

S.A. AND O.S.,

Appellant

v.

ANNE ARUNDEL COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 23-02

OPINION

INTRODUCTION

The Appellants, parents of Student X, filed an appeal of the decision of the Anne Arundel County Board of Education (“local board”) denying early entry into kindergarten for their son. The local board filed a response, maintaining that its decision was not arbitrary, unreasonable, or illegal.

FACTUAL BACKGROUND

Student X turned five on September 15, 2022. Because his birthday fell after September 1st, the State-mandated cutoff date for kindergarten admission, Student X did not automatically qualify for admission into kindergarten for the 2022-2023 school year. On April 28, 2022, Appellants submitted a timely application for early kindergarten admission to Anne Arundel County Public Schools (“AACPS”). As part of the application, Appellants cited the child’s report card and staff opinions from Reid Early Learning Center where Student X attended private preschool.

Students may be granted early kindergarten admission in AACPS if the child turns five during September 2 through October 15, and demonstrates capabilities warranting early admission. (Sup’t. Ex. 2, Policy IFA). Applicants are given the opportunity to take the Stanford Early School Achievement Test, 10th Edition (“SESAT 1”), a nationally normed achievement test that is divided into five subtests to measure achievement in academic and social skills. AACPS requires the early entry applicant to score a “Complete Battery Stanine” in the 8th stanine or better on the SESAT 1 to qualify for early kindergarten entry. (Sup’t. Ex. 6).

If the applicant does not receive a Complete Battery Stanine in the 8th stanine or better, but receives scores in the 7th, 8th, or 9th stanine in the subtests, AACPS may administer the Kaufman Assessment Battery for Children-Second Edition (“KABC-II-NU”), a nationally normed cognitive ability test for children. If the applicant scores a 125 or higher on the KABC-II-NU, AACPS grants the child early admission to kindergarten.

School system staff administered the SESAT 1 to Student X on August 1, 2022. Student X's Complete Battery stanine was in the 3rd stanine with scores ranging from the 1st to 8th stanine. Thus, Student X was not eligible for early kindergarten entry based on the SESAT 1 because he did not meet the requisite score in the 8th stanine. (Sup't. Ex. 6).

Michele Batten, the Assistant Superintendent of Curriculum, thereafter reviewed the SESAT 1 test scores, and the report and other information from Student X's preschool program. She provided Student X the opportunity to take the KABC-II-NU. School system staff administered the KABC-II-NU to Student X on August 30, 2022. He received a score of 97, which fell short of the required score of 125. By letter dated August 30, 2022, Ms. Batten denied Student X early entry to kindergarten because he did not meet the required criteria. (Sup't. Ex. 9).

On September 14, 2022, Appellants appealed Ms. Batten's denial to the local board. (Sup't. Ex. 10). The Superintendent responded to the appeal on October 14, 2022. (Pritchard Letter).

On October 21, 2022, the local board issued an Order of Decision denying early entry to kindergarten to Student X based on the evidence and the existing policy, stating that it would issue a full opinion on a later date. (Order of Decision). On November 16, 2022, the local board issued its full Opinion and Final Order. The local board explained that AACPS is careful and consistent in applying its standards and that Student X failed to meet the established criteria. The local board stated:

A total of 86 children were tested for early admission to kindergarten for the 2022-2023 school year. Two of the children qualified for early admission to kindergarten based upon their Complete Battery Stanine score of 8 or 9 on the SESAT 1. Thirteen of the children who did not qualify for early admission based upon their SESAT 1 scores who appealed were given the KABC-II-NU. Nine of those children had a Fluid-Crystallized Index Score of 125 or higher on the KABC-II-NU and were granted early admission to kindergarten. A total of eleven students were determined to meet the criteria for early admission to kindergarten for the current school year based upon their scores on the SESAT 1 and the KABC-II-NU. (Citations omitted).

(Opinion and Final Order).

This appeal followed.¹

¹ Appellants appealed the local board's initial order to the State Board and we provided them the opportunity to supplement their appeal once the local board issued its full Opinion and Final Order. Appellants chose to rely on their initial filing.

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 the 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, AACPS has developed a standard policy and procedure for early kindergarten admission and applied it to Student X. As stated previously, in order to qualify for early admission to kindergarten, the child must receive a score in the 8th stanine or higher of the SESAT 1 or, in some cases, a 125 or higher on the KABC-II-NU. Student X did not receive the required scores for early admission.

Appellants believe that Student X is kindergarten ready and have submitted information from his preschool. However, Student X did not achieve the required scores on the school system's assessments. The State Board has continuously upheld 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). AACPS applied its standard policy and did not act in an arbitrary, unreasonable or illegal manner by doing so.

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

Chuen-Chin Bianca Chang

Charles R. Dashiell, Jr.

Lori Morrow

Warner I. Sumpter

Absent:

Vermelle D. Greene
Jean Halle
Rachel McCusker
Joan Mele-McCarthy
Holly Wilcox

January 24, 2023