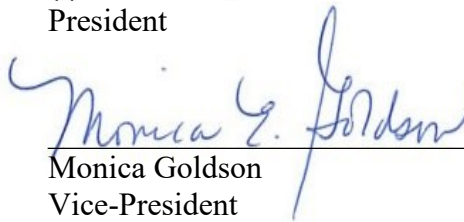
Appellant has failed to meet her burden to demonstrate a unique hardship justifying a COSA for Student X. The local board's decision was not arbitrary, unreasonable or illegal.

## CONCLUSION

For the reasons stated above, we affirm the decision of the local board to deny the COSA request. Although we find no basis to overturn the local board's decision denying the school transfer, we are deeply concerned that this student has had ongoing chronic absenteeism throughout his school career. The record in this case sheds little light on how the Appellant and MCPS have handled the chronic absenteeism, but given the continuing nature of the problem, we urge the Appellant and MCPS to proactively address the issue.



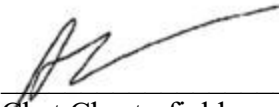
Joshua L. Michael  
President



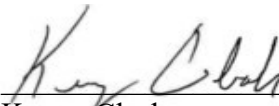
Monica Goldson  
Vice-President



Chuen-Chin Bianca Chang



Chet Chesterfield



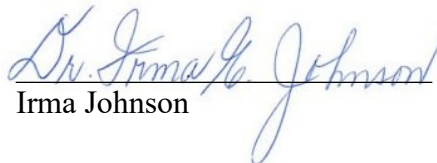
Kenny Clash



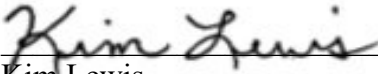
Clarence Crawford



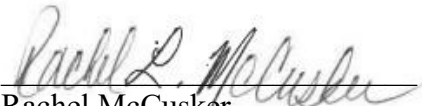
Nick Greer



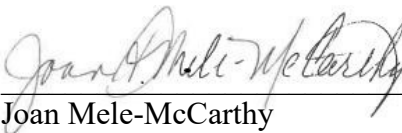
Irma Johnson



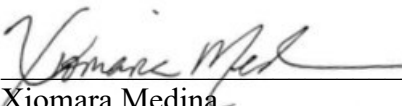
Kim Lewis



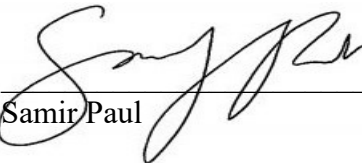
Rachel McCusker



Joan Mele-McCarthy



Xiomara Medina



Samir Paul

May 29, 2025