

AMY M.,

Appellant

v.

MONTGOMERY COUNTY BOARD OF
EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 08-20

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, T.D., was born on September 15, 2002, and turned 5 on September 15, 2007, making him eligible to attend public school kindergarten in the 2008-2009 school year. Because Appellant wanted T.D. to attend public kindergarten at Beall Elementary School (Beall) for the 2007-2008 school year, Appellant submitted an application for T.D. to gain early entry.

On May 4, 2007, T.D. was screened and assessed at Beall. Troy E. Boddy, Principal of Beall, advised Appellant that T.D. did not meet the established criteria warranting early admission to kindergarten. (Motion, Exhibit 2).

Appellant appealed the denial of early admission. Appellant alleged that T.D. would have been accepted into kindergarten early if he were a girl because the staff at Beall values girls more than boys. She also alleged that the Beall staff presumed her son had language problems because his parents are not native English speakers, and that this presumption diminished T.D.'s chance of being granted early entry. She further alleged that she had heard of another student who was ultimately granted early entry after the parent contacted the local board.

With regard to T.D.'s abilities, Appellant maintained that he was ready for kindergarten. She highlighted two progress reports from his preschool, the Wintergreen Children's Development Center,¹ where he was assessed in the following areas: social and emotional skills; oral and written language; math readiness; listening skills; reading readiness; science; music and art skills; fine and gross motor skills; work habits; and additional cognitive development. The May 30, 2007 report rates T.D. as "almost always" for the majority of the listed skills and "sometimes" for others. (Motion, Exhibit 6).

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 T.D. met only one of six areas of assessment, Independent Task with Multi-Step Directions, and did not demonstrate readiness for kindergarten. T.D. failed to meet the criteria in the following areas:

	<u>T.D.'s Score</u>	<u>Acceptable Score</u>
Record of Oral Language	1	10
Letter Identification	4	45
Concepts of Print	3	10
Mathematics Assessments	4	14
Visual Motor Tasks	2	3

Ms. Lessenco also noted that there were other concerns about T.D.'s readiness for kindergarten based on observations during the screening and assessment process. For example, staff observed that T.D. was reluctant to be tested, that he did not want to cooperate, and that he responded inappropriately to some questions. (Motion, Exhibit 5).

¹The progress reports state that they are from the Rockville Care Association, Inc. We presume that the Wintergreen Children's Development Center is part of this entity.

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 T.D.'s skills were at the preschool level and that he should not be approved for early entrance to kindergarten. She 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, Exhibit 5).

Appellant appealed the denial of her request to the local board. She reiterated her previous arguments, including her belief that her request was not granted because T.D. is a boy. She supported this argument by referring to a girl in T.D.'s preschool class who was accepted into kindergarten early despite the fact that she is 36 days younger than T.D. Appellant believes that this girl has the same abilities as her son. She also argued that interpretation of the assessment test data is subjective, and that the test results can be manipulated based on race, age, gender, day care attendance, and other factors. (Motion, Exhibit 6).

In a memorandum to the Local Board, the Superintendent responded to the appeal. He stated the following:

There is no documentation to suggest that girls are favored over boys, or that there is any bias on the basis of gender, race, age, or day care attendance. The comments recorded on the hearing officer's report to Mr. Larry A. Bowers, chief operating officer, are comments that were noted on the Student Profile Report and the Kindergarten Orientation Observation Form on the date of [T.D.'s] assessment at Beall Elementary School. The report from [T.D.'s] day care center lists skills expected of three-and four-year-olds, and does not document above age-level skills, as required for early entrance to kindergarten. Similarly, the work samples submitted are typical of a four-year-old.

(Motion, Exhibit 7).

The local board affirmed the decision of the Chief Operating Officer denying T.D. 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


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.” (Motion, Exhibit 1). T.D. 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, T.D. met only one of the early entry criteria for the six areas of assessment. In addition, T.D. demonstrated some behaviors during the assessment and screening process which raised concerns about his readiness for kindergarten. Although Appellant believes that T.D. demonstrates skills and behaviors for school readiness, we find that it was reasonable for the school system to conclude that T.D.’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).

As for Appellant’s other claims, it is Appellant’s burden to produce sufficient evidence to prove her contention that T.D. was not granted early entry because Beall has a preference for girls, there is simply no evidence of this. The data presented by the school system shows that the male/female ratio at the school is almost evenly split. (Motion, Exhibit 9). Although Appellant states that one of T.D.’s younger female classmates was granted early entry to kindergarten, this fact proves nothing specific to Beall because the girl was admitted to Richie Park Elementary School. (Letter of Appeal to State Board). Even if Appellant were attempting to use this information to show a gender preference for early entry within the school system, this information fails to do so. There is no material evidence about that classmate’s abilities, merely Appellant’s own opinion that the two children were at the same academic and social level. Nor has Appellant offered any evidence that staff at Beall presumed T.D. lacked good English skills because his parents are not native English speakers.


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 T.D. to be admitted early to kindergarten.

Em K

Dunbar Brooks
President

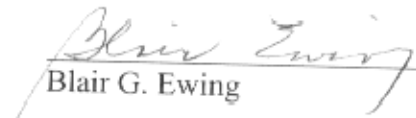

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March 26, 2008