



explained that at present they had three pieces of paper. The recommendation called for only two papers which would have some impact on clarification for parents, and here they were dealing with everyone in the same way.

Mr. Ewing remarked that on balance the proposal was a considerable improvement. He liked the notion that every student was assigned to a particular school and parents must apply for transfer. He thought that Mrs. Praisner was right in that the new proposal did not solve the issue of racial balance in the magnet schools. He stated that there had been far too much effort and pain put into the development of the clusters for the Board to give up on past policy efforts. He wanted assurances that they would not lose what they had gained. He did not think the Board ought to take any actions which would reduce its ability to control racial balance in the schools. If they did that, they would be in some legal danger. He commented that it would be interesting as an experiment to have open enrollment in the clusters or in one of them, see what happened, and adjust after a year. However, if they had to adjust, they would be faced with the necessity of sending people back to their original schools which would be horrendous. He recalled that as a citizen in 1975-76 he had advocated open enrollment for the Takoma Park cluster, but circumstances were now different. He did not believe today that this was likely to be feasible or that the proposed policy made it any more feasible. He said they were going to have some strong views in front of them about the desirability of an open transfer policy in the clusters, and the Board really had not come to grips with that issue. He felt it was important to get some good legal advice on that issue. He thought they had a moral and educational obligation to assure that they did not abandon some schools or the clusters to the likelihood of increasing the degree of segregation in those schools.

Ms. Judy Bresler, Board attorney, indicated that there were some legal principles that would be helpful because federal courts had considered challenges to school transfer policies. However, each case had to be viewed in the context of that school system. The Supreme Court had invalidated student transfers where the transfer policy indicates that approvals would be forthcoming where students were transferring from schools in which they were part of the racial minority to schools where they would be a part of the racial majority as being discriminatory. They also invalidated open transfer policies when those school districts were under a current obligation to desegregate. In regard to clusters, she said that one of the federal circuit courts had said they would analyze transfers based on a cumulative effect on a school by school basis. She stated that if a policy adopted by a Board was to increase segregation the courts viewed that as segregation intent which could lead to a finding of de jure segregation. She explained that this Board had decided that integrated schools should be promoted as a matter of educational policy. The Board now had the 20 percent variance which operated for both minority and majority. In MCPS the transfer policy had been used to implement the educational policy determinations made through the Quality Integrated Education

Policy. In this policy they stated that transfer requests to or from schools where transfers would adversely affect the goals of the policy would be carefully monitored. The goals of the policy were to promote integration, not merely to stave off segregation.

Dr. Cronin stated that he would like the Board to be careful about the way in which it dealt with this policy. This was not the QIE policy. It was the transfer policy. The Board had the responsibility of assigning students and setting the educational policy in the schools. In a number of decisions they had made regarding transfers, they had dealt with the magnet clusters by trying to bring students in and make it attractive and to avoid a racial imbalance through transfers out. They had looked at school closures, transfers by program rather than course, and athletics. So this was not a transfer/QIE policy. He suggested they look at the transfer program in the larger view rather than focusing on the magnets in Blair and B-CC. He suggested stating "in satisfaction of the QIE policy or JCA" because it may not be simply B-CC or the Blair clusters. Mrs. Praisner thought staff was saying that JCA would no longer exist after they adopted the new policy.

Dr. Pitt explained that the policy attempted to define magnet programs. Dr. Cronin hoped they would not limit this to purely racial issues. Mrs. Praisner pointed out that right now they had magnet programs only to promote racial integration. Dr. Cody stated that the supplemental documents would list the magnet schools and schools for which there were racial guidelines. He had not read anything in the existing JCA that would not be accommodated by the proposal. He said that options for selecting another school were so wide, he would guess that collectively these actions were subverting the Board's intent for desegregation.

Mrs. Peyser asked whether under the new policy it would be easier or more difficult to transfer into the French immersion program. Dr. Shekletski replied that it would be the same. Mrs. Peyser asked whether this would clarify anything. Dr. Shekletski explained they had considered making a chart for the transfer policy. It was possible to spell out whether a student could move from "School A" to "School B." Ms. Patton added that the new policy did not make it easier to transfer into magnet programs. They had been operating under the assumption that magnets were there to facilitate desegregation. In applying the transfer policy, they had to take into consideration racial balance. They found themselves not allowing movement in the cluster because it would negatively impact one of the schools.

Mrs. Peyser hoped that the staff would take a look at the recommendations from parents in the Blair cluster. Dr. Pitt explained that the paper before the Board was a working paper and not an absolute recommendation. It was up to the Board to indicate direction. Mrs. Praisner noted that the Board had not received the final recommendations from the Blair area, but they had received "early bird" copies. She agreed to provide her copy to the staff for reaction.

Mrs. Peyser asked about the ineligibility clause which stated that "a student who transfers and desires to participate in interscholastic extracurricular activities will be ineligible for one calendar year unless the transfer improved desegregation." She assumed it included athletics and added such activities as math team and "It's Academic." She wondered why they were doing this to students. She pointed out that students had to have a good reason for transfer, and she wondered why they were denying innocent children the right to important activities in their schools. Dr. Shekletski reported that the committee had deliberated that long and hard and said that perhaps it was not necessary to have the ineligibility rule. However, Mr. William Kyle felt that there would be a lot of negative reaction from school people, particularly senior high school principals and athletic directors.

