

T.L and S.L.,

Appellant

v.

HOWARD COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 23-24

OPINION

INTRODUCTION

T.L. and S.L. (“Appellants”) filed an appeal of the decision of the Howard 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. The Appellants did not respond.

FACTUAL BACKGROUND

Appellants’ son, Student X, turned five on September 20, 2023. Because his birthday fell after September 1, 2023, Student X did not automatically qualify for admission into kindergarten for the 2023-24 school year. Appellants 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. Each child is assessed in a standardized manner and the same criteria are used for each applicant. (Record Extract, Ex. 1 at 41). The assessment 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. *Id.* 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 19, 2023, a certified teacher employed by HCPSS conducted Student X's assessment. Student X received a score of "Advanced (A)" on the reading assessment and "Proficient (P)" on the language and graphomotor skills, and the mathematics assessments. *Id.* at 21. For reading, he received a 74 out of the required score of 68; for language and graphomotor he received a 20 out of the required score of 22, and for mathematics he received an 18 out of the required score of 20. He received a score of "Advanced (A)" on both of the Developmental Checklists. By letter dated June 8, 2023, the Office of Early Childhood Programs advised Appellants that Student X was being denied early kindergarten entry based on the results of his assessment. *Id.* at 28-29.

On June 19, 2023, Appellants appealed the denial of early admission to the Division of School Management and Instructional Leadership. The Directors of Schools for Areas 1, 2, and 3 acting collectively as the Superintendent's Designee, reviewed Appellants' appeal and Student X's file. By letter dated July 5, 2023, the Directors advised Appellants that Student X did not meet the criteria for early kindergarten admission and that they were upholding the decision denying early entry. *Id.* at 30-31.

Appellants timely appealed the decision of the Superintendent's Designee to the local board. *Id.* at 26-27. They argued that their son only missed the age cutoff date by a few weeks and scored advanced or proficient in all assessment areas and he only missed the cutoff score needed for advanced by a couple of points in two of the academic assessment areas. They also argued that their son's pre-kindergarten teacher and summer school teacher said he is advanced and doing kindergarten work and that he is above average in his social and emotional development. *Id.*

The local board convened on August 16, 2023, and considered the written submissions, exhibits, and materials submitted by the Appellants and the Superintendent's Designee. In a decision issued August 29, 2023, the local board affirmed the decision denying Student X early entry to kindergarten for the 2023-24 school year. *Id.* at 11-18. The local board explained that Student X failed to meet the established early entry criteria because he 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); *Anna S. v. Howard County Bd. of Educ.*, MSBE Op. No. 22-28 (2022); *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." *Anna S. v. Howard County Bd. of Educ.*, MSBE Op. No. 22-28 (2022). See also *David and Adrienne G. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 09-19 (2009); *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. Student X received a score of Advanced in only one of the academic assessment areas.

Despite Appellants' claims that their son is kindergarten ready, the local board and each prior decision maker determined that he is not eligible for early entry based on his 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. *Anna S. v. Howard County Bd. of Educ.*, MSBE Op. No. 22-28 (2022); *Samira L. v. Howard County Bd. of Educ.*, MSBE Op. No. 15-40 (2015); *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 *Anna S. v. Howard County Bd. of Educ.*, MSBE Op. No. 22-28 (2022); *Deborah and Jeffrey K. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 17-36 (2017). HCPSS applied its standard policy and did not act in an arbitrary, unreasonable or illegal manner by doing so.

To the extent that Appellants wish 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

Joshua L. Michael
Vice-President

Susan J. Getty

Monica Goldson

Nick Greer

Irma E. Johnson

Rachel McCusker

Joan Mele-McCarthy

Warner I. Sumpter

Holly Wilcox

Absent:

Shawn D. Bartley
Chuen-Chin Bianca Chang
Samir Paul

October 24, 2023