

ERIC T.,

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR21-05

ORDER

On February 3, 2021, the Appellant appealed the decision of the Montgomery County Board of Education (“local board”) denying his request to have his daughter transferred from ██████ Elementary School (“█ES”) to ██████ Elementary School (“█ES”). He argued that his daughter “should maintain consistency at [█ES] for her mental well being (sic)” which he noted was “strongly supported by [his daughter’s] mental health therapist. (Appeal). Appellant’s daughter had attended █ES in 2018-2019 for kindergarten, but was thereafter enrolled in school out of State for the 2019-2020 school year while living with her mother. The child now lives with her father in the geographic attendance area for █ES.

On March 8, 2021, the Appellant submitted a transfer request for his daughter to attend ██████ Elementary School (“█ES”) citing unique hardship. He explained he was returning to in-person teaching and having his daughter at █ES would allow him “to provide the best care for her” since it is close to the school where he works and has an on-site daycare. Due to uncertainties regarding the resumption of in-person instruction and its impact on child care issues, the Division of Pupil Personnel and Attendance Services (“DPPAS”) decided to approve requests like Appellant’s for the remainder of the 2020-2021 school year. It decided to handle separately transfer requests for students to continue at the school for the following school year in order to make decisions in accordance with the circumstances at that time. Thus, DPPAS approved the transfer to █ES for Appellant’s daughter for the remainder of the 2020-2021 school year, and Appellant’s request to attend █ES for the 2021-2022 school year is currently pending review at the local level.

The local board filed a Motion to Dismiss this appeal of Appellant’s request to have his daughter attend █ES arguing that the request for transfer to █ES moots the request to transfer to █ES.¹ It is well established that a question is moot when “there is no longer an existing controversy between the parties, so that there is no longer any effective remedy which the courts [or agency] can provide.” *In Re Michael B.*, 345 Md. 232, 234 (1997); *See also Farver v. Carroll County Bd. of Educ.*, MSBE Op. No. 99-42; *Arnold v. Carroll County Bd. of Educ.*, MSBE Op. No. 99-41; *Chappas v. Montgomery County Bd. of Educ.*, 7 Op. MSBE 1068 (1998).

For whatever reason, the Appellant did not withdraw this appeal denying the transfer to █ES despite his desire to now have his daughter attend █ES. We find that Appellant’s request to transfer his daughter to █ES is an abandonment of his prior position and eliminates any

¹ The Appellant did not file a response to the local board’s Motion to Dismiss.

controversy between the parties regarding the request to attend ■■■ES such that there is no effective remedy that the State Board can provide.² Appellant's request for transfer to ■■■ES is still under review by the local school system. Once there is a local board decision on that matter, the Appellant may appeal to the State Board if he is dissatisfied with the result.

Accordingly, it is this 22nd day of June, 2021 by the Maryland State Board of Education,

ORDERED, that the appeal referenced above is hereby dismissed because it is moot. *See* COMAR 13A.01.05.03(B)(1)(b).

MARYLAND STATE BOARD OF EDUCATION

Signature on File:

Clarence C. Crawford
President

² The mother filed a request to intervene in the State Board appeal seeking to keep her daughter at ■■■ES and to dispute some assertions made by Appellant. Although the Appellant and the local board did not oppose the request to intervene, we decline to address it given we find the case moot.