

SAMUEL R.,

Appellant

v.

ANNE ARUNDEL COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 19-10

OPINION

INTRODUCTION

Appellant challenges the local board's decision denying his request to allow his son to skip 4th grade and advance from 3rd grade directly to 5th grade. The local board filed a Motion for Summary Affirmance maintaining that its decision was not arbitrary, unreasonable or illegal. The Appellant responded to the motion and the local board replied.

FACTUAL BACKGROUND

During the 2017-2018 school year, Appellant's son, K.R., attended the 3rd grade at Ridgeway Elementary School ("Ridgeway"). On May 3 and 18, 2018, Appellant emailed Ridgeway's Principal, Tracy Prater, requesting that K.R. skip the 4th grade and be promoted directly to the 5th grade for the 2018-2019 school year. (Emails, 5/3/18; 5/13/18). Receiving no response, on May 24, 2018, Appellant contacted Dr. Prater by phone. Dr. Prater referred the Appellant to Don Counts, Coordinator for Pre-K – 12 Advanced Learner Programs Office. Mr. Counts spoke with the Appellant and provided him with the "Accelerated Grade Promotion Consent for Testing" form, which the Appellant completed. (Email, 5/24/18).

Anne Arundel County Public Schools' ("AACPS") Guidelines for Accelerated Grade Promotions of Elementary and Middle School Students ("Guidelines") recommends that students achieve standardized test scores in the 90-99th percentile on an achievement test for the grade level into which the student may be promoted, and not below the 85th percentile on any subtest to be eligible for grade acceleration. (See Guidelines; Testing Report; Pritchard Letter, 9/10/18). AACPS uses the TerraNova Form G Achievement Test (TerraNova), which is a nationally norm-referenced, standardized achievement test, for the 5th grade. (Testing Report). The percentile score indicates the percentage of scaled scores in a norm group that fall below a given student's scaled score. *Id.*

A representative from the AACPS Advanced Learner Programs Office administers the TerraNova. K.R. completed the Level 15 TerraNova testing in June 2018. He scored in the 89th percentile for reading and in the 83rd percentile for math. (Testing Report). The results of the test were calculated using fall norms for fifth grade students. *Id.* This means that K.R. scored

higher than approximately 89% of the students in reading and higher than approximately 83% in math for the nationally normed group of students in the fall of their 5th grade year.

The Guidelines also provide for the consideration of other information in the grade acceleration determination, including past achievement, observation outcomes, present instructional level, and the social/emotional maturity of student. (Guidelines). As part of the process, both parents and teachers complete the “Scales for Rating the Behavioral Characteristics of Superior Students,” referred to as the Renzulli Scales, to rate the observable behavioral characteristics of the student as compared to peers.¹

K.R. received the following scores on the Renzulli Scales:

Parents		Teachers	
Learning	59	Learning	42
Mathematics	64	Mathematics	36
		Creativity	25
		Motivation	37
		Leadership	40
		Reading	29

Regarding K.R.’s academic performance in school, he received all A’s and CD’s² on every report card in 3rd grade, and was on the Principal’s Honor Roll for all marking periods. He also reads above grade level. (See Grade 3 Final Report Card). In addition, AACPS identified K.R. as advanced in math according to the AACPS criteria for assessing advanced and gifted students.³

In accordance with the Guidelines, Dr. Prater assembled a committee to conduct a preliminary review of the accelerated grade promotion request. By letter dated July 10, 2018, Dr. Prater advised the Appellant that he denied the request to have K.R. promoted to the 5th grade. Dr. Prater explained that K.R.’s test scores did not fall within the AACPS recommended guidelines for grade acceleration. Dr. Prater also explained that the decision was based on “student data including the Renzulli scores, teachers’ recommendations and the school team’s understanding of the social-emotional growth and opportunities that take place during the foundational years prior to middle school entry.” Ultimately, Dr. Prater and the review committee did not feel that it was in K.R.’s “best interest” to advance to the 5th grade. (Prater Letter; 7/10/18).

The Appellant expressed his disagreement with the decision to Dr. Prater by email on July 10, 2018. Dr. Prater provided the Appellant with appeal information, but also stated her intent to provide K.R. with enhanced math instruction and appropriate language arts instruction in the 4th grade. Dr. Prater invited the Appellant to meet with K.R.’s teachers and to work collaboratively with the school to help ensure a successful year for K.R. (Email, 7/10/18).

¹ Parents complete only two of the rating scales.

² Along with an A, CD is one of the highest grading codes. It represents 87-100% and stands for consistently demonstrates skill. (See Report Card).

³ AACPS assessed K.R. in second grade as part of the AACPS Gifted and Talented Identification Process. Although he was identified as advanced in math, K.R. was not identified as being eligible for gifted and talented instruction. (Pritchard Letter, 9/10/18).