Mrs. Peyser asked whether they would publicize the transfer period and how they went about applying for transfer. She asked about children continuing in the feeder pattern. Mrs. Praisner explained that as now they would have to apply for a transfer at each level. Mrs. Peyser inquired about siblings, and Dr. Shekletski replied that they did not honor transfer requests because of siblings.

Dr. Shoenberg said there were a series of decisions the Board had to make. There were two ways of going for which there were perfectly legitimate arguments. They could start from the point of view that transfers were open or from the point of view that the student attended the assigned school. His feeling was counter to the staff proposal. He thought there was a lot of variety in a large school system and they could allow that open transfer. He stated that he was made uncomfortable with the notion that they denied transfers to students to an educational program because of the color of their skin. He was equally uncomfortable with a policy that would allow schools to get into a situation where they were heavily segregated. He thought they were going to have to decide whether they cared more about the access to educational programs regardless of race or the principles of desegregation. Another choice was the business of how they maintained integration both ways. They could enforce a policy which limited free transfer in order to maintain racial balance. In the process of doing that, they might drive out of the system those children they were trying to hold in the system in order to maintain desegregation. They had to make a decision on this because they could not have it both ways. He had a problem with the community paper because they did try to have it both ways.

Mrs. Shannon commented that this was the transfer policy and not the desegregation policy. It should be written and discussed not as an adjunct to the desegregation policy but to make certain it was not in conflict with it. As she reviewed the one page document, she found no problem with the first paragraph which stated that students were assigned in a geographic area. She did like the idea of transfers by exception. However, in that statement she would include "exceptional program needs." She would say "magnet school programs" without the definition which she did not understand. If

they named the magnets, they would find themselves revising the program every time a new magnet was developed. She would not include "majority/minority" because this was not a desegregation policy. The next statement should read, "transfer requests will be considered in relation to the status of individual and/or cluster schools." Then they would go to over- and underenrollment, racial balance, QIE, consolidation and closure plans. She agreed with Mrs. Peyser that exclusion was not appropriate in the policy as she now envisioned it. It was not a policy dealing with desegregation, but that was one of the elements to be evaluated.

It seemed to Mrs. Praisner that Mrs. Shannon was saying they would not consider the transfer based on majority/minority, but it would be considered in whether the transfer was granted or not. Mr. Ewing did not think this solved the problem of how they dealt with the issue confronting them in the cluster schools. They could say the QIE policy would prevail if they wanted to, and he thought this would be appropriate. He thought it was important for them to deal with this not as a desegregation issue. He would differ with Dr. Shoenberg in the way he posited a binary choice between education program access and racial balance. He did not see those as necessarily in opposition. He noted that integration was in itself an educational objective. He did not believe they were choosing between two different opposed educational objectives. He objected when people said to the Board that the denial was on the basis of race. That was not his basis ever for denying a transfer. His basis was that education objective of integration was an important one. However, this did not solve the problem of access to other educational programs. If there was something to be said for considering what some of the Blair area parents were saying, it was that it was important to be able to meet the needs that parents identify for programs for their children. It would be his solution for the popularity of the French immersion program, to install another French immersion program. It seemed to him this was a way to think about what they might want to do programmatically. He did not want to deny people access to programs on any basis. However, one of the problems he had with the way they added programs in the system was that they did end up denying children access.

Mr. Ewing said he had several questions. He pointed out there were factors to take into account in making decisions in individual cases; however, there was no basis for deciding that some factor took precedence over some other factor. For example, did educational need take precedence over racial balance? They had not addressed the precedence issue and had left it to judgment. He wondered whether the committee had dealt with that. He said they had had before them recommendations as to how the transfer policy would affect day-care in elementary schools, but this issue was not in the paper before them. In addition, no definition of "hardship" was provided.

Dr. Cody commented that "hardship" was a tough one to define and usually came across as "personal family circumstances." Regarding the "majority/minority" provision for transfer, he explained this

was placed in here to indicate that that by itself it should serve as a basis for approving. If a student in a school where the majority of students are of their race, they may chose to go to a school where they would be in the minority. In court orders, most school districts are required to approve transfers on that basis, even over facts such as lack of space. He said that the current policy excluded students from athletics for one year to prevent recruiting for athletic programs. Most states have this requirement.

Dr. Cronin said he was hoping to see an appeal board of athletic coaches. He thought the school system needed a regulated process of assigning students to schools. He said they did have to consider race because when this Board was elected the state Board of Education had said there was trouble in Montgomery County that had to be dealt with or Montgomery County would be in trouble with the state. In regard to the language immersion program, he did not see this critical to a child's education at age seven. He said that while the program was there, there would be policies in conflict and for that reason the appeals process existed.

