

FARHAD P.,
Appellant

v.

MONTGOMERY COUNTY BOARD OF
EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 08-06

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 2008-2009 school year. The Montgomery County Board of Education (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. Appellant has submitted 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, 2007 to enter into public school kindergarten for the 2007-2008 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. (Motion, Exhibit 1).

Appellant's son, S.P., was born on September 14, 2002, and turned 5 on September 14, 2007, making him eligible to attend public school kindergarten in the 2008-2009 school year. Because Appellant wanted S.P. to attend public kindergarten at Bel Pre Elementary School (Bel Pre) for the 2007-2008 school year, Appellant submitted an application for S.P. to gain early entry. (Motion, Exhibit 2).

On May 4, 2007, S.P. was screened and assessed at Bel Pre. Carmen van Zutphen, Principal of Bel Pre, advised Appellant that S.P. did not meet the established criteria warranting early admission to kindergarten. (Motion, Exhibit 3).

Appellant appealed the denial of early admission. The appeal included a letter from S.P.'s preschool teachers, including his mother, recommending S.P. for early admission to kindergarten. (Motion, Exhibits 4 & 4A).

The matter was referred to hearing officer, Elaine Lessenco, who investigated the appeal. She reviewed all of the available information, including the assessments administered by the elementary school. She noted that S.P. met the criteria for Letter Identification and Visual Motor Skills. However, S.P. failed to meet the criteria in the following four areas:

	<u>S.P.'s Score</u>	<u>Acceptable Score</u>
Record of Oral Language	1	10
Concepts of Print	2	10
Mathematics Assessments	6	14
Independent Task with Multi - Step Directions	5	6

She also noted that there were other concerns about S.P.'s readiness for kindergarten based on observations during the screening and assessment process. For example, staff observed that S.P. could not sort by shape, color, or size; that he could not recognize numerals; and that he ran away when he was asked questions. (Motion, Exhibit 5A).

After reviewing the information and conferring with Ms. Janine Bacquie, Director of the Division of Early Childhood Programs and Services, and with Ms. Pamela Prue, former elementary school principal, Ms. Lessenco concluded that S.P. should not be approved for early entrance to kindergarten and recommended that Appellant's request be denied. Larry Bowers, Chief Operating Officer, acting as the Superintendent's Designee, concurred with the Ms. Lessenco's recommendation and denied Appellant's request for early entry. (Motion, Exhibits 5 & 5A).

Appellant appealed the denial of his request to the local board. He questioned why he was not meeting face-to-face with a panel of decision makers to discuss his son's abilities. He stated that his son behavior on the day of assessment was typical for "a four year old or even a five year old" and that his perceived shyness was a result of being around strangers in an unfamiliar environment. He also questioned whether the samples of his son's work, which he had submitted with the application, had been considered. He suggested that S.P. be admitted to kindergarten and then assessed for his readiness to enter the first grade at the end of the year. (Motion, Exhibit 6).

In a memorandum to the Local Board, the Superintendent responded to the appeal. He summarized Appellant's objections to the test, testing procedures, observation form comments, and the evaluation process generally. He noted that S.P. failed to meet the designated criteria in four of the six categories of assessment. He stated that staff at Bel Pre had followed the established procedures for early entry to kindergarten. He also confirmed that the review team considered all of the materials submitted by Appellant. In the end, however, the review team concluded that [S.P.] "had not demonstrated the above-age-level performance and development required for early entrance to kindergarten." (Motion, Exhibit 7).

The local board affirmed the decision of the Chief Operating Officer denying S.P. early entry to kindergarten for the 2007-2008 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

Appellant contends that the evaluation test was not a fair assessment of his son's abilities. He argues that the test is too short (40 minutes) to accurately identify a child's abilities. He also argues that the circumstances of the testing, in which a child is sent into a room with a stranger who administers the testing, does not lead to accurate results. Appellants argument is an attempt to challenge and effectuate a change in the early entry assessment and screening process, which is a matter of local policy. A quasi - judicial appeal before the State Board is not the appropriate vehicle for effectuating such a change. *See Regan v. Montgomery County Board of Education*, MSBE Opinion No. 03-05 (2003).

The screening procedures for Montgomery County Public Schools (MCPS) assess "academic, social, emotional and physical maturity, motor development, learning skills, and capabilities warranting early admission" using "standardized instrument(s), observational and MCPS primary assessments completed by staff, and information from parents." JEB-RB(B)(5)(b). S.P. was screened and assessed in accordance with MCPS procedure using the same criteria applied to all other similarly situated children. There is no evidence that the evaluation process was conducted incorrectly or unfairly.

Here, S.P. did not meet four of the early entry criteria for the six areas of assessment. In addition, S.P. demonstrated some behaviors during the assessment and screening process which raised concerns about his readiness for kindergarten. Although Appellant and S.P.'s preschool teachers believe that S.P. demonstrates skills and behaviors for school readiness, we find that it was reasonable for the school system to conclude that S.P.'s performance during the

assessment and screening process demonstrated that he was not ready for kindergarten. *See Kelly C. v. Montgomery County Board of Education*, MSBE Opinion No. 07-22 (May 30, 2007); *Chintagumpala v. Montgomery County Board of Education*, MSBE Opinion No. 06-04 (March 1, 2006).

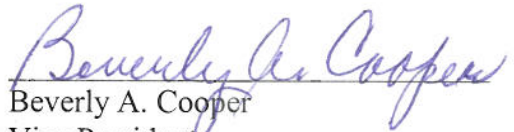
Although Appellant believes that the local appeal process should have included an interview with a panel, or oral argument or an evidentiary hearing before the local board, the local procedures do not require this, nor does State law or the United States Constitution. The local school system reviewed this case in the same manner as other early kindergarten entry requests.

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 S.P. to be admitted early to kindergarten.



Dunbar Brooks
President



Beverly A. Cooper
Vice President



Lelia T. Allen



J. Henry Butta

Charlene M. Dukes

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Blair G. Ewing

Blair G. Ewing

Mary Kay Finan

Mary Kay Finan

Richard L. Goodall

Richard L. Goodall

Karabelle Pizzigati

Karabelle Pizzigati

David F. Tufaro

David F. Tufaro

DISSENT

I vote to reverse the Local Board's decision to deny S.P. early admission to kindergarten and I would direct the Local Board to re-test S.P.

Rosa M. Garcia

Rosa M. Garcia

January 30, 2008