

KRISTEN M.

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 13-16

OPINION

INTRODUCTION

This is an appeal of a denial of an age waiver request for early entry into kindergarten. 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. Appellant did not respond to the Motion.

FACTUAL BACKGROUND

Appellant's daughter, L, was born on September 5, 2007, making her eligible to attend public school kindergarten in the 2013-2014 school year. Because Appellant wanted L to attend kindergarten in the 2012-2013 school year, Appellant submitted an application for early entry. (Mtn. Ex. 2).

The school system screened and assessed L at Mill Creek Towne Elementary School on May 18, 2012. (Mtn. Ex. 4). Appellant certified that L was in good physical health and able to participate in all the assessment activities related to the application and screening process. (Mtn. Ex. 3). By letter dated May 30, 2012, the school principal advised Appellant that L did not meet the criteria for early admission. (Mtn. Ex. 4).

Appellant appealed the denial of early admission to Larry A. Bowers, Chief Operating Officer and the Superintendent's designee. Appellant noted that L had been attending preschool at the Jefferson Montessori School and she had excelled there over the past two years while being the youngest in her class. She stated that L was "on the cusp of reading", "excels in math and science", can count and sing, knows colors in Chinese and Spanish, and has further comprehension in Spanish. She further stated that she had additional information to share regarding L's application for early admission. (Mtn. Ex. 5).

Hearing Officer Colette C. Hayes investigated the appeal. Ms. Hayes summarized the results in a memorandum to Mr. Bowers. Ms. Hayes included in the memorandum the reasons

why Appellant believes L is kindergarten ready, the results of the assessment, and information from the review team. (Mtn. Ex. 6).

With regard to the assessment, Ms. Hayes noted that L met the criteria in five out of the seven assessment areas: Record of Oral Language, Letter-Sound Correspondence, Concepts About Print, Visual Motor Tasks, and Independent Task with Multi-Step Directions. She failed to meet the criteria in the other two assessment areas. For Letter Identification, L scored 37 out of 54 points, with an acceptable score being 45 points or more. For Mathematics Assessments, L scored 10 out of 23 points, with an acceptable score being 18 points or more. L did not meet the established criteria for early kindergarten entry which requires acceptable scores in all seven areas of the assessment. (*Id.*).

The team reviewing L's records consisted of an instructional specialist from the Division of Early Childhood Programs and Services; a hearing officer who is the former director of the Department of Special Education; a hearing officer who is a former elementary school principal; and a hearing officer who is the former director of Elementary Instruction and Achievement. Based on its review of the documentation before it, the team concluded that L did not demonstrate the above-average skills required, and agreed that L should not be admitted early to kindergarten. After conferring with the team, Ms. Hayes recommended that Mr. Bowers deny the application. (*Id.*). Mr. Bowers concurred and denied Appellant's request. (Mtn. Ex. 7).

Appellant appealed the denial of her request to the local board. She included additional information supporting the application. The information contained a May 2012 preschool assessment report and a sample of L's artwork. (Mtn. Ex. 8). Appellant supplemented the appeal with a letter from L's preschool teacher addressing L's readiness for kindergarten. (Mtn. Ex. 9). The teacher stated:

There seems to be some question as to [L's] language and math abilities. [L] knows the phonetic sounds of all 26 letters. Montessori teaches sounds before naming the letters of the alphabet; however the majority of children learn the letter names indirectly. She is able to decode dictated 3 letter phonetic words and write them with the moveable alphabet. She is on the brink of early reading.

In math, [L] has a solid understanding of 1-10, recognizes the numerals, can identify quantities and associate the two. She has mastered understanding and recognizing the quantities of teens, can easily count to 20, and is working on recognizing the teen symbols. Montessori teaches quantity first in isolation, symbols in isolation next, and lastly the association of quantity and symbol. She has also been introduced to place value to the thousands.

[L] is mature, calm, hard working, with a great desire to learn. I have been teaching for almost 20 years and I can confidently say

that [L] will not only fit in well in kindergarten, but will achieve much success.

(Mtn. Ex. 9).