The Appellant appealed Dr. Prater's decision to Lisa Leitholf, Regional Assistant Superintendent. Appellant expressed his concern that the decision-makers did not consider information beyond test scores in assessing whether K.R. should advance to 5th grade. He indicated that K.R. received straight A's in the 3rd grade, had outstanding grades in his prior years, and that he is a creative and inquisitive child. (Email, 7/14/18). The Appellant also expressed his concern about the disparity between the parent and teacher scores on the Renzulli Scales. *Id.*

By letter dated July 23, 2018, Ms. Leitholf advised the Appellant that she was upholding Dr. Prater's decision denying the grade acceleration request. She explained that K.R.'s scores did not meet the recommended criteria for grade acceleration to 5th grade. Ms. Leitholf suggested that the Appellant meet with the school team and the Advanced Learner Programs Office to discuss K.R.'s strengths and areas of interest, and to explore ways in which AACPS could provide engaging and rigorous instruction suited to his needs. (Leitholf Letter, 7/23/18).

On July 25, 2018, Appellant further appealed to Dawn Lucarelli, Associate Superintendent for School Performance. Dr. Lucarelli spoke with the Appellant by phone to gain additional information regarding the request. She advised the Appellant that a representative from the Advanced Learner Programs Office was going to visit K.R. during classes at the Summer Academy at Quarterfield Elementary School to observe and speak with him. (Email, 7/25/18).

The representative, Ryan Brown, Resource Teacher with the Advanced Learner Programs, visited K.R. during his math and language arts classes. He prepared a detailed written summary of his observation and interaction with K.R. In particular, he noted the K.R. "did not collaborate or have conversations with his peers given opportunities to work with others in class" and that K.R. was not an active participant when the teacher asked the class questions. He also noted that K.R. was only able to solve math problems using a single algorithm when asked to solve using different strategies or models. Mr. Brown believed it would benefit K.R. "to have deeper explorations at grade level standards to expand his critical thinking." (Student Observation Summary). Mr. Brown's report did not support acceleration to the 5th grade. *Id.*

By letter dated August 9, 2018, Dr. Lucarelli denied the request for acceleration. (Lucarelli Letter, 8/9/18). She explained that Dr. Prater and Ms. Leitholf followed the AACPS guidelines, reviewing K.R.'s test scores and other factors. She also recommended that Appellant meet with the school team and the Advanced Learner Programs Office to discuss K.R.'s school needs. *Id.*

On August 9, 2018, Appellant appealed Dr. Lucarelli's decision to Monique Jackson, Deputy Superintendent. (Email, 8/9/18). Ms. Jackson reviewed the case and denied the grade acceleration request. She advised the Appellant of the decision by letter dated August 31, 2018. (Jackson Letter, 8/31/18).

Thereafter, Appellant appealed the decision to the local board. (Email to Hummer, 9/3/18; Letter to Local Board, 9/10/18). Laurie Pritchard, AACPS Director of Legal Services, responded to the appeal on behalf of the Superintendent. (Pritchard Letter, 9/10/18).

On September 13, 2018, the local board upheld Dr. Lucarelli's decision. The local board stated the entirety of its rationale as follows:

Ms. Pritchard's letter describes the process that has been developed in Anne Arundel County in order to evaluate requests for accelerated grade promotions, as well as the timeline of events and actions pertaining to Appellants' request. This includes the school system's "Guidelines for Accelerated Grade Promotions of Elementary and Middle School Students." The Superintendent's summary also confirms the results of [K.R.'s] assessments as evidenced by the relevant records: he did not attain the required results on the Renzulli Scales or TerraNova test. In addition, it is clear from both parties' statements that there was significant interaction between the family and AACPS officials as the request was being reviewed and that Appellants' grounds for making an exception were considered. They clearly disagree with the school system's procedures for reviewing early promotion requests, or at least how the standards were applied to their son.

The Board respects Appellants' good-faith opinion of their son's abilities and their advocacy for his readiness. At the same [time], the Board finds that AACPS utilizes a fair, objective process for determining whether a student should be permitted to skip a grade level. The Board also agrees with the Superintendent that reasonable, consistent application of these procedures is necessary to remove undue subjectivity and ensure fairness to all families seeking accelerated promotion for their children. In this case, the Board is confident that [K.R.'s] educational best interests were the primary focus of the decision-making process. Appellants' request was given a proper review, and the reasons for the denial are persuasive.

(Local Board Decision).

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.01.05.05A.

LEGAL ANALYSIS

It is the responsibility of the local board and its counsel to provide to us on appeal a well-reasoned decision supported by a fully developed record. The local board and its counsel did not do so in this case.

We have long held that a local board must convey a basis for its decision in order for the State Board to conduct a meaningful review on appeal. *See Richardson v. Baltimore City Bd. of Sch. Comm'rs*, MSBE Op. No. 13-29 (2013). Our expectation is that a local board will provide a detailed analysis of how the evidence in the record supports its decision. The local board did not do so here. “The State Board cannot perform its quasi-judicial function without understanding the basis for the local board’s decision.” *Mohan G. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 08-15 (2008). In other words, the lack of a rationale makes it impossible to determine if a decision was arbitrary, unreasonable or illegal. *See Brown v. Baltimore City Bd. of Sch. Comm'rs*, MSBE Op. No. 15-18 (2015). In such cases, remand is the appropriate remedy. We explain below.

