

SYED JUNAID M.

Appellant

v.

HOWARD COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 13-18

OPINION

INTRODUCTION

This is an appeal of a denial of an age waiver request for early entry into kindergarten. The Howard County Board of Education (“local board”) filed a Motion for Summary Affirmance maintaining that its decision was not arbitrary, unreasonable or illegal and should be upheld. The Appellant filed a response to the local board’s motion, to which the local board replied.

FACTUAL BACKGROUND

The Appellant’s son, B, was born on September 28, 2007, making him eligible to attend public school kindergarten in the 2013-2014 school year. B was born in India and lived there until age two, at which point he came to the United States.

On or about March 7, 2012, Appellant submitted an Application for Early Admission to Kindergarten for B to enter kindergarten for the 2012-2013 school year. (Mtn. Ex.2). The application included the required developmental checklists; samples of B’s work and a letter from a family friend. Appellant and his wife completed the parent/guardian checklist. A friend who knows B filled out the preschool teacher/other non-related adult checklist because B never attended preschool and there was no preschool teacher to fill out the form.

The early entry screening took place on April 10, 2012 at 11:00 a.m. at the County Diagnostic Center. The teacher conducting the assessment was a veteran educator with over 30 years of experience teaching kindergarten and first grade students. This is a summary of the assessment observations:

[B] was a really nice little boy. He smiled, but stayed very close to dad and mom in the front lobby. He did come back to the assessment room willingly. [B] was cooperative, polite and happy. He enjoyed doing the tasks. By the time Ms. Neidig, the assessment teacher, finished reading the story, [B] was ready to be

finished. He had to work at holding his pencil and his version of writing was drawing. He was unable to complete the assessment.

(Mtn. Ex.5, Memorandum to Local Bd. from Directors, 8/23/12).

By letter dated May 23, 2012, Lisa Davis, Coordinator for Early Childhood Programs, advised Appellant that B did not meet the established criteria warranting early kindergarten admission. (Mtn. Ex.3). Ms. Davis explained that in order to be admitted early to kindergarten, four of the six evaluation categories must be rated as "Advanced", and no category can be rated as "Basic." In B's case, none of the categories received an "Advanced" rating. Rather, B received a "Proficient" rating in the categories of (1) general knowledge, (2) reading, (3) mathematics and (4) parent/guardian developmental checklist. He received a "Basic" rating in (5) graphomotor/writing and (6) preschool/non-familial developmental checklist. (*Id.*).

Appellant appealed the denial of early admission to the Directors of Elementary Education ("Directors"). In the appeal, Appellant acknowledged that B was "kind of marginal" on the day of assessments. He maintained, however, that B was at a disadvantage during the assessment, especially with regard to language, due to his coming to the United States at age two and due to a two month trip to India in January and February 2012. Appellant explained that B had "lost whatever knowledge he acquired here" during that two month period, but that he and his wife did not work to help B recoup that knowledge prior to the assessment because Appellant was told by a school system representative that no special preparation was necessary. Appellant maintained that despite the assessment results, B possessed the capabilities required for kindergarten. The Directors found that the process had been properly followed and that the information supported the earlier decision denying B early admission to kindergarten. (Mtn. Ex.4).

Appellant appealed the Director's decision to the local board. In a unanimous decision issued October 4, 2012, the local board upheld the denial of Appellant's early entry request because it did not meet the established standards. (Mtn. Ex.6).

STANDARD OF REVIEW

Because this appeal involves a decision of the local board involving a local policy, the local board's decision is 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.01.05.05A.

LEGAL ANALYSIS

There is no legal right to attend kindergarten before age five. *See* Md. Code Ann., Educ. §7-101 (guaranteeing a free public education to "[a]ll individuals who are 5 years or older and under 21."). In order to enroll in kindergarten, a child must be age 5 by September 1 of the year of kindergarten entry. COMAR 13A.08.01.02B. Each local board of education is required, however, to adopt regulations permitting a 4 year old, upon request by the parent or guardian, to

be admitted to kindergarten if the local superintendent of schools or designee determines that the child demonstrates capabilities warranting early admission. (*Id.*).

Accordingly, the Howard County Public School System (“HCPSS”) has developed a regulation to accommodate requests for early kindergarten entry for children whose birth dates occur between September 2 and October 15. In order to attend kindergarten one year prior to the age established by the State, children must display “an exceptionally high degree of academic, social, emotional, and physical readiness to attend kindergarten” based on a standardized assessment process utilized by the school system. (HCPSS Policy 9000-PR.III.B). Parents submit an application for early entry that includes developmental checklists to be completed by parents and preschool teachers or others who are knowledgeable about the child. (HCPSS Policy 900-PR.III.B.3.b).

The school system assessed B for kindergarten readiness in accordance with its established procedures and found that B failed to satisfy the required standards. B did not achieve and “Advanced” rating in any of the four tested categories of the assessment. There is no evidence that the testing was unfairly or improperly administered. Although Appellant disagrees with the results of the testing, those were the scores B achieved at that time. This Board has previously stated that it is not unreasonable for a local board to conclude that a child is not ready for early entrance into kindergarten based on assessment scores. *See Tonya L. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 08-19 (2008); *Perseveranda B. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 08-01 (2008); *Kelly C. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 07-22 (2007); *Chintagumpala v. Montgomery County Bd. of Educ.*, MSBE Op. No 06-04 (2006).

Developmental Checklists

In this case, however, the Appellant disagrees with the tools utilized by HCPSS to complete the early entry assessment process. In particular, Appellant focuses on the use of the Developmental Checklists. (Attached to Letter of Appeal). Appellant maintains that it is contrary to sound educational policy to have a non-related adult fill out Developmental Checklist A unless the individual is the child’s preschool teacher.

