

SAMIRA L.

Appellant

v.

HOWARD COUNTY BOARD  
OF EDUCATION

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 15-40

## OPINION

### INTRODUCTION

This is an appeal of a denial of an age waiver request for early entry into kindergarten. The Howard County Board of Education (local board) filed a Motion for Summary Affirmance maintaining that its decision should be upheld because it is not arbitrary, unreasonable or illegal. The Appellant filed a response. The local board filed a reply.

### FACTUAL BACKGROUND

The Appellant's daughter, S.L., was born on September 11, 2010, making her eligible to begin kindergarten in the 2016-17 school year. On or about March 24, 2015, Appellant submitted an application seeking early kindergarten entry for S.L. so that she could begin kindergarten in the 2015-16 school year. (Motion, Tab 2, Application). *Id.*

S.L.'s early entry screening took place on April 7, 2015 at the County Diagnostic Center. (Motion, Tab 2, Davis Letter, 3/27/15). S.L. met with an early childhood educator who performed an assessment of her skills and readiness to do kindergarten work.

By letter dated May 22, 2015, Lisa Davis, Coordinator for Early Childhood Programs, advised Appellant that S.L. did not meet the established criteria warranting early kindergarten admission. (Motion, Tab 2, Davis Letter 5/22/15). Ms. Davis explained that the Howard County Public School System (HCPSS) policy requires students to demonstrate an exceptionally high degree of skills in order to gain early admission. In order to be admitted early to kindergarten, the student must receive an "Advanced" rating in 4 of the 6 categories and no "Basic" ratings. The categories are (1) General Knowledge; (2) Reading; (3) Graphmotor/Writing; (4) Mathematics; (5) Developmental Checklist A – Preschool Teacher/Non-Related Adult, and (6) Developmental Checklist B – Parent/Guardian. S.L. received a "Proficient" rating in the first four categories and an "Advanced" rating for each checklist category.<sup>1</sup> *Id.*

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<sup>1</sup> S.L. received the following proficient scores: General Knowledge 20 (Proficient is 15-22); Writing 20 (Proficient is 16-38); Reading 57 (Proficient is 25-66); and Math 15 (Proficient is 11-20). (Motion, Tab 3, Director Memorandum, 8/5/15).

Appellant appealed the denial to the Directors of Elementary Administration maintaining that her daughter was kindergarten ready. (Motion, Tab 2, Appeal Letter 5/28/15). On June 17, 2015,<sup>2</sup> the Directors upheld the decision denying early entry. (Motion, Tab 2, Directors Letter). In upholding the result, the Directors explained that the evaluation process was a criterion based review of the developmental checklists, as well as the four skill areas on the early childhood test which is a national assessment. *Id.*

In June 2015, Appellant further appealed to the local board. She submitted a completed Appeal Information Form in July. Appellant stated her belief that her daughter is advanced in the subject content areas and ready to do kindergarten work as a result of attending a private preschool for the past two years. Appellant offered samples of S.L.'s work and letters of reference from two adults (one a special education teacher and her uncle) who recommended early kindergarten entry. (Motion, Tab 1). Appellant also specified many of the various tasks and skills that her daughter can perform. *Id.*

The Directors of Elementary Education responded to the appeal. They stated that proper procedures were followed in the administration of the assessment and that there were no irregularities in the process. They urged the local board to deny the appeal because none of S.L.'s test scores in the four academic testing areas fell within the advanced range. (Motion, Tab 3, Memo, 8/5/15).

In a unanimous decision, the local board upheld the decision denying Appellant's daughter early admission to kindergarten. This appeal followed.

### STANDARD OF REVIEW

In cases involving a local board's policy, or a controversy and dispute regarding the local board's rules and regulations, the local board's decision is considered *prima facie* correct. The State Board may not substitute its judgment for that of the local board unless the decision was arbitrary, unreasonable or illegal. COMAR 13A.01.05.05A.

