

ANDALEM M.

Appellant

v.

MONTGOMERY COUNTY BOARD
OF EDUCATION

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 07-23

OPINION

INTRODUCTION

This is an appeal of a denial of an age waiver request for early entry into kindergarten filed by the parent of a child who is not eligible to begin kindergarten until the 2007-2008 school year. Appellant contends that his daughter is sufficiently able and skilled to enroll early in kindergarten for the 2006-2007 school year. The local board has filed a Motion for Summary Affirmance.

FACTUAL BACKGROUND

State regulation requires that children must be 5 years old or older on September 1, 2006 to start public school kindergarten for the 2006-2007 school year. COMAR 13A.08.01.02(B). State regulation also requires each local board of education 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 the superintendent's designee determines that the child demonstrates capabilities warranting early admission. (*Id.*). Accordingly, Montgomery County Public Schools ("MCPS") has developed a policy to accommodate requests for early kindergarten entry for children whose birth dates occur within a six-week period beyond the prescribed September 1 admission date, provided those children demonstrate kindergarten readiness based on a screening and assessment by the MCPS Division of Early Childhood Programs and Services. (MCPS Regulation JEB-RB).

Appellant's daughter, I.M.,¹ was born on September 21, 2001, and turned 5 on September 21, 2006, making her eligible to attend public school kindergarten in the 2007-2008 school year. Because Appellant wanted I.M. to attend kindergarten at Kemp Mill Elementary School ("Kemp Mill") for the 2006-2007 school year, on April 26, 2006, Appellant submitted an application for I.M. to gain early entry. (Application for Early Entrance). Appellant stated in the application that I.M. is quick to grasp new words, that she recites at home what she has learned in school, and that she likes painting and music. (*Id.*).

On April 27, 2006, I.M. was screened and assessed at Kemp Mill. Nancy Evans, Acting Principal of Kemp Mill, advised Appellant that I.M. did not meet the established criteria warranting

¹ Appellant's daughter is referred to as I.M. throughout this memorandum.

early admission to kindergarten. (Letter from Evans, 5/10/06).

Appellant wrote a letter of appeal, addressed to Ms. Evans, disagreeing with the decision denying early entry. (Letter from Appellant, 5/15/06). In the letter, Appellant stated that he has observed I.M.'s "strong desire to learn, and her ability to grasp concepts and ideas." Although Appellant admitted that I.M. did not do well in math, he noted that "it does not necessarily mean that this by itself is a handicap to or an obstacle for learning math." (*Id.*). The letter was forwarded to Larry A. Bowers Chief Operating Officer, acting as the superintendent's designee, for handling. (Letter from Mr. Bowers, 6/21/06).

Mr. Bowers assigned the matter to hearing officer, Elaine Lessenco, who investigated the appeal. Ms. Lessenco reviewed all of the available information, including the assessments administered by the elementary school. She noted that I.M. met the criteria for Letter Identification and Independent Task with Multi-Step Directions, but not the other four required areas. She reported the following scores:

	<u>I.M.'s Score</u>	<u>Acceptable Score</u>
Record of Oral Language	9	10
Concepts About Print	0	10
Mathematics Assessment	7	14
Visual Motor Tasks	2	3

(Hearing Officer's Report, p. 1-2). She also noted some of the following comments from the Student Profile Sheet: "Kept talking instead of working – need to redirect her;" "Could only write 'I' for her name;" "Had good verbal skills but no concepts about print;" and "Difficulty staying on task." (*Id.* at p. 2). Ms. Lessenco also noted the following comments noted on the Kindergarten Orientation Observation Form: "Did not express her thoughts and feelings;" "Did not speak in complete sentences;" "Had great difficulty following directions;" "Did not focus easily;" "Did not answer questions readily;" and "Did not engage in whole group or small group activities." (*Id.*). After reviewing the information and conferring with the director of I.M.'s preschool, Ms. Lessenco concluded that I.M. should not be approved for early entrance to Kindergarten "based on lack of documentation of above average performance and development, as required for early entrance to kindergarten." (*Id.*). Mr. Bowers concurred with the hearing officer's recommendation and denied Appellant's request for early entry.