In regard to athletics, Dr. Pitt said he would argue they not expand the ineligibility beyond athletics. He also hoped they would look at this after one year. He agreed that they ought to attempt to define "hardship." Ms. Patton reported that the committee had discussed day-care but did include that as part of a hardship need. Mr. Ewing indicated that he would like to know how this would work.

Mrs. Praisner recalled the 1978 QIE suggestion about day-care students being permitted to attend a particular school as a unit for kindergarten only. Ms. Patton replied that in the cluster schools they were looking at day-care needs and had tried to accommodate the requests of the parents. If there was no other way for the child to be taken care of before and after school, this would be perceived as a hardship case. Dr. Shekletski said in 1978 they had approved the transfers for kindergarten, but the children had remained in the school until the sixth grade. Mrs. Praisner asked whether there was a way of securing an agreement that the transfer would be only for one year. She asked for a legal opinion on this.

Mrs. Praisner said she had a concern about students transferring for a vocational program. It was her feeling that the transfer was only good as long as they were in that program. Dr. Cronin asked about what would happen if the hardship ended. Dr. Pitt commented that at the high school they had not monitored. It had been their practice that once a child was allowed to go into a school the child would continue on in that school. The situation would be looked at again in the junior high school and senior high school situation. They had not done it by grade level. At the high school level, they did monitor as to whether the student enrolled in the program, but they did not check to see whether the youngster stayed in the program. Dr. Shekletski thought that under the new policy there would be fewer requests, and it would be easier to monitor. Mrs. Praisner thought that the new policy would not change the quantity of

transfers but might clarify the transfer process to people. She agreed with Mrs. Shannon about "majority/minority." She thought they might continue to have the same quantity of appeals they had now. In regard to addressing imbalance, they might look at a school not in terms of changing its boundaries but in a way of creating a program which would attract people. She agreed that this program might not be available to people in the community, but they also were not available to everyone in the county either. In regard to the athletics issue, she would like to go back to the original wording and called attention to an article in the Sentinel about athletic recruiting.

Dr. Pitt explained that right now if two schools were open the parent could request transfer to the other school because of a "better" program. He thought that the new policy would not let people transfer for a "better" program.

Mrs. Peyser agreed with Dr. Cronin's suggestion about an athletics panel. She asked that Board members be provided with a copy of the regulation against athletic recruiting. In regard to starting another French immersion program, she asked for information about the availability of teachers and another principal. She also wanted to know how long it would take to set up another program.

Dr. Shoenberg stated that he did not deny there was a valid educational principle in fostering desegregation. However, for any individual child the effect might be the same, and it was to that effect he was speaking to before. He noted that they were talking about the transfer policy because of a series of appeals they had this summer. He said that one of the ways of solving the problem would have been to create a second French immersion program, but the problem with that was whether there were enough students to fill such a program. He wondered whether they should leave the transfer policy alone. He thought it was better to start with the assumption that students could move around rather than start with the notion they had to justify every move they made.

Mr. Ewing hoped the point that Mrs. Praisner made about requesting legal and staff advice about the proposal made by the Silver Spring Child Care Center would be forthcoming shortly. He remarked that in some ways Dr. Shoenberg's point about leaving the transfer policy alone was a good one. He noted that in the past they had never had double digit numbers of appeals, which was a big increase but not overwhelming. He agreed with Mrs. Praisner that if they adopted the new policy it would not discourage people from appealing. He suggested that the best way to address the issue might not be through the transfer policy but rather through programmatic issues.

Mrs. Shannon stated that she still agreed the focus should be changed to say transfers were granted by exception. She felt they needed some guidance on priorities and what took precedence. Mrs. Praisner thought that precedence should not be defined because they might have a continuum of the definition of hardship. Hardship might depend on where a student lived, and she would have problems

of defining it too clearly. She thought they should have examples rather than definitions. Ms. Bresler thought that definitions of hardship and exceptional educational need would be difficult to define. In terms of priorities they had two different sets of criteria here. They had the examples of the exceptions and then they had school considerations. She indicated that she could pick up on some of the language used by the courts in terms of a balancing test which might be useful for the Board. Mrs. Shannon said she would like to know whether QIE took precedence over hardship.

Dr. Cronin commented that he would be willing to accept free transfer if they wiped out school boundaries. However, if they were going to keep school boundaries, they would have to leave the premise here. Mrs. Praisner suggested that on February 14 the Board continue this discussion. She thought they were talking about the status quo with some modifications or a change with slight modifications based on this evening's discussion. In addition, they had to talk about the day-care issue and ways it might be incorporated into both options. She asked that responses to the Board's questions be sent out to the community. She would anticipate final action on February 29. Dr. Cronin asked whether they were aiming for a change this spring, and Mrs. Praisner agreed that they were. Dr. Pitt suggested that if they were going to make a major change they had to give the community an opportunity to communicate their views.

Dr. Shoenberg thought he saw consensus on leaving the transfer policy regarding athletics alone but consider a board of coaches. Mrs. Praisner agreed that if there were major changes to the policy, the Board would have to delay to allow community comment.

Re: Adjournment

The president adjourned the meeting at 9:25 p.m.

President

Secretary

WSC:mlw