



INDIANA STATE BOARD OF EDUCATION

TO: State Board of Education
FROM: John Snethen, SBOE Executive Director
DATE: March 8, 2017
RE: Recommendation to approve transfer tuition order Cause No. 13-42016

In this transfer tuition appeal, the Board's hearing officer recommends granting the parent's transfer tuition request. After independently reviewing the record and the hearing officer's proposed order, **I recommend the Board approve the hearing Officer's order** because: (1) the Hearing Officer's findings of fact are supported by substantial evidence; and (2) the Hearing Officer's legal analysis is correct.

BEFORE THE INDIANA STATE BOARD OF EDUCATION

In Re the Matter of:)	
A.M.,)	Cause No.: 13-42016
Petitioner,)	
)	
v.)	
)	
Union Township)	
School Corporation,)	
Respondent)	

Appeal of Transfer Tuition Decision

Pursuant to I.C. 20-26-11-15

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED ORDER

Preliminary Matters

During the Indiana State Board of Education (“Board”) administrative hearing held on August 11, 2016, the Respondent made a motion to dismiss the matter.

Ruling: The Petitioner has provided sufficient evidence and arguments to permit this matter to move forward to a decision on the merits. The Respondent’s motion to dismiss is denied.

During the hearing held on August 11, 2016, the Respondent objected to evidence provided by the Petitioner. Additionally, the Respondent objected to evidence the Petitioner provided subsequent to the hearing.

Ruling: Given the informal nature of the Board’s administrative hearing process, submitting additional evidence for the hearing officer’s consideration after the hearing is permissible. Further, the additional evidence was provided at the hearing officer’s request, and the Respondent was given an opportunity to review and respond to said evidence. Therefore, the Respondent’s objections to evidence submitted by the Petitioner, both at the hearing and subsequent to the hearing, are denied.

Procedural History

The Petitioner, A.M., resides within the attendance area of Union Township School Corporation ("Union"). A.M. is currently a sophomore in high school in the 2016-2017 year. On April 21, 2016, Petitioner requested an appeal of Union's transfer denial that was subsequently received by the Indiana State Board of Education ("Board") staff. The undersigned was appointed as hearing examiner and the parties were so notified on June 23, 2016, by certified mail. Petitioner's mother gave written consent for the hearing to be open to the public. The parties provided the hearing examiner with available dates for a hearing. The hearing was scheduled for August 11, 2016. The parties were notified of the hearing date and location on July 28, 2016, and were advised of their rights by notice on July 28, 2014.

On August 11, 2016, the Petitioner's mother was present. Present on behalf of the Respondents were John Hunter, Union's Superintendent, Mike Stephens, Union's Assistant Superintendent, and Don Gandy, Principal of Wheeler High School ("Wheeler High"). A brief pre-hearing conference was conducted prior to the start of the hearing during which time the hearing examiner advised the parties of their hearing rights and appeal procedures. During the hearing, witnesses were sworn and testified. Petitioner offered exhibits 1 through 17 into evidence. Respondents offered exhibits A through G into evidence.

After consideration of the testimony and exhibits, the hearing examiner makes the following findings of fact, conclusions of law, and recommended order:

Findings of Fact

1. A.M. resides within the boundaries of Union and would attend Wheeler High if A.M. attended school within Union. However, A.M. wished to attend Munster High School ("Munster High"), which is part of the School Town of Munster School Corporation ("Munster"). Petitioner believed Munster had course offerings necessary for A.M.'s vocational and academic aspirations, and that the same or substantially similar curriculum offerings are not available at Union. Specifically, A.M. is interested in 1) attending classes and studying to pursue a career as a mathematician, physicist, or surgeon in a college outside of Indiana, and 2) completing certain honors, advanced placement, and Project Lead the Way (PLTW) courses offered at Munster.
2. Petitioner's mother provided testimony that A.M. was identified as a high ability student in the 3rd grade. Further, she stated that A.M. scored in the high pass + range for all ISTEP tests A.M. has taken, including a perfect score on A.M.'s 6th grade science ISTEP exam. Further, based on A.M.'s PSAT/9 scores, A.M. ranked in the 98th percentile in the overall math section, and in the 93rd percentile for English.

3. As A.M.'s mother is employed with Munster, A.M. was able to attend Munster High for the 2015-2016 and 2016-2017 school years and did not request transfer from Union for those years.
4. On March 14, 2016, A.M.'s transfer request application for the 2016-2017 school year was filled out and faxed to Union. The transfer application lists the grounds for transfer as, "[a] curriculum offering the transferee high school is necessary for the student's established academic or vocation aspiration and the same or a substantially similar curriculum is unavailable at the transferor's school."
5. Union denied the transfer request on April 13, 2015, responding, "[a]lthough Wheeler High School does not offer the same courses as Munster High School, Wheeler High School offers compatible courses which would allow [A.M.] to complete enrollment in a university to prepare [A.M] for [A.M.'s] vocation."
6. At the hearing, Petitioner's mother said her reason for transfer from Union was she "[did] not believe the curriculum offerings at that school meet [A.M.'s] needs." The curriculum offerings at Munster that Petitioner's mother thought were important and necessary to A.M.'s vocational and academic aspirations focused on math, science, and English courses. Based on the request for transfer, as well as information available online from Munster's website, the relevant classes are as follows:
 - a. Honors English 9
 - b. Honors English 10
 - c. Honors Geometry
 - d. Honors Algebra II
 - e. Honors Pre-Calculus/Trigonometry
 - f. Honors Chemistry
 - g. Honors Physics
 - h. Advanced Microbiology
 - i. AP English 11
 - j. AP English 12
 - k. AP Statistics
 - l. AP Calculus
 - m. AP Chemistry
 - n. AP Physics-Mechanics
 - o. AP Physics-Electricity
 - p. AP Biology
 - q. AP Environmental Science
 - r. PLTW: Human Body Systems

