

FANNY Q. AND  
SHARDRACK A.,

Appellant

v.

HOWARD COUNTY  
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 18-30

## OPINION

### INTRODUCTION

Fanny Q. and Shardrack A., Appellants, challenge the decision of the Howard County Board of Education (“local board”) denying their son early entry into kindergarten. The local board filed a Motion for Summary Affirmance maintaining that its decision was not arbitrary, unreasonable, or illegal. The Appellants responded to the Motion and the local board replied to the response.

### FACTUAL BACKGROUND

The Appellants’ son, J.A., was born on September 11, 2013, making him eligible to begin kindergarten in the 2019-2020 school year. On February 5, 2018, Appellants submitted an application seeking early kindergarten entry for J.A. so that he could begin kindergarten in the 2018-2019 school year. To be granted early entry to kindergarten in the Howard County Public School System (“HCPSS”), children must demonstrate an exceptionally high degree of academic readiness. *See* HCPSS Policy 9000-IP.III.D.2.

Students who apply for early kindergarten entry to the HCPSS must submit two developmental checklists: Developmental Checklist A, which is completed by a preschool teacher or other non-related adult, and Developmental Checklist B, which is completed by a parent or guardian. In order to be admitted early to kindergarten, one of the two developmental checklists in the Social/Emotional/Behavioral Category must be scored as “Advanced.” Neither of the two can be scored as “Basic.” Appellants submitted the two required developmental checklists.

Students who apply for early kindergarten entry in the HCPSS must also take an assessment and attain a particular score. In order to receive an age waiver for early entry, three of the four areas in the Academic Category of the assessment must be scored as “Advanced.” None of the four can be scored as “Basic.” HCPSS conducted J.A.’s assessment on May 1, 2018.

By letter dated May 25, 2018, the Coordinator of Early Childhood Programs at HCPSS advised the Appellants that J.A. would not be granted early entry to kindergarten based on the

results of his early admission assessment. (Davis Letter). J.A. failed to receive an “Advanced” score on any assessment categories. He received a score of “Proficient” in Reading and a score of “Basic” in General Knowledge; Graphomotor/Writing; and Mathematics.<sup>1</sup> He received an “Advanced” score on both developmental checklists. (Morris Memorandum to Board, 7/10/18).

On June 7, 2018, the Appellants appealed the decision to the HCPSS Division of School Management and Instructional Leadership. By letter dated June 15, 2018, David Lerner, Jason McCoy, and Ron Morris, all of whom are HCPSS Performance, Equity and Community Response Officers and are collectively the Superintendent’s Designee, advised that the information supported the conclusion that J.A. did not qualify for early admission into kindergarten. They stated that the early entry process was “designed and implemented in an objective and reasonable manner” and had been properly followed. They explained that there was no preset number of children who are allowed early admission and that classroom space and capacities were not taken into consideration in the process.

On or about June 27, 2018, the Appellants appealed the decision of the Equity Response Officers to the local board. Appellants claimed that the “process for testing is not transparent because parent[s] never had the chance to discuss the subject areas their children [were] tested on.” Appellants also stated that they were facing financial difficulties and were living with a relative. They maintained that it would be less burdensome to them financially and emotionally if J.A. could attend kindergarten because their zoned school does not have a full day pre-kindergarten program, and they do not have the finances to pay for another year of full day pre-kindergarten. The Appellants stated their belief that J.A. is kindergarten ready and explained that he knows the alphabet, numbers, sight words, colors, shapes, addition, how to read, and he can write his full name. (Appeal to Local Board).

In a unanimous decision issued July 27, 2018, the local board upheld the decision of the Equity Response Officers denying J.A. early entry to kindergarten. The local board stated the following in its decision:

The Board concludes that the assessment and evaluation of Appellants’ son was performed in accordance with the established protocol in which all students were evaluated using the same standards. Skills in general knowledge, reading, writing and math were assessed as well as the child’s social and emotional maturity. The Board is satisfied that the assessment followed by HCPSS and used consistently for a number of years has identified successfully younger children who can handle kindergarten work. The Board understands that parents may disagree with the testing process, but that does not mean that the process was faulty, inaccurate, or biased.

Appellants filed their appeal to the State Board on August 3, 2018. They maintain that their son has demonstrated the “exceptional academic, social, emotional and physical readiness required to attend kindergarten.” (Response to Motion). Appellants reiterate their claim that the early admission process is not transparent. They also reiterate their argument that J.A. should be

---

<sup>1</sup>The assessment administrator noted the J.A. was very impulsive and had a difficult time focusing on and/or completing the assessment tasks. (Morris Memorandum to Board, 7/10/18).

admitted early to kindergarten because they are facing economic hardship and live with their relatives. Appellants elaborate on this in the State Board appeal, explaining that they are staying with relatives because they are homeless. In addition, Appellants disclose that after filing the State Board appeal, HCPSS offered them the opportunity to enroll J.A. in a free full or half day pre-kindergarten program. Appellants state that they declined the offer because they do not want J.A. to repeat pre-kindergarten and “learn the same things he already knows” and they believe it would be emotionally unhealthy and demeaning to him given that his peers are moving on to kindergarten. (State Board Appeal).

