

S.P. AND K.S.,

Appellants

v.

MONTGOMERY COUNTY  
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 25-11

## OPINION

### INTRODUCTION

Appellants appeal the decision of the Montgomery County Board of Education (“local board”) upholding the determination that their daughter did not meet the central review criteria for literacy enrichment and placement in the lottery pool for the Center for Enriched Studies (“CES”) at Clearspring Elementary School (“Clearspring”) for the 2024-2025 school year. The local board filed a response, maintaining that its decision is not arbitrary, unreasonable, or illegal. The Appellants did not reply to the local board’s response to the appeal.

### FACTUAL BACKGROUND

Montgomery County Public Schools (“MCPS”) offers various enriched and accelerated programming for rising Grade 4 students in both local elementary schools and in regional criteria-based CESs. MCPS conducts a central review process for all Grade 3 students, requiring no application, to determine their enrichment and acceleration instructional needs in Grade 4. (R. 7). Students who meet the central review criteria for enriched and accelerated programming are (1) centrally recommended for literacy enrichment at their local school, and (2) entered into a lottery pool for admission at the CES regional program assigned to their address.<sup>1</sup> *Id.*

MCPS considered data from the 2023-2024 school year on the following multiple criteria to determine eligibility for literacy enrichment and the CES lottery pool: A in reading for Grade 3 marking period 2; A in writing or social studies for Grade 3 marking period 2; instructional reading level is “on” or “above” for Grade 3 marking period 2; and Measures of Academic Progress-Reading (“MAP-R”) locally normed score is 85<sup>th</sup> percentile or above. (R. 18, 28).<sup>2</sup>

In 2024, the Appellants received written notice that their daughter, Student X, did not meet the central criteria for literacy enrichment at the local school and inclusion in the lottery pool for the CES at Clearspring. *Id.* Student X did not meet the criteria because she failed to

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<sup>1</sup> Students who meet the central review criteria qualify for both prongs.

<sup>2</sup> MCPS also considers student services which include services in ELD-English Language Development, IEP – Individualized Education Plan or a 504 plan, FARMS – Free and Reduced Meals System and/or Community Eligibility Provision. (R. 7).

meet the locally normed required score of 85<sup>th</sup> percentile or above on her winter 2023-2024 MAP-R. (R. 18). Student X's score was in the 73<sup>rd</sup> percentile when locally normed. (R. 23).

Parents and guardians can appeal central review process decisions based on one of the following: (1) a unique hardship impacted the student's academic profile, or (2) errors or missing information in the student's academic profile.<sup>3</sup> The procedures do not allow the appeal committee to review new information that occurred after marking period 2, nor consider additional data from outside MCPS or information such as teacher recommendations and certificates. *Id.* The appeals process can result in a child being moved into the lottery pool; it does not place students directly into the regional programs. *Id.*

Pursuant to this process, on April 26, 2024, the Appellants filed a Level 1 appeal seeking reconsideration of the decision not to include Student X in the CES lottery pool.<sup>4</sup> (R. 15). They argued a unique hardship impacted Student X's ability to perform to her greatest academic potential because she has a strong attachment to her mother who had been dealing with a painful medical condition since mid-2023. *Id.* By letter dated May 17, 2024, the Director of the Division of Consortia Choice and Application Program Services advised the Appellants that the information presented in the appeal did not alter the original central decision. *Id.*

The procedures allow a Level 2 appeal if there is an error in the original information submitted with the Level 1 appeal, or there is new information or a unique hardship that was not available at the time of the Level 1 appeal that significantly changes the academic profile of the student. (R. 18). On May 31, 2024, the Appellants submitted a Level 2 appeal maintaining there was new information not available at the time of the Level 1 appeal related to Student X's recent spring MAP-R assessment score demonstrating a 6-point growth from the winter assessment. (R. 19). They also argued that there were some students accepted to the lottery pool whose spring MAP-R scores showed a decline from their winter scores and who had scores lower than Student X. *Id.*

The Level 2 appeal committee reviewed Appellants' appeal and found that Student X's data points did not meet the central identification criteria and recommended upholding the prior decision. (R. 23). By letter dated June 28, 2024, Dr. Peggy A. Pugh, Chief Academic Officer, acting as the Superintendent's Designee, advised Appellants that she was upholding the decision of the Level 2 appeal committee. (R. 21).

On July 7, 2024, Appellants filed a Level 3 appeal to the local board essentially reiterating all prior information and arguments. (R. 25). In a decision issued September 12, 2024, the local board affirmed the Chief Academic Officer's decision finding that the central review process was properly conducted, that Student X's overall profile is commensurate with those of other students who were not included in the lottery pool, and that a reasonable basis exists for the denial of admission into the lottery pool for CES.

This appeal followed.

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<sup>3</sup>We take notice of this publicly available information from the MCPS website [https://docs.google.com/document/d/1k0D-Z3uAc8ydu4P7gegUxkKMsV2\\_dDbbP-hnIB-oTjA/preview?tab=t.0](https://docs.google.com/document/d/1k0D-Z3uAc8ydu4P7gegUxkKMsV2_dDbbP-hnIB-oTjA/preview?tab=t.0).