In a memorandum to the local board, the Superintendent stated that the additional information and documents submitted by the Appellant regarding L's foundational reading and mathematical skills align with the results on the assessment given by the school system. He explained that the preschool assessment and letter from L's teacher contained no information regarding L's skills in Letter Identification, which is an area in which L did not meet the criteria. Rather, they document L's proficiency in Letter-Sound Correspondence, which was an area L met the criteria. He further explained that the information provided regarding L's understanding of numbers and counting did not demonstrate the above-average skills in math sufficient to offset the assessment results. (Mtn. Ex. 11).

On September 24, 2012, the local board affirmed the decision of Mr. Bowers denying Appellants request for early kindergarten admission for her daughter, finding that L had not met the established criteria and had not demonstrated above-average performance. (Mtn. Ex. 13).

This appeal followed.¹ We note that L is currently attending kindergarten at a private school, most likely Jefferson Montessori School.

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.01.05.05A.

LEGAL ANALYSIS

There is no legal right to attend kindergarten before age five. *See* Md. Code Ann., Educ. §7-101 (guaranteeing a free public education to “[a]ll individuals who are 5 years or older and under 21.”). In order to enroll in kindergarten, a child must be age 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 designee determines that the child demonstrates capabilities warranting early admission. (*Id.*).

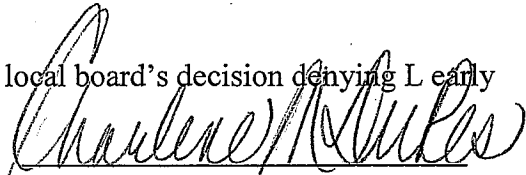
¹Although Appellant's letter of appeal to the State Board did not contain specifics and requested additional information on appealing, we docketed the appeal in order to expedite the case given that the 2012-2013 school year for which Appellant sought early entry had already begun. Appellant has not submitted any further filings in response to the local board's motion or contacted the State Board in any manner.

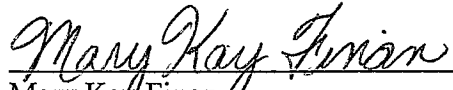
Accordingly, the Montgomery County Public Schools ("MCPS") has developed a regulation to accommodate requests for early kindergarten entry for children whose birth dates occur within a six week period beyond the established September 1 cutoff date. In order to attend kindergarten one year prior to the age established by the State, children are screened through a process that assesses academic, social, emotional and physical maturity; motor development; learning skills; and other capabilities warranting early admission. The screening includes a reading/language arts assessment, a mathematics assessment, and an observational assessment aligned with the MMSR indicators, including physical well-being and motor development, personal and social development, language and literature, and mathematical thinking. (MCPS Policy JEB-RB).

Appellant believes that L demonstrates skills and behaviors for kindergarten readiness. The school system screened and assessed L but determined that she did not qualify for early admission to kindergarten because she did not attain an acceptable score in all seven areas of the assessment as required by school system procedure. Although Appellant disagreed with the results of the testing, those were the scores L achieved at that time. The local board considered the additional documentation submitted by the Appellant and did not find that it offset the results in the two assessment areas in which L failed to achieve the required score. We do not find this unreasonable. This Board has upheld many cases denying early kindergarten entry based on the child's failure to attain the required assessment scores during the screening process. 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

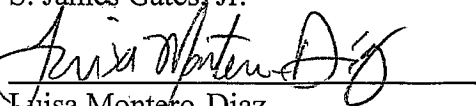
For the reasons stated above, we affirm the local board's decision denying L early kindergarten entry.

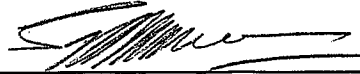

Charlene M. Dukes
President


Mary Kay Finan
Vice President


James H. DeGraffenreidt, Jr.

Absent

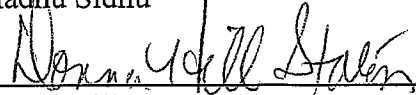
S. James Gates, Jr.

Luisa Montero-Diaz



Sayed M. Naved



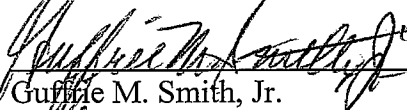
Madhu Sidhu



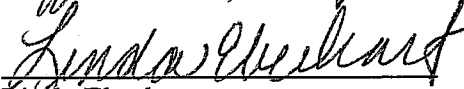
Donna Hill Staton



Ivan C.A. Walks



Guffie M. Smith, Jr.



Linda Eberhart

February 26, 2013