### LEGAL ANALYSIS

There is no legal right to attend kindergarten before age five. *See* Md. Code Ann., Educ. §7-101(a). In order to enroll in kindergarten, a child must be five years old by September 1st of the school year of kindergarten entry. COMAR 13A.08.01.02(B)(2). Each local board of education is required to adopt regulations permitting a four year old, upon request of the parent or guardian, to be admitted to kindergarten if the local superintendent of schools or designee determines that the child demonstrates capabilities warranting early admission. COMAR 13A.08.01.02(B)(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).

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<sup>2</sup> The letter is mistakenly dated June 17, 2014.

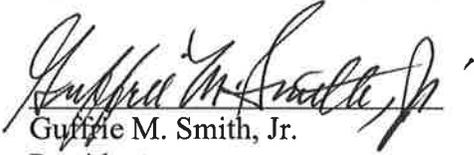
Accordingly, HCPSS has developed policy and regulation to accommodate requests for early kindergarten entry for children whose birth dates occur between September 2 and October 15. In order to attend kindergarten one year prior to the age established by the State, children must display “an exceptionally high degree of academic, social, emotional, and physical readiness to attend kindergarten” based on a standardized assessment process utilized by the school system. (Motion, Tab 4, HCPS Policy 9000-PR.III.B). Parents submit an application for early entry that includes developmental checklists to be completed by parents/guardian and preschool teachers or other adults who are knowledgeable about the child. (*Id.* at 900-PR.III.B.3.b). This is the same process that was used by the school system to determine S.L.’s early kindergarten entry eligibility. Although the Appellant disagrees with this process, it has already been upheld as valid by the State Board. See *Syed Junaid M. v. Howard County Bd. of Educ.*, MSBE Op. No. 13-18 (2013).

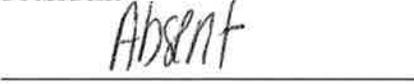
Although the Appellant believes that her daughter should be eligible to attend kindergarten, the school system assessed S.L. in accordance with its established procedures for early entry and found that she failed to satisfy the required standards. S.L. did not achieve an “Advanced” rating on four of the six categories as required for early entry under HCPSS policy. In fact, she fell squarely in the “Proficient” range in the critical substantive areas of writing, reading and math. Appellant has presented no evidence that the testing was improperly or unfairly administered.

The State board has consistently upheld the use of assessment scores as a basis for denying eligibility for early entry to kindergarten. See *Jhon Z. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 14-14 (2014); *Tim and Sherri B. v. Anne Arundel County Bd. of Educ.*, MSBE Op. No. 13-48 (2013); *Kristen M. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 13-16 (2013); *L. Tonya v. Montgomery County Bd. of Educ.*, MSBE Op. No. 08-19 (2008); *B. Perseveranda v. Montgomery County Bd. of Educ.*, MSBE Op. No. 08-01 (2008). This case is no different than countless others that have come before this Board. While the Appellant disagrees with the test results and believes that her daughter is kindergarten ready, the local board’s decision denying S.L. early entry is not arbitrary, unreasonable or illegal.

CONCLUSION

For the reasons stated above, we affirm the decision of the Howard County Board of Education denying the Appellant’s request for her daughter to be admitted early to kindergarten.

  
Guffie M. Smith, Jr.  
President

  
S. James Gates, Jr.  
Vice-President

Absent

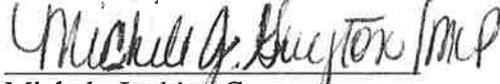
James H. DeGraffenreidt, Jr.



Linda Eberhart



Larry Giammo



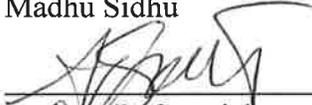
Michele Jenkins Guyton

Absent

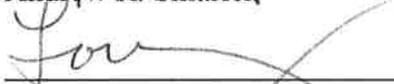
Stephanie R. Iszard

Absent

Madhu Sidhu



Andrew R. Smarick



Laura Weeldreyer

Abstain:



Chester E. Finn, Jr.

December 8, 2015