

T. A.

Appellant

v.

MONTGOMERY COUNTY BOARD
OF EDUCATION

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 07-8

OPINION

INTRODUCTION

This is an appeal of a denial of an age waiver request for early entry into kindergarten filed by the parents of a child who is not eligible to begin kindergarten until the 2007-2008 school year. Appellants contend that their daughter is sufficiently able and skilled to enroll in kindergarten for the 2006-2007 school year. The local board has filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable, or illegal because the child did not meet the criteria for kindergarten readiness. Appellants have filed a response to the local board's motion.

FACTUAL BACKGROUND

State regulation requires that children must be 5 years old or older on September 1, 2006 to enter into public school kindergarten for the 2006-2007 school year. COMAR 13A.08.01.02B. 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). For children whose birth dates fall beyond the six-week period, MCPS procedure allows parents "to submit compelling evidence of their child's 'exceptionality' through documentation of above average performance and development" that would warrant early entrance to public kindergarten. (Hearing Officer Report).

Appellants' daughter, D.T.,¹ was born on November 7, 2001 and turned 5 on November 7, 2006, making her eligible to attend public school kindergarten in the 2007-2008 school year. Because Appellants wanted D.T. to attend public kindergarten for the 2006-2007 school year, on March 24, 2006, D.T.'s father submitted an application for D.T. to gain early entry. (Application for Early Entrance). The application noted that D.T. had attended pre-kindergarten at Julia Brown Montessori School ("Montessori School") since September 2004 and highlighted skills that her father believed demonstrated D.T.'s readiness for kindergarten. (*Id.*). He also attached D.T.'s progress reports for the past two years at the Montessori School.

MCPS Division of Early Childhood Programs and Services assessed D.T. on April 4, 2006. (Hearing Officer Report). Based on their evaluation, the MCPS reviewers concluded that there was no "compelling evidence of [D.T.'s] exceptionality through above average performance and development." D.T.'s application for early kindergarten admission was denied. (*Id.*).

Appellants requested reconsideration of the denial of early admission. (Letter to Larry Bowers, 3/31/06). The matter was referred to hearing officer, Elaine Lessenco, who reviewed the case and recommended that Appellants' request be denied because there was no compelling evidence of D.T.'s above average performance and development. (Hearing Officer Report). Larry Bowers, Chief Operating Officer, acting as the superintendent's designee, concurred with the hearing officer's recommendation and denied Appellants' request for early entry.

Appellants appealed the denial of their request to the local board. The local board affirmed the decision of the Chief Operating Officer denying D.T. early entry to kindergarten for the 2006-2007 school year.

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

As stated above, in MCPS, for children whose birth dates are more than six weeks after the September 1 cut off date, the parents bear the burden of providing "compelling evidence" of their child's "exceptionality" that would warrant early admission into kindergarten. D.T.'s

¹ Appellants' daughter is referred to as D.T. throughout this memorandum.

birthday is more than three weeks beyond the local six week assessment window for early admission in MCPS, thus the onus lies with the Appellants to demonstrate D.T.'s readiness for kindergarten.

Appellants contend that the local board does not specify what "compelling evidence of a child's exceptionality" means, therefore the evidence that they submitted should be considered sufficient. (Appeal, p. 1). Based on the record, however, it is clear that the child's "exceptionality" must be demonstrated through documentation of above average performance and development. (See Hearing Officer Report; Letter from Bowers; Local Board Decision). The parents must decide what should be presented as evidence of such performance and development, and the local school system must decide if such evidence is "compelling." In this case, MCPS decided the evidence was not compelling. We agree.

Appellants maintain that their daughter is qualified for early kindergarten entry because she was enrolled in the Montessori School for two years and was accepted into the kindergarten program there. Appellants have also submitted D.T.'s progress reports from the Montessori school to support their claim of kindergarten readiness.

The local board considered all of the evidence submitted by the Appellants as well as the screening and assessment conducted by MCPS. The local board held that D.T.'s admission into the Montessori School's kindergarten is not determinative because "the standard and criteria applied by another school cannot control admission to kindergarten at MCPS." (Local Board Decision, p. 2). The administrator of the Montessori School reported that D.T.'s skills were at age level, but not beyond age level. In addition, using the Montessori School's rating system, D.T.'s progress reports show that a majority of her skills are rated at a level 2 or below.² (Hearing Officer Report). Moreover, MCPS administered its own kindergarten readiness evaluation and found that D.T. did not evidence exceptional school readiness skills that would warrant early admission to kindergarten. These facts provide a reasonable basis for the local board's determination that no compelling evidence of above-average performance and development was submitted. Cf. *Chintagumpala v. Montgomery County Board of Education*, MSBE Opinion No. 06-04 (March 1, 2006).

Appellants also assert that the local board failed to provide an explanation for why D.T. was denied early entry. The local board summarized their reasons for their denial as follows:

[D.T.] will not turn five until November 7th. The arguments and evidence that her parents have submitted are not persuasive. The fact that [D.T.] was admitted into the Montessori kindergarten program is not determinative. The standard and criteria applied by

²The Montessori School uses a numeric rating system to represent skill levels: 1 means that a new concept has been introduced, 2 means that the concept has been understood and performed with minimal help, and 3 means that the concept has been mastered.

another school cannot control admission to kindergarten at MCPS. We have no basis to disturb the findings of our staff that [D.T] has not evidenced exceptional school readiness skills that would warrant early admission to kindergarten.

(*Id.*). Thus, we conclude that the local board provided the Appellants with a reasonable explanation of its decision.

CONCLUSION

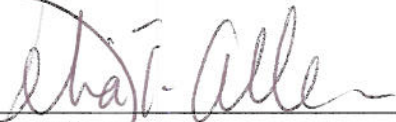
In light of the record in this case, we find that the decision of the Montgomery County Board of Education was not arbitrary, unreasonable or illegal. Accordingly, we affirm the local board's denial of Appellants' request for D.T. to be admitted early to kindergarten.



Edward L. Root
President



Dunbar Brooks
Vice President



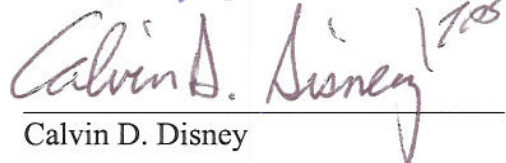
Lelia T. Allen



J. Henry Butta



Beverly A. Cooper



Calvin D. Disney



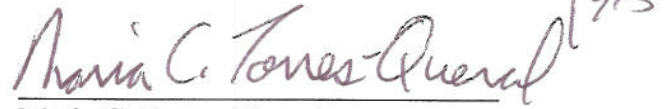
Richard L. Goodall



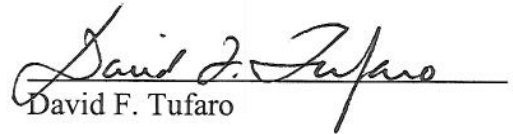
Tonya Miles



Karabelle Pizzigati



Maria C. Torres-Queral



David F. Tufaro

February 27, 2007