7. At the hearing, Union submitted exhibit A, a course selection guide that lists all available classes. While many courses that Union provides may require prior course prerequisites (such as a student receiving a C or better in Algebra I prior to taking Chemistry I), it appears that the following courses are comparable to the courses outlined above:
- a. Honors English 9
 - b. Honors English 10
 - c. Honors English 11
 - d. Honors English 12
 - e. English Enrichment
 - f. Human Genetics
 - g. Biology II: Anatomy & Physiology
 - h. AP Chemistry
 - i. AP Calculus AB
 - j. AP Calculus BC

Conclusions of Law


1. The Board has jurisdiction to determine the right to attend school in any school corporation. IC 20-26-11-5.
2. IC 20-26-11-5 states that "The parents of any student . . . may request a transfer from a school corporation in which the student has a legal settlement to a transferee school corporation in Indiana or another state **if the student may be better accommodated in the public schools of the transferee corporation.**" (emphasis added). 511 IAC 1-6-3 provides ". . . a student will be better accommodated in the transferee than in the transferor, as provided by IC 20-26-11-5, on a showing of one or more of the following:
 - (1) Curriculum:
 - (A) the student has established an academic or vocational aspiration, a curriculum offering at the high school level that is important and necessary to that aspiration is available to the student at the transferee, and that curriculum offering at the high school level or a substantially similar curriculum offering at the high school level is unavailable to the student at the transferor; or
 - (B) the student is capable of earning an academic honors diploma, the school corporation does not offer the required academic honors diploma courses, and the student has completed all academic honors diploma courses offered by the transferor and available to the student.


3. The issue is whether A.M. is better accommodated, within the requirements of IC 20-26-11-5 and 511 IAC 1-6-3, by Munster (transferee), than by Union (transferor).
 - a. Petitioner's mother has testified that A.M. has aspirations of a career as a mathematician, physicist, or surgeon and plans on attending college outside Indiana. Petitioner's mother asserts that Munster's curriculum is better suited to satisfy A.M.'s academic or vocational aspirations.
 - b. In response, the Respondent asserted that Union "offers [a] curriculum meeting minimum requirements that will afford the student enrollment into a university or college whom offers programs in mathematics, physics, and pre-med, thereby demonstrating an offering necessary for the student's established academic or vocational aspiration." Further, Respondent contends that Union offers courses necessary for students to receive an Academic Honors Diploma.
4. There does not appear to be any dispute between the parties that Union offers a curriculum that meets the minimum requirements that will afford students the opportunity to enroll in various programs offered by universities and colleges. Nor does there appear to be any dispute that Union offers courses necessary for students to receive an Academic Honors Diploma. However, based on the curriculums of the respective school corporations, Munster offers more honors and advanced placement courses of interest to A.M. compared to Union. Petitioner's mother asserts that such courses are important and necessary for A.M.'s academic aspirations of completing certain courses in the math, English, and science fields in order to pursue A.M.'s career choices.
5. Based on Petitioner's academic or vocational aspirations it is clear that having access to more honors and advanced placement courses in the fields of math, English, and science would assist with these aspirations.
6. Based on the above facts, Union does not have curriculum offerings that are substantially similar to Munster regarding what is important and necessary to A.M.'s stated vocational and academic aspirations to enroll in a range of honors and advanced placement courses in math, English, and science, and pursue a career as a physicist, mathematician, or surgeon.

RECOMMENDED ORDER

The Respondent, Union Township School Corporation, shall be responsible for the payment of tuition, on behalf of the Petitioner A.M., to the School Town of Munster School Corporation for the 2016-17 school year.

Dated: October 28, 2016


 Timothy Schultz, Hearing Examiner
 Indiana State Board of Education


 Emma Jay, Certified Legal Intern
 Indiana State Board of Education

RIGHT TO APPEAL

Any party wishing to file objections to this recommended decision may do so in writing within fifteen (15) calendar days from the receipt of this order. The basis of any objections must be stated with particularity. A party must cite to any Finding of Fact, Conclusion of Law, or Order with which the party takes exception. Objections must be mailed to Timothy Schultz, Hearing Examiner, at the State Board of Education, 143 West Market Street, Suite 500, Indianapolis, Indiana 46204, (317) 233-4088. If objections are filed or the Board, by majority vote, decides to set this cause for oral argument, you will be advised of the date the Board will consider the case. The Board will adopt this recommended decision as its final order if no objections are filed and the Board does not decide to hear oral arguments.

Any party filing objections or responding to same must provide a copy of such written objections or written responses to the representative of the other party. Failure to do so may result in dismissal of your appeal.

Copies to (via certified mail):

Lisa Mella
 11 North 675 West
 Valparaiso, IN 46385

Union Township School Corporation
 Attn: Superintendent John Hunter
 599 W 300 N Suite A
 Valparaiso, IN 46385