Developmental Checklist A is to be completed by the child’s preschool teacher or other adult who is not a family member but who is familiar with the child’s development. It poses a series of observable behaviors of the child to be marked as occurring always, usually, sometimes, or never. The majority of the questions posed are capable of being observed and answered by either of those people, except perhaps the three questions specific to the classroom or school setting that may be difficult for an individual who has not observed the child in such an environment. The school system maintains that there is merit to having the form filled out by a non-related adult who is not a preschool teacher because it provides an unbiased view of a third party’s observations based on that individual’s experiences with the child.

The potential problem arises when there is neither a preschool teacher nor a non-related adult familiar with the child’s development to fill out the form. Appellant claims that this is

what happened here, resulting in a “Basic” rating on this aspect of the assessment. We note, however, that the individual filling out Developmental Checklist A completed the form and answered questions related to a school or classroom setting. There was no indication on the form that the individual had any problems answering the questions. Moreover, a higher rating on the checklist would not have qualified B for early entry because four “Advanced” ratings are required. He failed to earn any “Advanced” ratings. We do not know what the local board’s decision would have been if the only deficient aspect of the assessment was Developmental Checklist A. While we need not rule on the issue here because it is a moot point in this case, we urge the school system to consider that such a circumstance may occur in the future and to review the use of Developmental Checklist A in this regard.

Appellant also maintains that it is difficult for a parent to complete Developmental Checklist B, which is the form to be filled out by parents or guardians. He states that he and his wife were honest and realistic in their answers but “may have judged [B] too hard” by answering “usually” instead of “always,” noting that a few more “always” answers would have resulted in an “Advanced” rating on this component of the assessment. (Letter of Appeal). As the local board has explained, the checklist is used to get an honest assessment about the child from the parent or guardian. Completion of the form may be difficult but it provides important information to the school system. We find nothing improper about the school system seeking the parent’s input on the child’s development and using it as part of the assessment. In addition, although the Appellant argues that the checklist questions are out of context, the questions all have to do with developmental behaviors that speak to a child’s readiness for kindergarten. That is the context in which they are presented.

Assessment Interview

Appellant maintains that he was misguided about the assessment interview because a school system representative failed to advise him that there would be testing. Appellant states that he asked the representative if early entry candidates need to engage in any particular preparation and the representative advised him that none was needed. Appellant also states that the representative told him that the school system wants to ensure that the child is capable of leaving the parent to come to school. We do not believe that the statements by the school representative were misleading. Indeed, no studying or preparation is required prior to a child being tested for early entry. It is not that type of assessment. The school system simply wants to know what the child is capable of at the time of the evaluation so that it can use that data to help predict the child’s success if admitted early to kindergarten.

We note that HCPSS Policy 9000-PR.III.B.3.c informs parents that some type of standardized assessment process is used for children seeking early entry. (Mtn. Ex.1). Furthermore, the “Frequently Asked Questions About Early Admission” document on the school system’s website¹ advises parents regarding the test that is used in the assessment. It states:

¹ http://www.hcpss.org/schools/earlyadm_1213faq.pdf

The Office of Early Childhood Programs uses a criterion-referenced standardized assessment. The test, which takes approximately 45 minutes to administer, includes mathematics, reading/language, and general knowledge for kindergarten. A certified early childhood teacher administers the assessment individually to each child.

(Local Bd. Reply, Attach.1).

Early Entry Requirements

Appellant also argues that it is contrary to sound educational policy to place pre-requisites for entry on early entry candidates when there are none for admission into kindergarten. The law requires local superintendents to establish some type of process to determine that a child seeking early entry demonstrates capabilities warranting early admission. COMAR 13A.08.01.02B. The process utilized by the school system is how it satisfies that requirement.

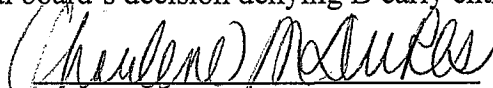
Appellant further argues that the pre-requisites placed on early entry applicants are too demanding and that it is unsound educational policy to require the applicants to demonstrate advanced performance levels beyond the capability of a five year old. He believes that the school system should make it easier for applicants to gain entry because they are a little younger than the age required for kindergarten attendance. Appellant has presented no evidence to challenge the testing process used by the school system as educationally unsound. The HCPSS process for identifying four year olds with capabilities warranting early admission to kindergarten was established by elementary education experts in the school system based on educational research of performance criteria expected of kindergarten students. The school system has been using this process over the past several years.

Trial Period

Because Appellant believes that the local board reached the incorrect decision, he asks that his son be allowed to go through the 30 day trial period given to early kindergarten entrants under HCPSS policy so that B can show he is ready for kindergarten. Given that we do not find the local board's decision to be arbitrary, unreasonable or illegal, there is no basis for us to require the local board to give B the trial period.

CONCLUSION

For all of these reasons, we affirm the local board's decision denying B early entry to kindergarten.


Charlene M. Duker
President

Mary Kay Finan
Mary Kay Finan
Vice President

James H. DeGraffenreidt, Jr.
James H. DeGraffenreidt, Jr.
Absent

S. James Gates, Jr.

Luisa Montero-Diaz
Luisa Montero-Diaz

Sayed M. Naved
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Madhu Sidhu
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Donna Hill Staton
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Ivan C.A. Walks

Guffie M. Smith, Jr.
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Linda Eberhart
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February 26, 2013