This appeal focuses not only on the final decision declining to accelerate K.R., but also on the process the school system uses to come to an acceleration decision. Mr. Counts, the Coordinator of the Advanced Learner Programs Office, explained to the Appellant that the instructions for grade acceleration specify that the decision is a “school-based” decision that is not governed solely by the TerraNova test results. The instructions state that the final acceleration decision “takes into consideration a variety of student data, including teacher recommendations, overall student performance, input from the school-based educational team, and parents.” (Email, 6/25/18; Testing Report). Thus, we expect the record to reflect how all the factors were analyzed to come to the decision that acceleration was not in K.R.’s best interests.

We begin with the Level 15 TerraNova test, which the Appellant maintains was improper to administer to K.R. because it tests 5th graders. He argues instead that K.R. should have been given the Level 14 test, the test for 4th graders. The local board argues that it would make little sense for the school system to compare K.R. to 4th grade students, given that the Appellant wanted K.R. to skip that grade altogether.

The AACPS Guidelines specifically state that school personnel will administer the TerraNova achievement test “for the grade level into which the student may be promoted.” We note that the test results are calculated using fall norms. (Testing Report). Thus, K.R.’s scores show how he performed on the test compared to other students who were just starting 5th grade, the grade to which the Appellant was requesting promotion.

While we conclude that using the Level 15 TerraNova test may well be appropriate, the local board has set a high bar, at the 90th – 99th percentiles, for acceleration. The local board correctly, but baldly, asserts that it has the discretion to establish acceleration criteria. And, while we presume the correctness of the local board’s decision, we do so only if the decision is not arbitrary or unreasonable.

The Appellant questions the scores the teacher awarded on the Renzulli Scales, arguing that the teacher’s scores “are not reflective of his grades and his test scores” and “would indicate that [K.R.] is a Below Average student and that he struggles with all areas.” (Appeal, p. 1; Appellant’s Response, p. 1). The local board maintains that it is not unusual for there to be differences between the parent and teacher ratings, and that they are both taken into consideration in making the grade acceleration decision.

The local board asserts that the Appellant’s suggestion that the teacher’s rating indicates a below average and struggling student lacks merit. We might agree if the record contained

more information about the Renzulli Scales. Although the local board explains in its Reply to the Appellant's Response to Motion that the Scales attempt to identify if a student demonstrates observable behavioral characteristics that are generally exhibited by superior students, the case record contains no specifics about how the Renzulli Scales work and no analysis about what they mean in terms of grade acceleration. Our own research revealed that some of the observable behaviors include use of advanced vocabulary; grasp of underlying principles; high degree of memory; fluency with words; making generalizations from complex information; and spatial relationship ability. (See drpfconsults.com). While it seems obvious that that the higher a student scores on the Scales the more likely it is that the student is a "superior student," the case record contains no analysis of the scoring and how the scores are ranked for comparison purposes. The local board simply states that K.R. did not attain the "required scores" on the Renzulli Scales. There is nothing in the record stating what the "Renzulli Scales" are.

In addition, the Appellant maintains that it was improper for Mr. Brown to observe K.R. during the Summer Academy because it is not part of his regular school program. The Guidelines state that an Advanced Learner Programs resource teacher "may conduct a classroom observation of the student in the current placement." Thus, the issue is whether the math and language arts classes at the Summer Academy were part of K.R.'s "current placement" in conformance with the Guidelines.

The Summer Academy is a 4-week program operated by AACPS. It runs Monday through Thursday for approximately 4 hours per day at Quarterfield Elementary School during July. (Appeal). Appellant placed K.R. there because he thought it would be a fun summer activity. *Id.* According to Mr. Brown, the program is not intended for advanced learners and many of the students who attend receive remedial instruction and participate in Extended School year. (Observation Report). At Dr. Lucarelli's behest, Mr. Brown conducted the observation and interaction with K.R. at the Summer Academy in order to gather additional information in response to the Appellant's concern that the school system had erred in denying his grade acceleration request. Because the local board has not addressed the Appellant's argument on this issue, we need more information to assess if consideration of the observation conformed to the Guidelines.

The Guidelines and documentation in the case all indicate that the grade acceleration decision is based not only on the test scores but also on all other factors, and that the totality of this information is the basis of the decision. This is unlike other types of decisions that rely on test scores alone. Throughout the record and the local board's motion and reply, there are conclusory statements that other factors were taken into consideration, but there are no specifics about the other factors and no explanatory rationale analyzing how the other factors impacted the decision. Without this information, the State Board is unable to determine whether the local board's decision is arbitrary, unreasonable or illegal.

CONCLUSION

For the reasons stated above, we remand the case to the local board so that it can provide a rationale that addresses the issues set forth herein. The rationale must include an analysis of how all of the factors considered by the local board impacted its decision to deny acceleration of K.R. to the 5th grade. The rationale shall be issued within 30 days of the date of this Opinion.

Signatures on File:

Justin M. Hartings
President

Stephanie R. Iszard
Vice-President

Chester E. Finn, Jr.

Vermelle D. Greene

Jean C. Halle

Rose Maria Li

Joan Mele-McCarthy

Michael Phillips

David Steiner

Warner I. Sumpter

February 26, 2019