

K.S.,

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 25-43

OPINION

INTRODUCTION

Appellant appeals the decision of the Montgomery County Board of Education (“local board”) denying her Change of School Assignment (“COSA”) request for the 2025-2026 school year for her son to attend [REDACTED] High School, the requested high school (“RHS”), instead of [REDACTED] High School, the assigned school (“AHS”), based on lack of a unique hardship related to educational and mental health concerns. The local board filed a response to the appeal maintaining that its decision is not arbitrary, unreasonable, or illegal and should be upheld. Appellant responded, and the local board replied.

FACTUAL BACKGROUND

Appellant’s son, Student X, was assigned to attend AHS for the start of the 2025-2026 school year. AHS has a PEP band but not a marching band and does not offer a vocational health care program. Appellant submitted a COSA application seeking to have Student X attend RHS instead of his assigned school, AHS, claiming a unique hardship. Appellant argued that Student X would benefit from participating in the marching band and the specialized Healthcare Professions Program offered at RHS because of his passion for biology and his musical talents. The Healthcare Professions Program is exempt from COSA transfers as enrollment is limited to an application process for students who live in one of the designated MCPS clusters. (R. 44-45). On or about February 4, 2025, the Division of Pupil Personnel and Attendance Services (“DPPAS”) for Montgomery County Public Schools (“MCPS”) denied the request citing that the preference for one school over the other does not meet unique hardship criteria and notified the Appellant that the request was denied. (R. 48-49).

On or about February 5, 2025, the Appellant appealed the denial of her COSA request to Dana Edwards, Chief of District Operations and the Superintendent’s Designee for COSA appeals. (R. 50). The Superintendent’s Designee referred the matter to Hearing Officer, Fernando Maturana, for review. The Hearing Officer interviewed the Appellant, the student’s resource teacher for special education at the student’s middle school, and the assigned resource counselor at AHS. The Appellant argued to the hearing officer that the student met the unique hardship requirements set forth in MCPS Regulation JEE, *Transfer of Students and Administrative Placements*, because he has an IEP due to his learning disabilities and he “would flourish in a

specialized setting where he can demonstrate an understanding and apply his knowledge.” (R. 44-46). The Appellant also supplied the Hearing Officer with letters from the student’s dyslexia tutor, his pediatrician, and a clinical psychologist in support of the request of the transfer to a medical vocational program. (R. 51-55). In her appeal, the Appellant also stated that the student had applied to the lottery for the “Wheaton med/bio vocational program, despite knowing it lacked a marching band program, and was waitlisted as number 407.” (R. 50). The Appellant also informed the Hearing Officer that the student could not apply to the Healthcare Professions Program at RHS because they do not live in one of the eligible MCPS school clusters. (R. 44).

In a memorandum dated February 18, 2025, Mr. Maturana found that the Appellant failed to present evidence of a unique hardship and recommended denial of the COSA request. (R. 44-46). He reviewed the documentation submitted in support of the appeal from Student X’s pediatrician, Dr. S [REDACTED] and a licensed psychologist who has worked with Student X on his mental well-being related to his learning challenges, Dr. V [REDACTED] and stated the following:

In a letter dated January 21, 2025, Dr. V [REDACTED] states that given [Student X’s] learning profile, he would thrive best in a clear, structured, meaningful, hands-on, practical learning environment that will reinforce his exceptional musical talents and vocational ambition to become an anesthesiologist. In a letter dated December 19, 2025, Dr. S [REDACTED] believes that participation in a marching band program would significantly improve his self-esteem, cognitive engagement, and social connections.... According to [the student’s] IEP, he is in supported English and social studies classes. [The student’s] IEP can be fully implemented in any LAD program, including the LAD program at [AHS]....The documentation provided with the appeal does not meet the requirements for a unique hardship. In addition, according to the COSA Information Booklet, the Healthcare Professions at [RHS] is exempt from the COSA criteria. (R. 45). By letter dated February 18, 2025, the Superintendent’s Designee advised the Appellant that she adopted Mr. Maturana’s findings and recommendations, and she denied the COSA request. (R. 43).

On March 20, 2025, the Appellant filed an appeal with the local board. (R. 10 - 41). The Appellant reiterated her position that Student X was experiencing a unique hardship and extenuating circumstances related to his mental and emotional well-being. *Id.* She cited three primary factors: (1) the student’s IEP and learning style, which she contended required a hands-on, structured environment; (2) medical recommendations supporting his participation in RHS’s Healthcare Professions Program; and (3) the therapeutic benefit of marching band participation, which she claimed was medically recommended for managing his anxiety and social-emotional development. (R. 10 -11, 14-15). In support of her appeal, the Appellant included additional documentation including a statement from Student X and supplemental letter from Dr. S [REDACTED] documenting Student X’s learning issues and stating given Student X’s “specific learning challenges, it is crucial that his educational placement supports his unique needs and encourages his growth in both academic and extracurricular areas. A vocational setting with access to a marching band program would not only meet these needs but also empower him to thrive, both socially and academically....[Student X’s] mental health will be greatly affected if required to attend [ASH] and may lead to school avoidance, and would create a unique hardship if not allowed to pursue his educational interests at [RHS].” R. 33-34.

