

E.M. AND C.M.,

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 26-06

OPINION

INTRODUCTION

Appellants appeal the decision of the Montgomery County Board of Education ("local board") denying their request for a Change of School Assignment ("COSA") for their child to attend [REDACTED] Elementary School ("[REDACTED]") for kindergarten instead of the assigned school, [REDACTED] Elementary School ("[REDACTED]"). The local board submitted a response to the appeal maintaining that its decision was not arbitrary, unreasonable, or illegal.

FACTUAL BACKGROUND

On March 25, 2025, Appellants submitted a COSA request seeking to have their child attend [REDACTED] in Bethesda for kindergarten rather than the assigned school, [REDACTED] in Germantown. (R. 6). The Montgomery County Public Schools ("MCPS") Department of Student Support and Attendance Services ("DPPAS") denied the request on May 14, 2025, finding the application did not meet the criteria for a unique hardship. (R. 76). The Appellants appealed this decision. (R. 77-237). The local superintendent's designee affirmed the denial on August 20, 2025, adopting the hearing officer's recommendation that the transfer was not warranted under Board Policy JEE. (R. 69-72). The local board subsequently affirmed the Superintendent's decision on October 17, 2025, prompting the Appellants to file an appeal with the Maryland State Board of Education on October 30, 2025. (R. 284-289).

Appellants' child is a five-year-old student diagnosed with autism who previously attended the Preschool Education Program ("PEP") at [REDACTED]. (R. 284). His Individualized Education Program ("IEP") indicates significant challenges with transitions, social foundations, and language skills, necessitating a self-contained classroom with support from special educators and para-educators. (R. 284-85). The Appellants assert that their specific employment in Bethesda and Olney and family circumstances create a unique hardship that renders enrollment at [REDACTED] in Germantown impossible. (R.284-88). The father's work requirements in Bethesda often require late hours, while the mother's employment in Olney requires working 12-hour shifts and attending school. *Id.* The Appellants argue that traffic conditions make it impossible to commute from Bethesda to Germantown to pick their child up by the close of the school day or at local childcare centers, a situation further complicated by the birth of a sibling. *Id.*

In denying the transfer, the local board relied on Policy JEE – *Student Transfers*, holding that problems common to large numbers of families, such as work schedules, commute times, and childcare preferences, do not constitute a unique hardship. (R. 239). The local superintendent found that the child's

IEP could be fully implemented at [REDACTED] through the Home School Model and noted that Appellants' child had successfully attended a voluntary summer program there, where staff confirmed their ability to meet the student's needs. (R. 70-72). Additionally, the hearing officer cited the availability of a before- and after-school care program at [REDACTED] ("KidsCo") as a viable option to mitigate the parents' scheduling concerns. *Id.* The local board concluded that the denial was neither arbitrary nor unreasonable as the Appellants failed to demonstrate extenuating circumstances unique to their family. (R. 240).

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, and 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 is arbitrary or unreasonable if it is contrary to sound educational policy or if a reasoning mind could not have reasonably reached the conclusion the local board reached. COMAR 13A.01.05.06B. The Appellants bear the burden of proof by a 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); *Brenda F. v. Mont. Cnty Bd. of Educ.*, MSBE Op. No. 24-16 (2024). 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. 247-64). 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 and/or a significant health issue with unique care requirements. (R. 247).

Unique Hardship: Childcare and Employment

The Appellants assert that their work schedules, combined with traffic congestion, make it impossible to transport their child to the assigned school before the close of after-school care. (Appeal, p. 3). However, the State Board has consistently held that childcare issues and commuting difficulties are common to many families and do not constitute a unique hardship absent compelling factors. *See Karina D. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 19-01 (2019) (finding that childcare issues and transportation logistics for multiple children are common to large numbers of families). Similarly, in *Shahla F. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 18-22 (2018) and *T.M. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 23-23 (2023), the State Board affirmed a denial where a parent's job required early departures and late returns, creating logistical challenges.

The local board reasonably identified a mitigating factor: the availability of the "KidsCo" before- and after-school program at [REDACTED], which operates from 6:30 a.m. to 6:30 p.m. (R. 6-8). The Hearing Officer concluded this program provided a feasible option given the parents' work schedules. While the Appellants prefer their established provider in Rockville, the MCPS COSA booklet states that "preference for a previously used child care provider... does not constitute a unique hardship" *Id.*

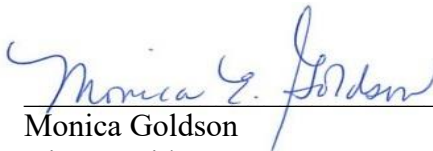
Educational and Medical Needs

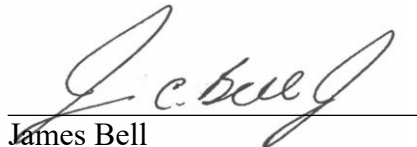
The Appellants argue that their child's autism and difficulty with transitions require remaining at [REDACTED]. (Appeal, p. 2). To justify a unique hardship based on a medical condition or disability, an appellant must demonstrate a link between the condition and the necessity of the requested school, or that the assigned school cannot meet the student's needs. *See Linda C. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 15-30 (2015).

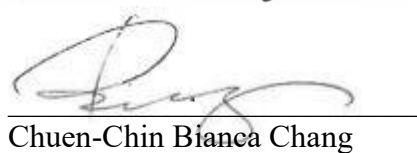
The record reflects that Appellants' child's IEP can be fully implemented at [REDACTED] through the Home School Model. (R. 6-8). Furthermore, their child attended a summer program at [REDACTED], where staff worked with him and confirmed their ability to meet his needs. *Id.* The Appellants have not met their burden of proof in this case.

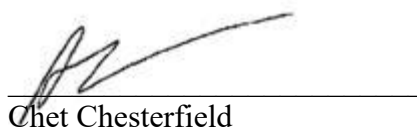
CONCLUSION

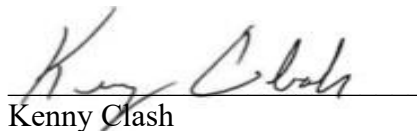
For all of these reasons, we affirm the decision of the local board because it is not arbitrary, unreasonable, or illegal.

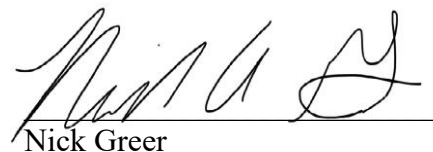

Monica Goldson
Vice-President

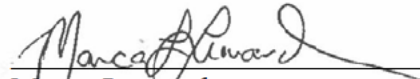
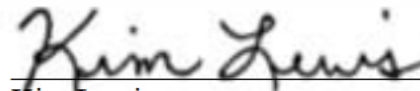
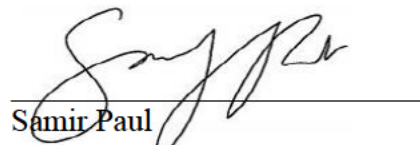

James Bell


Chuen-Chin Bianca Chang


Chet Chesterfield


Kenny Clash


Nick Greer


Marcy Leonard
Kim Lewis
Xiomara Medina
Nicole Murray-Lewis
Samir Paul

Absent:
Joshua Michael, President

Dissent:
Irma Johnson

February 24, 2026