

STATE OF NEW HAMPSHIRE  
STATE DEPARTMENT OF EDUCATION

**In Re: Student/Candia School Board**

**SB-FY-14-03-013**

**RECOMMENDATION TO STATE BOARD OF EDUCATION**

**INTRODUCTION**

A Pre-Hearing Conference was held on April 8, 2014. The matter was scheduled for and heard on May 29, 2014. The issue involves the Family's request for high school reassignment for the Student to Coe-Brown Northwood Academy (hereinafter referred to as "CBA") for high school as opposed to Manchester Central High School. The School Board was represented by Gordon Graham, Esq. The Family did not retain counsel. The Mother represented the Family.

**DISCUSSION**

The Parents presented first. The Mother testified as the first witness. The only Exhibits received by the Hearing Officer were School District Exhibits. The Family submitted none. The Mother referenced School Board meeting minutes from March 6, 2014 (SB#7). The Family was identified in the non-public minutes as "Parent #2". The Mother referenced that the meeting minutes referred to the request for the child to attend CBA as being based on "personal connections to the school". However, the request for the Student to attend was based on the agricultural technology program available at CBA. The Parents' request to the Superintendent is at SB#1. According to the Mother, Central High School does not have a comparable program and neither does Manchester School of Technology (hereinafter referred to as "MST"). MST offers a business agricultural and landscaping type of program but it is not comparable to CBA's farm-like program with live animals. The CBA program, according to the Mother is much more comprehensive. In addition, the population at Central is 1,959 Students. CBA has 729 Students.

The Mother indicated that the Student has organizational issues and CBA has assisted studies and more general assistance to Students like hers to keep the Student organized and not have the Student “fall under the rug”. (It is noteworthy that these issues were not addressed in the letter requesting reassignment to CBA.) The Mother noted that Mrs. Lavalley, Vice Principal at the Candia Elementary School goes to Central one time per week to “check up on Candia kids at Central” and that this should not be necessary if Central is doing its job. She noted that the Contract between Manchester and Candia has a provision for allowing students to attend other high schools based review by the School Board on a case-by-case basis so why not for her child? Finally, the Mother indicated that the average class size at CBA is 18 and the student/teacher ratio 10/1.

On cross-examination, the Mother indicated that she is aware of the JCB Policy but was not aware of it when she made the request for the Student to attend CBA. She met with the Superintendent on the night of the School Board Meeting. With respect to the JCB Policy (SB#4), she acknowledged that there is a provision which provides that “best interest” means that the Student’s educational needs will be adversely effected if the Student attends the public school to which the Student is or will be assigned to attend.

On redirect, the Mother indicated that she has two (2) other children and does not want to have to “do this again”. She felt that the JCB Policy is very hard to locate and is almost kept as a secret by the School Board. The percentage of parents requesting reassignment is very small and it should not be “such a process to do the best for your kid”. She felt that the Family is being bullied into sending the Student to a school that the Student will not be successful at, and that the Student is quiet and will be “pushed to the back”. The Mother will “have to pick up the pieces”.

High school “will be a horrible experience” for the Student. CBA has set standards and programs.

Barbara Shaw, the Student’s grandmother, testified on behalf of the Family. She has a long, 45 year career in teaching and administration, and is now retired. She felt that the School Board has the right to decide in the Student’s favor and allow the Student to attend CBA because the Contract with Manchester allows for exceptions on a case-by-case basis. Her grandchild’s situation is a classic case to apply for the case-by-case clause in the Contract. The Student needs a smaller school, and it would be in the Student’s best interest to allow the relocation to CBA. There was no cross-examination.

The Parents rested at the conclusion of Ms. Shaw’s testimony.

Kim Royer, Chair of the School Board testified as the first witness for the School Board and reviewed the JCB Policy (SB#4). The Parents’ request for reassignment (SB#1) focuses on comparing the two (2) programs, CBA and MST, and makes no mention of the Student “falling through the cracks”. She felt that the Parents did not establish a sufficient basis for reassignment and feels the same after hearing the Mother’s testimony because the Student has not even attended Central yet.