<sup>4</sup> The Appellants' focus on denial of placement in the CES lottery rather than the central recommendation for literacy enrichment at the local school.

## STANDARD OF REVIEW

Local board decisions involving a local policy or a controversy and dispute regarding the rules and regulations of the local board are considered *prima facie* correct. The State Board will not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. COMAR 13A.01.05.06A. The Appellant has the burden of proof by a preponderance of the evidence. COMAR 13A.01.05.06D.

## LEGAL ANALYSIS

The State Board has long recognized that local school systems' use of "multiple criteria to evaluate students in order to reach a broad cross section of those who are qualified" to enroll in enriched programs is not arbitrary and unreasonable. *See Li Z. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 19-41 (2019). Furthermore, the State Board has held that "there is nothing arbitrary, unreasonable, or illegal about the local board following its established criteria and denying a student entry into the [specialized program] on that basis." *See Amanda B. v. Baltimore Cnty. Bd. of Educ.*, MSBE Op. No. 14-24 (2014). Appellants have failed to demonstrate that the school system did not follow its procedures in evaluating the criteria for admission or in the appeal. Rather, the Appellants disagree with the decision not to place their child in the CES lottery pool.

An appeal of the decision to exclude Student X from the CES lottery must be based on either (1) a unique hardship that impacted their student's academic profile or (2) errors or missing information in the student academic profile. The record does not support a finding that the Appellants met this standard.

The Appellants assert that Student X was concerned about her mother's health issues and claim that this negatively impacted her academic performance. They indicate that Student X's spring MAP-R score was higher than her winter MAP-R score and maintain that it is a better indication of her academic abilities and a higher MAP-R score than some of the students admitted to the CES.

Two different appeal committees reviewed the Appellants' concerns regarding Student X's academic profile and did not find sufficient grounds to overturn the initial decision finding she failed to meet the eligibility criteria. The local board concurred, finding that Student X's circumstances were not significantly different than the challenges faced by other students in their home lives that can affect academic performance. (R. 35). As for the increased score on the spring MAP-R, the CES selection process utilizes the winter MAP-R score which is locally normed to group together and compare students in schools with similar FARMS rates. (R. 29). MCPS consistently applies the criteria to evaluate all applicants and appeals of the eligibility determination do not include consideration of the spring MAP-R or other information occurring after the second marking period. (R. 29). Based on principles of fairness, the eligibility appeal process does not allow consideration of updated scores so that students are evaluated using comparable data at specified points in time. *See J.L. and Y.L. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 21-52 (2021). We find that the evidence in the record supports the local board's decision.

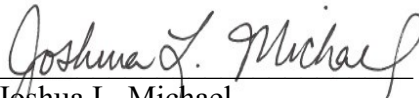
We agree with the local board that Student X is an outstanding student of high ability, but even outstanding students are not guaranteed admission to the CES. Not all students can partake

in specialized programs and there is no right to attend any particular school or program. *See Catherine H. v. Prince George's Cnty. Bd. of Educ.*, MSBE Op. No. 17-25 (2017) and cases cited therein. School systems have finite resources and devise procedures for fair opportunity for admission. MCPS has worked hard to use equitable approaches for these application processes to increase access for all students at the elementary level. Nonetheless, inability to participate in a specialized program does not mean that a student has no opportunity for rigorous academic programming. The record reflects that Student X's assigned school has coursework and an appropriate peer group to challenge her, and that she will be reassessed next year.


To the extent that the Appellants seek a change to MCPS policies and procedures for the selection of specialized programs, such a request is beyond the scope of this appeal. It is well settled that the State Board appeals process is not the appropriate mechanism for seeking local board policy change. *See Jared H. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No 16-37 (2016); *see also Kenneth F. v. Baltimore Cnty. Bd. of Educ.*, MSBE Op. No. 10-23 (2010)(the quasi-judicial appeals process is not the appropriate avenue for systemic change).

CONCLUSION

For the reasons stated above, we find that the Appellants have failed to show by a preponderance of the evidence that the decision of the local board was arbitrary, unreasonable, or illegal. Accordingly, we affirm the decision denying literacy enrichment and placement in the lottery pool for the CES.

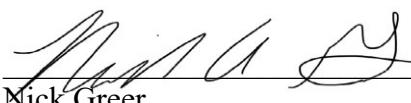
  
Joshua L. Michael  
President


  
Chuen-Chin Bianca Chang


  
Chet Chesterfield


  
Kenny Clash

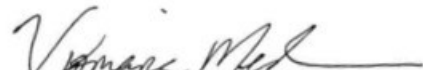
  
Clarence C. Crawford

  
Nick Greer

  
Irma Johnson

  
Kim Lewis

  
Rachel McCusker

  
Xiomara Medina

Abstained:  
Monica Goldson  
Vice-President

Absent:  
Joan Mele-McCarthy  
Samir Paul

February 25, 2025