

COLETTE AND JEFFREY SIMMS,

Appellants

v.

PRINCE GEORGE'S COUNTY  
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 00-12

### OPINION

In this appeal, parents of a ninth grade student contest the denial of the transfer request of their son from Bowie High School to Eleanor Roosevelt High School in Prince George's County. Appellants requested the transfer so that their son could participate in the sign language program offered at Roosevelt. The local board has filed a Motion to Dismiss or for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal. Appellants have filed an opposition to the local board's motion.

### BACKGROUND

Jeffrey is currently a ninth grade student enrolled at Bowie High School in Prince George's County. On January 27, 1999, the Office of Student Transfers received a request from Appellants that their son be transferred to Eleanor Roosevelt High School for the 1999-2000 school year so that Jeffrey could participate in the sign language program offered there. Appellants indicated that Jeffrey expressed an interest in sign language as early as age 8, and that at age 10 he completed an advanced sign language class at Prince George's Community College. Since that time, Jeffrey has been studying sign language with the church deaf ministry, and has a desire to continue his study of deaf awareness and culture in high school.

On July 15, 1999, the Office of Student Transfers advised Appellants that their request was denied based on lack of space in the Sign Language I Program. The letter further advised that "transfer applications for the requested program were dated upon receipt in the Office of Student Transfers and determined on a first come-first served basis in accordance with available space."

Appellants challenged the decision of the Office of Student Transfers, stating that

Jeffrey is involved with the deaf ministry at First Baptist Church of Glenarden and he also interacts with the deaf community. Learning to sign will aid Jeffrey in his ability to communicate with his friends and the deaf community in a language that they understand. Jeffrey also desires to become an interpreter and serve in whatever capacity

he may be needed.

The Office of Appeals denied Appellants' request by letter dated August 10, 1999, stating that "Roosevelt High School is severely overcrowded, and there are no additional class slots for Sign Language."

Appellants appealed the denial to the local board and appeared before the board at an appeal hearing on September 13, 1999. By letter dated September 15, 1999, Appellants were advised of the local board's determination to uphold the decision of the Office of Appeals with respect to the transfer to Roosevelt, but approved a transfer to DuVal High School where sign language courses are also offered. Appellants requested that the local board reconsider its decision. That request was denied.

### ANALYSIS

The standard of review that the State Board applies in reviewing student transfer decisions is that the State Board will not substitute its judgment for that of the local board unless the local board decision is shown to be arbitrary, unreasonable or illegal. *Michael & Barbara Breads v. Montgomery County Board of Education*, MSBE Opinion No. 97-1 (January 29, 1997). In numerous opinions, the State Board has noted that student transfer decisions require balancing county-wide considerations with those of the student and family. *See e.g., Marbach v. Montgomery County Board of Education*, 6 MSBE 351, 356 (1992). Socio-economic level, building utilization, enrollment levels, and the educational program needs of the individual student are all legally permissible and proper subjects of consideration in weighing the impact of a request for a student to transfer from his or her home school to some other school of choice. *Slater v. Montgomery County Board of Education*, 6 Op. MSBE 365, 371-72 (1992).

As an initial matter, Appellants assert that the transfer decision was somehow negatively affected because the case was not processed in a timely fashion. We believe this claim is unfounded. The student transfer information brochure indicates that transfer requests are accepted between January 1 and July 1 for the following school year. The brochure also informs parents that requests for transfers effective for the start of the next school year "will be processed in order of the date of their receipt in the Student Transfer and Records Office" and that "notification by letter will occur after June 15 during the summer prior to the opening of school."

In accordance with the policy, the Office of Student Transfers advised Appellants of the denial of the request by letter dated July 15, 1999. The letter assured Appellants that the transfer decision was made on a first come-first served basis. A review of the transfer request form reveals that it was, in fact, dated upon receipt by the Office of Student Transfers. Appellants availed themselves of their appeal rights and the appeal was handled expeditiously. Appellants have presented no evidence of unreasonable delay, or evidence that any such delay, if it existed, negatively influenced the transfer decision.

On the merits, Appellants have expressed their desire to have their son participate in sign language courses at Roosevelt High School because the courses are not offered at Bowie. The Prince George's County Public School student transfer policy indicates that transfer requests may be approved based on the:

[i]nability of the pupil to . . . obtain a program of instruction at his or her present school and evidence is given to the effect that the pupil's desired program at another school would be to his or her educational advantage. Such evidence shall be obtained from the pupil's guidance counselor, pupil personnel worker, or psychologist, who is to make a written report of findings after a conference with both the pupil and his or her parents and/or legally constituted guardian. The transfer further shall only be granted for the duration of the program sought and the program space availability of the receiving school.

This policy is permissive and not mandatory, giving the school system discretion in balancing the interests of the student and the schools. At the hearing before the local board, Dorothy B. Stubbs, Administrative Assistant for Appeals, explained that the sign language program at Roosevelt was overenrolled at the time the Office of Appeals denied the transfer request,<sup>1</sup> and that even if there had been space in the sign language program, the request would have been denied due to overutilization at Roosevelt and the effect that the transfer would have had on the overall school program.<sup>2</sup> Although the local board ultimately denied the transfer, the record in this case discloses that the board seriously considered Appellants' request and attempted to accommodate Appellants by approving Jeffrey's transfer to another school with a sign language program. Unfortunately, Appellants believe that the program available at DuVal High School is not as advanced as the program at Roosevelt, and that Jeffrey would not benefit from it given his advanced level and sign language background.<sup>3</sup>

The State Board has repeatedly held that there is no entitlement for a student to attend a particular program of study. *See, e.g., Peter Dennis v. Board of Education of Montgomery County*, MSBE Opinion No. 98-2 (January 25, 1998) (desire to participate in particular courses does not constitute unique hardship sufficient to override utilization concerns); *Thomas &*

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<sup>1</sup>While Appellants claim that the sign language teacher at Roosevelt assured them that there was space for Jeffrey in her advanced class, this fact has not been confirmed by the school system, nor have Appellants submitted anything to support their assertion.

<sup>2</sup>A Prince George's County Public School enrollment report discloses that on September 23, 1999, Roosevelt High School was overutilized at 138.6%.

<sup>3</sup>Appellants also indicate that there might be transportation problems.

*Kathleen Marshall v. Board of Education of Howard County*, MSBE Opinion No. 97-10 (February 26, 1997) (no entitlement to attend four-year communications program offered at Mount Hebron); *Slater*, 6 Op. MSBE 365 (denial of transfer to school alleged to better serve student's abilities and welfare); *Williams v. Board of Education of Montgomery County*, 5 Op. MSBE 507 (1990) (denial of transfer to program offering advanced German); *Sklar v. Board of Education of Montgomery County*, 5 Op. MSBE 443 (1989) (denial of request to attend school offering four years of Latin, note taking/study skills course, and piano). Additionally, as already noted above, enrollment levels are a permissible basis for denying a transfer request. See *Slater*, 6 Op. MSBE at 371-372. Thus, we find the local board decision to be reasonable and not otherwise illegal.

## CONCLUSION

For these reasons, we affirm the decision of the Board of Education of Prince George's County.

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February 23, 2000