Appellant appealed the denial of his request to the local board. In his appeal, Appellant noted the disparity in comments from the kindergarten orientation team versus the assessment team. Appellant reasoned, therefore, that the Hearing Officer should have weighed the report of the director of I.M.'s preschool more heavily because it "based its report on more than three years of observation of the child's developmental progress." (Letter of Appeal to Local Board, p. 2).

The Superintendent responded to the appeal by memorandum to the local board. He noted

that students approved for early entrance to kindergarten are expected to meet the criteria in all six areas of assessment, or to have private objective evaluations of above-average performance and development. The Superintendent concluded that neither the work samples provided nor the report from I.M.'s preschool provided compelling evidence of above-average performance and development as required for early entrance to kindergarten. (Memorandum from Weast).

The local board affirmed the decision of the Chief Operating Officer denying I.M. early entry to kindergarten for the 2006-2007 school year. It stated the following in its opinion:

[T]he State Board of Education has set September 1st as a date by when students are age-eligible for kindergarten. In doing so, the State has concluded that students with a later birthday are presumed not to be socially, educationally, or emotionally ready for the literacy-based instructional program offered in public kindergarten now provided on a full-day basis throughout our school system. Recognizing that there will be some students who will be exceptions to the rule, the Board of Education of Montgomery County's current policy for early entrance to kindergarten, consistent with State regulation, allows for screening and assessment of certain children born within six weeks of the mandated date of entry of September 1. The information provided by [Appellant] was reviewed in accordance with that procedure and using the same criteria applied to all other similarly-situated children. The results of the review indicate that [I.M.] does not meet the criteria for early entrance to kindergarten. The record does not contain evidence to warrant overturning the decisions made below.

(Local Board Decision, p.2).

This appeal followed.

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.01.05.03E(1).

ANALYSIS

Appellant's primary argument in this appeal is that MCPS discriminated against his daughter based on her race. He states that I.M. was "singled out from the group of children" who took the assessment and that the school principal "used the outcome of the assessment to deny [I.M.] access to school." (Letter of Appeal to State Board). Appellant further states that "[i]t is a fact that the

Montgomery County Board of Education entertains a notion that children from minority and low income families do perform less than others and as such should be treated differently when considered for admission to Kindergarten.” (*Id.*). He concluded that the assessment was used to “implement the notion.” (*Id.*).

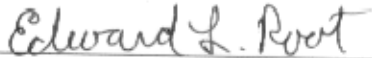
Appellant’s argument lacks merit. He provides no evidence of race discrimination in the assessment and early admission process. Allegations of discrimination without any supporting factual specifics are insufficient to challenge the legality of the local board’s decision. See *Hurl v. Howard County Board of Education*, 6 MSBE Op. 602, 604-605 (1993), *aff’d*, 107 Md. App. 286 (1995).

Furthermore, the local board has submitted evidence to refute Appellant’s allegation of race discrimination. MCPS data shows that during the 2005-2006 school year, 394 students were accepted for early admission to kindergarten. Of those 394 students, 31% were African-American; 30.5% were White, .3% were American Indian; 25.9% were Asian-American, and 12.4% were Hispanic. (Summary of Early Entrance to Kindergarten Applicant Data). These statistics are inconsistent with Appellant’s position.

The MCPS screening procedures assess “academic, social, emotional and physical maturity, motor development, and learning skills” using “standardized instrument(s), observational and MCPS primary assessments completed by staff, and information from parents.” JEB-RB(B)(5)(b). Here, I.M. met the early entry criteria for only two of the six areas of assessment. In addition, she had difficulty staying on task and following directions, did not speak in complete sentences, and did not engage in whole group or small group activities. Although Appellant believes that his daughter demonstrates skills and behaviors for school readiness, we believe that it was reasonable for the school system to conclude that her performance during the screening process properly assessed her kindergarten readiness. *C.f. Chintagumpala v. Montgomery County Board of Education*, MSBE Opinion No. 06-04 (March 1, 2006).

CONCLUSION

In light of the record in this case, we find that the decision of the local board was not arbitrary, unreasonable or illegal. Accordingly, we affirm the local board’s denial of Appellant’s request for I.M. to be admitted early to kindergarten.



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May 30, 2007