

SAMUEL R.,
Appellant

v.

ANNE ARUNDEL COUNTY
BOARD OF EDUCATION
(II),
Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR 19-14

ORDER

This case returns to us after we remanded it to the local board in *Samuel R. v. Anne Arundel County Bd. of Educ.*, MSBE Op. No. 19-10 (2019). (Attached hereto). In *Samuel R.*, the Appellant challenged the local board's decision denying his request to allow his son, K.R., to skip 4th grade and advance from 3rd grade directly to 5th grade for the 2018-2019 school year. This Board remanded the case to the local board so that it could provide a rationale to address several issues. The local board issued a new rationale on April 23, 2019. The Appellant submitted a memorandum in response to the rationale and the local board responded.

We recognize that this case is technically moot because the 2018-19 school year is over. Thus, there is no longer an existing controversy on the issue such that there is no effective remedy the State Board can provide. But, because we find that the issues in this case are capable of repetition yet could evade review, we address them below.

The local board has maintained that K.R. did not attain a sufficient score on the Renzulli Scales as required by AACPS for advancement to 5th grade. The Renzulli Scales are a rating system that identifies if a student demonstrates observable behavioral characteristics that are generally exhibited by superior students. On remand, we asked the local board to provide additional information regarding its application of the Renzulli Scales. In particular, we were seeking the scores required for grade advancement. We recognize, as the local board points out, that the Maryland State Department of Education approves of the use of the Renzulli Scales to assess behavioral information to identify gifted and talented students. We did not object to the local board's use of the Renzulli Scales. Rather, we simply sought to understand what scores or range of scores AACPS requires on the Renzulli Scales for grade promotion, much like the appeal record contains the information for the cutoff score for the Terra Nova Assessment that was also used here. The local board still has not provided the requested information.

In addition, this Board requested that the local board address Appellant's argument that Mr. Brown's observation of K.R. at the Summer Academy failed to conform to the school system's Guidelines for Accelerated Grade Promotions of Elementary and Middle School Students. The Guidelines state that an Advanced Learner Programs resource teacher "may conduct a classroom observation of the student in the current placement" but it was not clear that the Summer Academy could qualify as a "current placement." It could very well be that the other teacher recommendations relied upon by the school principal, the review committee, and

the Regional Assistant Superintendent were all sufficient to support the local board's decision without Mr. Brown's observation of K.R., but the local board has not so stated or provided an answer to the question.

This Board is displeased that the local board failed to provide the information we requested. Without the information, we have no option other than to conclude that the local board's decision not to advance K.R. to the 5th grade for the 2018-19 school year was arbitrary and unreasonable. We recognize, however, that the 2018-19 school year has ended and, thus, K.R. can no longer be advanced from the 3rd to 5th grade. The remedy at this point is to direct the local board to proceed with the testing and evaluation required under its Guidelines for Accelerated Grade Promotions to determine if K.R. is eligible for advancement to the 6th grade for the 2019-20 school year, if the Appellant agrees.

Accordingly, on this 27th day of August, 2019 we find that the local board's decision not to advance K.R. to the 5th grade for the 2018-19 school year was arbitrary and unreasonable. We direct the local board to determine if K.R. is eligible for advancement to the 6th grade for the 2019-20 school year within the next 30 days and report back to this Board at the end of that time frame. The report should include the local board's rationale, as well as the cutoff scores required for advancement on the assessment and the Renzulli Scales.

MARYLAND STATE BOARD OF EDUCATION

Signatures on File:

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Vice-President

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Michael Phillips

David Steiner

Dissent:
Justin M. Hartings