

ANNA S.

Appellant

v.

HOWARD COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 22-28

OPINION

INTRODUCTION

Anna S. (“Appellant”) filed an appeal of the decision of the Howard County Board of Education (“local board”) denying early entry into kindergarten for her daughter. The local board filed a response, maintaining that its decision was not arbitrary, unreasonable, or illegal. Appellant responded and the local board replied.

FACTUAL BACKGROUND

Appellant’s daughter, Student X, turned five on September 8, 2022. Because her birthday fell after September 1, 2022, Student X did not automatically qualify for admission into kindergarten for the 2022-23 school year. Appellant submitted a timely application for early kindergarten admission.

To be granted early admission to kindergarten in the Howard County Public School System (“HCPSS”), children must “display an exceptionally high degree of academic, social, emotional and physical readiness to attend kindergarten.” HCPSS Policy 9000-IP.III.D.2. HCPSS has developed a comprehensive selection process to assess a child’s readiness for early admission. The process involves a criterion-based review of two developmental checklists, one completed by the parent or guardian and another completed by a non-familial adult, as well as an academic assessment of the child’s (1) reading, (2) language and graphomotor skills, and (3) mathematical thinking. (Record Extract (“RE”) #2 at 32-33). The following must occur for a child to qualify for early kindergarten admission:

- One of the two Developmental Checklists must be scored as Advanced (Social/Emotional/Behavioral Category);
- Two of the three areas on the early childhood assessment must be scored as Advanced (Academic Category); and
- No Checklist and no area of the early childhood assessment can be scored as Emergent.

Id.

On April 22, 2022, a certified teacher employed by HCPSS conducted Student X's assessment. Student X received a score of "Proficient (P)" on each of the three academic areas of the assessment. For reading, she received a 63 out of the required score of 72; for language and graphomotor she received a 20 out of the required score of 22, and for mathematics she received a 21 out of the required score of 23. *Id.* at 35. She received a score of "Advanced (A)" on both of the Developmental Checklists. *Id.* By letter dated June 24, 2022, the Office of Early Childhood Programs advised Appellant that Student X was being denied early kindergarten entry based on the results of her assessment. *Id.* at 85-86.

On June 27, 2022, Appellant appealed the denial of early admission to the Division of School Management and Instructional Leadership ("SMIL"). *Id.* at 78-79. The Directors of Performance, Equity, and Community Response for SMIL, acting as the Superintendent's Designee, reviewed Appellant's appeal and Student X's file. By letter dated July 21, 2022, the Directors advised Appellant that Student X did not fit the criteria for early kindergarten admission and that they were upholding the decision denying early entry. *Id.* at 32-33.

Appellant timely appealed the decision of the Superintendent's Designee to the local board. *Id.* at 6. She reiterated that her daughter is socially and academically ready for kindergarten. She asserted that her daughter had "significantly improved" in reading, math, and language since the date of her assessment in April 2022, and that a private school conducted an early kindergarten entry assessment of her daughter on June 30, 2022, and agreed to accept her for the 2022-23 school year. *Id.* at 7, 15, 30. Appellant also maintained that school staff violated the policies and regulations regarding early admission to kindergarten because the assessor stated to Appellant in Student X's presence: "She did great, she did everything that I wanted in 25 minutes" and "I do not see any reason why [Student X] should not start kindergarten in the fall, but I will not make that decision." *Id.* at 8. Appellant also argued that the early admission process should be revised to have all children assessed within a shorter time frame. *Id.* at 6.

The Superintendent's Designee provided a written response to the appeal by memorandum dated August 23, 2022. *Id.* at 35. The response reiterated that Student X failed to achieve the qualifying scores on the assessment. *Id.*

In a decision issued September 15, 2022, the local board affirmed the decision denying Student X early entry to kindergarten for the 2022-23 school year. (RE #5). The local board explained that Student X failed to meet the established early entry criteria because she failed to achieve the required scores on the academic assessment. The local board noted that the school system applied the provisions of the early entry policy in an impartial manner and that Student X was assessed with the same instruments as other students and within the same testing window as other early admission candidates. *Id.*

This appeal followed.