On April 7, 2025, Superintendent Thomas Taylor submitted a Memorandum to the local board in response to the appeal. (R. 8-9). Dr. Taylor noted to the local board that the Healthcare Professionals Program at [RHS] is exempt from the COSA criteria and that Dr. V [REDACTED] letter made it clear that although Dr. V [REDACTED] believes that Student X would benefit from a program that will meet his vocational interests and interest in marching band, he is clear that Student X's mental health concerns "are related to his learning challenges and not related to or significantly impacted by the [ASH] environment." (R. 9). The Appellant submitted a response to the memorandum and stated that Student X has been communicating with his therapist stating that he would like to be homeschooled if he is not admitted to the programs at the RHS. (R. 3).

On May 22, 2025, the local board issued a decision by a vote of 6 to 2 upholding the denial of the COSA request. (R. 69-70). The local board found that the Appellant did not demonstrate a unique hardship as required by local board policy and that Student X was ineligible to enroll in the Healthcare Professionals Program through a COSA request as that program is subject to an admissions process.

This appeal followed. In the State Board appeal the Appellant has submitted additional information that was not a part of the administrative record before the local board at the time it reviewed the appeal and issued its decision. The information consists of a letter dated June 13, 2025, from Dr. S [REDACTED] and a letter dated June 20, 2025, from Dr. V [REDACTED]. Although these letters are similar to the previous letters, we include them as part as the record under COMAR 13A.01.05.04C. We also accept into the record the supporting affidavit of Dr. Yong Kim regarding the programs offered at AHS filed with the local board reply.

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 Appellant has 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, MCPS has developed particular criteria to guide its process for determining which students are eligible to change schools. MCPS permits students to apply for a 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. 77-83, 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. 78, Policy JEE at C.1.a.2).

Unique Hardship Exception

The Appellant argues that her son’s IEP, mental health concerns related to his anxiety, and learning style necessitate placement at RHS. The record before us demonstrates that the Appellant never presented the local board with any evidence regarding the lack of any appropriate IEP service available to Student X at the ASH. The local board reasonably concluded that the Student X’s IEP could be fully implemented at AHS. Neither medical provider commented on the fact that Student X made progress on his goals and objectives in the 2024-2025 IEP at his middle school and received letter grades of A and B across all academic subjects despite not participating in a marching band or a vocational program.

To the extent the Appellant is arguing that the AHS is unable to meet Student X’s IEP needs in violation of any disability rights law, the State Board has consistently ruled that it lacks the subject matter jurisdiction to review claims involving alleged disability rights violations because other forums are available. *See Ellen Z. and Assya P. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 20- 19 (2020); *Jon N. v. Charles Cnty. Bd. of Educ.*, MSBE Op. No. 17-19 (2017).

Furthermore, the record before us demonstrates that there is no evidence that the AHS lacked the capacity to meet Student X’s educational or emotional needs. The Appellant’s reliance on the availability of a marching band and a specific vocational program does not establish a unique hardship under local board policy and our previous decisions. The desired Healthcare Professionals Program is exempt from the COSA transfer request options and is based on an application process for students who live within certain attendance area. *See K.E. and G.E. v. Montgomery Cty. Bd. of Educ.*, MSBE Op. No. 25-05 (2025)(Affirming local board policy limiting admission to the program based upon attendance zone). The Appellant’s desire for her son to participate in the marching band offered at RHS as opposed to the PEP band offered at the AHS does not demonstrate a unique hardship. The State Board has repeatedly held that a desire to participate in particular programs or courses does not constitute a unique hardship. *See, e.g., Karina D. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 19-01 (2019); *Christine C. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 14-59 (2014); *K.W. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 07-20 (2007).

The Appellant maintains that Student X’s mental health needs require him to attend RHS instead of his AHS. 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

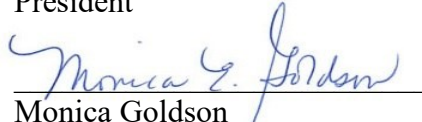
school. *Shevron D. v. Howard Cnty. Bd. of Educ.*, MSBE Op. No 17-10 (2017); *Philip and Deborah W. v. Prince George's Cnty. Bd. of Educ.*, MSBE Op. No. 11-48 (2011). "Brief statements" from medical professionals fall short of "the type of detailed explanation needed regarding the necessity for the transfer 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).

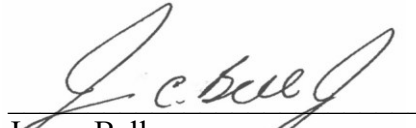
We conclude that the Appellant failed to provide sufficient documentation to justify a COSA based on medical or emotional hardship. The letters from the medical providers, including the more recent letters submitted in the State Board appeal, lack specific treatment plans or evidence that the student's needs could not be met at AHS. There was no indication that AHS's special education or counseling staff were incapable of supporting the student's transition or addressing his anxiety. There is an adjustment period for all students transitioning from middle school to high school. Additionally, Student X did not require unique support services at his assigned middle school that would be unavailable at AHS.

CONCLUSION

For all of these reasons, we affirm the decision of the local board because it is not arbitrary, unreasonable, or illegal.


Joshua L. Michael
President

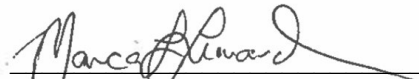

Monica Goldson
Vice-President


James Bell


Chet Chesterfield


Nick Greer


Irma Johnson


Marcy Leonard


Kim Lewis


Xiomara Medina

Absent:

Chuen-Chin Bianca Chang

Kenny Clash

Samir Paul

November 4, 2025