### 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. The State Board will not substitute its judgment for that of the local board unless the decision was arbitrary, unreasonable, or illegal. COMAR 13A.01.05.05A.

### LEGAL ANALYSIS

Under Maryland’s education laws, there is no legal right to attend kindergarten before age five. *See* Md. Code Ann., Educ. §7-101(a). In order to enroll in kindergarten, a child must be five years old by September 1<sup>st</sup> of the school year of kindergarten entry. COMAR 13A.08.01.02(B)(2). Each local board of education is required to adopt regulations permitting a four year old, upon request of 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. COMAR 13A.08.01.02(B)(3). As to this requirement, the State Board has stated that “it is within the discretion of the local board to determine the method by which it will assess students requesting early kindergarten entry.” *David and Adrienne G. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 09-19 (2009).

Accordingly, HCPSS has developed policy and regulation to accommodate requests for early kindergarten entry for children whose birth dates occur between September 2<sup>nd</sup> and October 13<sup>th</sup>. *See* HCPSS Policy 9000.III.F, 9000.IV.B.4, and 9000-IP.III.D. In order to attend kindergarten one year prior to the age established by the State, children must display “an exceptionally high degree of academic, social, emotional, and physical readiness to attend kindergarten” based on a standardized assessment process and developmental checklists utilized by the school system. *See* HCPSS Policy 9000-PR.III.D.2. Although the Appellants disagree with the HCPSS assessment process and find it unfair, the State Board has previously upheld the process as valid. *See Syed Junaid M. v. Howard County Bd. of Educ.*, MSBE Op. No. 13-18 (2013).

We note that the Appellants’ belief that the assessment process is unfair relates to the fact that there is no discussion with the parents regarding the assessment topics. The early entry assessment, however, is not the type of assessment that requires discussion regarding the testing topics because there is no studying or preparation required of the child prior to being assessed. The school system simply wants to know what the child is capable of at the time of evaluation, without preparation. *Id.*

Appellants have made it clear that they believe J.A. is kindergarten ready and should be admitted early. Yet the school system assessed J.A. in accordance with its established

procedures and found that he did not qualify for early entry based on his assessment results. J.A. did not obtain an “Advanced” score in three of the four academic categories as required by HCPSS policy. In fact, he did not receive an “Advanced” score in any of those categories and scored mostly in the “Basic” area. The State Board has consistently upheld the use of assessment scores as a basis for denying early entry to kindergarten. *See Samira L. v. Howard County Bd. of Educ.*, MSBE Op. No. 15-40 (2015) and cases cited therein.

The Appellants also argue that J.A. should be granted early kindergarten entry because they are suffering a financial hardship and do not have the money to pay for preschool for another year. They also claim that their status as homeless should be part of the early entry consideration. While financial hardship and homelessness may impact other matters, they are not factors in determining early entry to kindergarten. Moreover, while this appeal was pending, the HCPSS offered the Appellants free admission to a full-day prekindergarten for J.A. Appellants, however, declined the offer. To the extent that the Appellants are seeking to change the policy by having additional factors added to the early entry process, we have long held that a quasi-judicial appeal before the State Board is not the appropriate vehicle for effectuating a change in local policy that was adopted through a quasi-legislative process. *See Deborah and Jeffery K. v. Montgomery County Bd. of Educ.*, MSBE Op. No. MSBE Op. No. 17-36 (2017).

Because Appellants believe that the local board reached the incorrect decision, they ask that their son be permitted to go through the 30-day trial period given to early kindergarten entrants under HCPSS policy so that J.A. can show he is ready for kindergarten. Given that we do not find the local board’s decision to be arbitrary, unreasonable or illegal, there is no basis for us to require the local board to do so.

CONCLUSION

For all of the reasons stated above, we affirm the decision of the local board.

Signatures on File:

\_\_\_\_\_  
Justin M. Hartings  
President

\_\_\_\_\_  
Stephanie R. Iszard  
Vice-President

\_\_\_\_\_  
Chester E. Finn, Jr.

\_\_\_\_\_  
Vermelle D. Greene

\_\_\_\_\_  
Michele Jenkins Guyton

---

Jean C. Halle

---

Rose Maria Li

---

Joan Mele-McCarthy

---

Michael Phillips

---

David Steiner

---

Warner I. Sumpter

September 25, 2018