

TONYA L.,

Appellant

v.

MONTGOMERY COUNTY BOARD OF
EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 08-19

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, C.L., was born on October 14, 2002, and turned 5 on October 14, 2007, making him eligible to attend public school kindergarten in the 2008-2009 school year. Because Appellant wanted C.L. to attend public kindergarten at Broad Acres Elementary School (Broad Acres) for the 2007-2008 school year, Appellant submitted an application for C.L. to gain early entry.

On June 7, 2007, C.L. was screened and assessed at Broad Acres. Sharron Hayes, Acting Principal of Broad Acres, advised Appellant that C.L. did not meet the established criteria warranting early admission to kindergarten. (Motion, Exhibit 2).

Appellant appealed the denial of early admission. Appellant enclosed a letter of recommendation from C.L.'s day care provider, Grace Honnah, and a letter from a doctor at Children's National Medical Center who had worked with the family from November 19, 2004 through March 1, 2006. Ms. Honnah stated the C.L. was "ready for kindergarten." To support her conclusion, she attached a Developmental Achievements Summary which sets forth a variety of C.L.'s abilities in the areas of math, literacy, social /emotional, language, approaches to learning, physical health, science, and creative arts. (Motion, Exhibit 3a). Dr. Jean Thomas stated that C.L. was "on target academically, socially, emotionally and physically with children who will be entering kindergarten in September, 2007." (Motion, Exhibit 3b).

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 C.L. met four of the six areas of assessment, Record of Oral Language, Letter Identification, Visual Motor Tasks, and Independent Task with Multi-Step Directions. For Concepts About Print, C.L. scored five out of the acceptable score of 10. For the Mathematics Assessments, C.L. scored 11 out of an acceptable score of 14 points.

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 C.L. should not be granted early admission based on his failure to meet the criteria in two of the areas of assessment. 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 4).

Appellant appealed the denial of her request to the local board. She reiterated her belief that her son was ready for kindergarten. She explained that C.L. did not perform to the best of his abilities on the assessment given at Broad Acres because he was tested in an unfamiliar setting by unfamiliar people. Appellant enclosed two additional recommendations, one from Diedra B. Tramel, Principal of Frances Fuchs Special Center, and one from Susan Kahn, an Education Specialist. Ms. Tramel states that she knows C.L. well and that he did not perform to his potential during the testing.¹ She stated her belief that his above average testing in four of the areas should be deemed sufficient to allow him early entry. (Motion, Exhibit 5a). Ms. Kahn has worked at the same agency as Appellant since 1991. She stated that she had assessed C.L. in

¹It is unclear how Ms. Tramel knows C.L.

several areas that she believes to be critical. She reported that C.L. is mature, independent, and academically advanced, specifically in the areas of daily living skills and spatial relations. (Motion, Exhibit 5b).

In a memorandum to the Local Board, the Superintendent responded to the appeal. He concluded that the documentation provided by the Appellant does not demonstrate above-age-level skills in the areas found to be lacking in the assessments. He recommended that the local board uphold the decision of the Chief Operating Officer. (Motion, Exhibit 6).

The local board affirmed the decision of the Chief Operating Officer denying C.L. early entry to kindergarten for the 2007-2008 school year. This appeal followed.²

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). C.L. met four of the early entry criteria for the six areas of assessment. He was lacking in only two areas – Concepts About Print and the Mathematics Assessments. Although Appellant believes that C.L. demonstrates skills and behaviors for school readiness, we find that it was reasonable for the school system to conclude that C.L.'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).

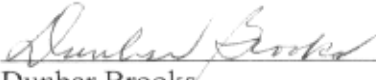
Although Appellant believes that C.L.'s test scores do not accurately reflect his abilities because he was tested in an unfamiliar setting with unfamiliar people, he was screened and

²Appellant has included in her appeal to the State Board a "Detail of Skills Assessment" of C.L. for beginning reading conducted by Sylvan Learning on September 17, 2007. Because this evidence was not before the local board at the time of its decision, the State Board will not consider it as part of the appeal.

assessed in accordance with MCPS procedure using the same criteria applied to all other similarly situated children. There is no evidence that other children had an advantage because they knew their evaluators or were familiar with the surroundings. Appellant has not demonstrated that the evaluation process was conducted incorrectly or unfairly.

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 C.L. to be admitted early to kindergarten.

 ^{EW/KA}


Dunbar Brooks
President



Beverly A. Cooper
Vice President



Lelia T. Allen



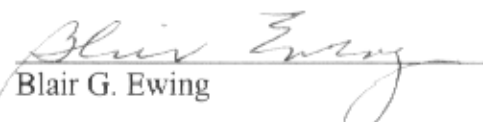
J. Henry Butta



Charlene M. Dukes



Mary Kay Finan



Blair G. Ewing


Rosa M. Garcia


Richard L. Goodall


Karabelle Pizzigati


David F. Tufaro

March 26, 2008