Ms. Royer is familiar with the litigation between the City of Manchester and the Town of Hooksett over relocation of students. She recalled that in the 2012/2013 school year, a lot of things were wrong at Central including class size, lack of supplies, classes not offered that were necessary for graduation, cancellation of extra-curricular activities, etc. Due to these problems, in 2012/2013, requests for reassignment were handled differently, relying on Paragraph #6 of the Standards which allow for:

Other conditions, which in the superintendents’ judgment would result in the student’s educational needs being adversely effected is the student attends the

public school to which the student would normally be assigned (SB#4, Best Interest Standards and Guideline).

All of the shortcomings at Central have been corrected and there have been no parental complaints in 2013/2014. Finally, Ms. Royer felt that the Parents failed to establish that there would be an adverse effect on the Student if the Student attended Central.

On cross-examination, there was discussion about the percentage of students attending Central from Candia, but the witness did not know the answer. Prior to 2012/2013 (i.e. the 2011/2012 school year, four (4) families petitioned for relocation, and three (3) out of four (4) were denied. The only one that was approved was done so due to a safety issue.)

Dr. Littlefield testified as the final witness for the School Board. He cited the Contract with Manchester (SB#8), wherein Candia students attend Central High School with a limited exception referenced previously. Candia does not have “school choice”. He testified about the resolution of the Manchester/Hooksett litigation which calls for their area agreement to end on June 30, 2014. The JCB Policy is not required by New Hampshire Statute or Regulations. Dr. Littlefield also testified about the Manifest Educational Hardship Policy, however, that is not relevant to this case. He further talked about the JCA Policy which allows the Superintendent to change schools, but again, this was not relevant to this case as the Contract with Manchester calls for the School Board to make those decisions on a case-by-case not the Superintendent. Dr. Littlefield recalled meeting with the Parents before the School Board meeting occurred to make sure that their request for relocation was properly submitted and contained all of the necessary ingredients. The School Board handles requests for relocation differently in 2013/2014 than it did in 2012/2013 due to the numerous problems that existed at Central in 2012/2013, which were previously discussed and were repeated by Dr. Littlefield. In his opinion, this had a demonstrable negative impact on the students attending Central in 2012/2013. In 2012/2013, the

JCB Policy applied Paragraph #6 of the standards referenced above, in that, other unique conditions justified approving requests for reassignment to a different high school. It now does not apply because Central has corrected the negative conditions that lead to the demonstrable negative impact on Candia's students. In his opinion, the Parents did not satisfy the JCB Policy, and he sent a rejection notice to the Parents.

There was no cross-examination of Dr. Littlefield, however, the Mother requested to ask several other questions to Kim Royer, the School Board Chair, and there was no objection. Ms. Royer agreed that in September 2013, another student was approved to attend a different school than Central and she explained that that was due to the timing. When the request was made, school had just started at Central. The parents in that case met with the Superintendent over the summer. The School Board was not sure if Central had "fixed things" so they looked at it like it was still 2012/2013 and granted the request.

The School Board rested at the conclusion of Dr. Littlefield's testimony.

#### RECOMMENDATION TO STATE BOARD OF EDUCATION

The Hearing Officer recommends that the State Board of Education uphold the Decision of the Candia School Board to deny the Parents' request for reassignment to CBA for their child. While there is no doubt that the School Board essentially made a 180° turn with regard to requests for reassignment from 2012/2013 to 2013/2014, the justification for the change in implementation of the policy involved unique circumstances in that the conditions of Central High School were clearly not up to State Standards in 2012/2013 and became in compliance with the Standards, after working with the Candia School Board, in 2013/2014. It is also noteworthy that the Parent request is not based on issues regarding the Student's quietness and propensity to remain in the background and potentially "fall through the cracks". The request is based solely

at the program offered at CBA in agricultural studies and the comparison of that program to MST's program. The guidelines in support of the JCB Policy at #3 (SB#4, Best Interest Standards and Guidelines, Paragraph #3), clearly discusses that "For example, the availability of co-curricular activities/athletics or certain advanced placement courses in other schools is not the basis of a change of school assignment under this policy". "There must be curricular courses/programs at another school that a student needs in order to fully benefit from an education and the student must demonstrate a need to access those courses/programs by activity participation or involvement in pursuits demonstrating the need for those courses/placements over a long period of time". While CBA may offer a better agricultural program than MST, the School Board did not find that this was a sufficient basis to approve the request for reassignment. Under the circumstances, the Hearing Officer recommends the State Board of Education uphold the decision made by the Candia School Board denying the request for reassignment.

Dated: June 9, 2014

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John P. LeBrun, Esquire  
Hearing Officer