

THERESA C.,

Appellant

v.

MONTGOMERY COUNTY BOARD  
OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

Opinion No. 08-54

## 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 2009-2010 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. The Appellant has filed a response to the Motion.

### FACTUAL BACKGROUND

Appellant's daughter, J.C., was born on September 13, 2003, and turned 5 on September 13, 2008, making her eligible to attend public school kindergarten in the 2009-2010 school year. Because Appellant wanted J.C. to attend public kindergarten at Stonegate Elementary School (Stonegate) for the 2008-2009 school year, Appellant submitted an application for J.C. to gain early entry.

On April 15, 2008, the school system screened and assessed J.C. at Stonegate. The school principal advised Appellant that J.C. did not meet the established criteria warranting early admission to kindergarten. (Fladung Letter).

Appellant appealed the denial of early admission. 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 J.C. met the following four out of six areas of assessment: Record of Oral Language, Letter Identification, Visual Motor Skills, and Independent Task with Multi-Step Directions. J.C. failed to meet the criteria in two of the areas, Concepts About Print and the Mathematics Assessment. For Concepts About Print, J.C. scored four and a half points out of an acceptable score of ten or more points. For the Mathematics Assessment, she scored ten points out of an acceptable score of fourteen or more points. (Hearing Officer Report).

After reviewing the information and conferring with Ms. Janine Bacquie, Director of the Division of Early Childhood Programs and Services, Ms. Lessenco concluded that J.C. should not be approved for early entrance to kindergarten because she failed to meet the standard of acceptance in all six areas of assessment, as required for early entrance to kindergarten. Ms. Lessenco recommended, therefore, that Appellant's request be denied. (*Id.*). Larry A. Bowers, Chief Operating Officer and the superintendent's designee, concurred with the Ms. Lessenco's recommendation and denied Appellant's request for early entry. (Bowers Letter, 5/19/08).

Appellant appealed the denial of her request to the local board. In her appeal, Appellant maintained that J.C.'s ranking on the nationally administered *Kindergarten Readiness Test*,<sup>1</sup> on which J.C. scored in the 91<sup>st</sup> percentile, should be given more weight than J.C.'s score on the school system's assessment. (Letter of Appeal, 5/27/08).

In a memorandum to the local board, the superintendent recommended denial of Appellant's early kindergarten entry request. He acknowledged that although J.C. had scored very well on the *Kindergarten Readiness Test*, she did not meet the established criteria in all areas of the school system's assessment. (Superintendent's Memorandum).

The local board affirmed the decision of the Chief Operating Officer denying J.C. early entry to kindergarten for the 2008-2009 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

There is no legal right to attend kindergarten before the age of five. *See* Md. Code Ann., Educ. § 7-101 (guaranteeing a free public education to "[a]ll individuals who are 5 years old or older and under 21."). In order to enroll in kindergarten, a child must be 5 by September 1 of the year of kindergarten entry. COMAR 13A.08.01.02B. Each local board of education is required, however, 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.* Thus, whether or not a child is granted early entry is within the discretion of the school system.

Accordingly, Montgomery County Public Schools ("MCPS") has developed a regulation to accommodate requests for early kindergarten entry for children whose birth dates occur within

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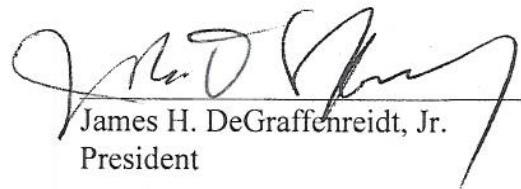
<sup>1</sup>J.C. took this test at her school, the National Children's Center.

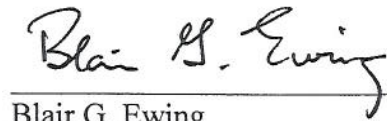
a six-week period beyond the prescribed September 1 admission date, provided those children demonstrate kindergarten readiness based on a screening and assessment by the MCPS Division of Early Childhood Programs and Services. MCPS Regulation JEB-RB. The MCPS screening procedures assess “academic, social, 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.” MCPS Regulation JEB-RB(B)(5)(b).

Although Appellant believes that J.C. demonstrates skills and behaviors for school readiness, J.C. failed to attain acceptable scores in two areas of the school system’s assessment. Comments on the assessment form indicated that J.C. skipped some numbers while counting, had difficulty recognizing some numbers, struggled to create a pattern, misidentified a shape, and could not find her name on an item. (Hearing Officer Report). While J.C. scored well on the Kindergarten Readiness Test, this test is not the measure of early kindergarten entry for MCPS. Rather, MCPS requires that candidates for early entry demonstrate above age level skills by attaining acceptable scores in all areas of the school system’s assessment. We find that it was reasonable for the school system to conclude that J.C.’s performance during the assessment and screening process demonstrated that she was not ready for early entrance into kindergarten. See *Tonya L. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 08-19 (2008); *Perseveranda B. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 08-01 (2008); *Kelly C. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 07-22 (2007); *Chintagumpala v. Montgomery County Bd. of Educ.*, MSBE Op. No. 06-04 (2006).

CONCLUSION

In light of the record in this case, we believe 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 J.C. to be admitted early to kindergarten.

  
James H. DeGraffenreidt, Jr.  
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Blair G. Ewing  
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December 17, 2008