STANDARD OF REVIEW

Decisions of a local board involving a local policy or a controversy and dispute regarding the rules and regulations of the local board shall be 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.01.05.06A.

LEGAL ANALYSIS

Under Maryland's education laws, there is no legal right to attend kindergarten before age five. Md. Code Ann., Educ. § 7-101(a); *Kevin and Leah B. v. Howard County Bd. of Educ.*, MSBE Op. No. 17-38 (2017). Maryland is among the majority of states that require students to be five years old on or before September 1 in the year they start kindergarten. COMAR 13A.08.01.02B(2); *Ahmed H. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 18-28 (2018).

Each local board of education is required to adopt "a regulation permitting a 4-year old child, upon request of the parent or guardian, to be admitted to kindergarten if the local superintendent of schools or superintendent's designee determines that the child demonstrates capabilities warranting early admission." COMAR 13A.08.01.02B(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). *See also Chiffon H. v. Baltimore City Bd. of Sch. Comm'rs*, MSBE Op. No. 19-11 (2019).

Consistent with this requirement, HCPSS has developed a standard policy and procedure for early kindergarten admission and applied it to Student X. As stated previously, in order to qualify in the early admission academic category, a student must receive a score of Advanced in two of the three assessment areas and cannot receive a score of Emergent in any assessment area. Student X did not receive a score of Advanced in any assessment category.

Despite Appellant's claims that her daughter is kindergarten ready, the local board and each prior decision maker determined that she is not eligible for early entry based on her performance on the assessment. The State Board has continuously upheld as reasonable local board determinations that a child is not ready for early entry based on failure to attain the required assessment scores. *See Syed Junaid M. v. Howard County Bd. of Educ.*, MSBE Op. No. 13-18 (2013) and cases cited therein. We have ruled, particularly in early entry to kindergarten cases, that the use of a bright line test, while it "may appear 'artificial at its edges' or render a harsh result" is not illegal. *See Deborah and Jeffrey K. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 17-36 (2017). Further, the State Board has made clear that the school system's opinion as to whether an applicant for early entry is qualified is determinative, and that the school system is free to rely on its own assessment and not one submitted by the applicant. *See Angela A. v. Prince George's County Bd. of Educ.*, MSBE Op. No. 13-45 (2013). HCPSS applied its standard policy and did not act in an arbitrary, unreasonable or illegal manner by doing so.

Appellant alleges that the Student X's assessor made statements about the assessment in violation of the school system's procedure. According to the April 6, 2022, correspondence from Amy K. Raymond, Coordinator of Early Childhood Programs, the teacher assessing the child "will not discuss the assessment results with [the parent] at the time of the appointment." (RE #2 at 87). While it is unfortunate that the assessor made any comments after the assessment, we do not find that the comments invalidate the early entry decision. We note that by

Appellant's own account no specific scores were discussed and the assessor made a disclaimer saying she was not the decision-maker for the early entry decision.

To the extent that Appellant wishes to see a change in the local board's early entry policy and procedure, we have long held that the quasi-judicial appeals process is not the appropriate avenue for such systemic change. *See Kenneth F. v. Baltimore County Bd. of Educ.*, MSBE Op. No. 10-23 (2010). Instead, the local board's quasi-legislative process, in which a local board could debate changes to its policy during an open meeting, is the appropriate vehicle for changes in local board policy.

CONCLUSION

We affirm the decision of the local board because it was not arbitrary, unreasonable, or illegal.

Signatures on File:

Clarence C. Crawford
President

Susan J. Getty
Vice-President

Shawn D. Bartley

Gail H. Bates

Charles R. Dashiell, Jr.

Vermelle D. Greene

Joan Mele-McCarthy

Lori Morrow

Warner I. Sumpter

Absent:
Chuen-Chin Bianca Chang
Jean Halle
Rachel McCusker
Holly Wilcox

December 6, 2022