

**IOWA DEPARTMENT OF EDUCATION
29 D.o.E. App. Dec. 393**

<i>In re: Educational Placement of M.R.,</i>)	
)	
)	
Sowmya Gampa & Sunil Ramshetty,)	Admin Doc. 5134
)	
Appellant,)	
)	
v.)	
)	
WAUKEE COMMUNITY)	
SCHOOL DISTRICT,)	
)	DECISION
Appellee.)	

This appeal concerns the grade assignment of M.R. by the appellee Waukee Community School District (“District”). Appellants, the parents of M.R., seek M.R.’s assignment to first grade. The District assigned M.R., who was born after the date specified in Iowa Code for entry into first grade, to a kindergarten classroom. The Waukee Community School District Board of Directors (“school board”) affirmed this assignment in a decision dated October 26, 2020. The appellants timely appealed. *See* Iowa Code § 290.1.

A hearing on this appeal was held on November 30, 2020, before Thomas A. Mayes, General Counsel to the Department of Education and designated by the Department to serve as administrative law judge. S.G. and S.R. appeared personally and were not represented by counsel. Dr. Brady Fleming,¹ the District’s Associate Superintendent, represented the District, which was not represented by counsel. After considering the testimony of the parties, the exhibits offered, and the arguments of the parties in light of the governing law, we affirm the October 26, 2020, school board decision.

Findings of Fact. We make the following findings of fact by a preponderance of evidence. M.R. was born in December 2014. During the 2019–2020 school year, he attended kindergarten at a Montessori school, which was not accredited by the Iowa Department of Education. The school had not taken the steps necessary to be accredited by the State Board of Education, or sufficient steps to be accredited by an independent accreditation agency. *See generally* Iowa Code § 256.11. The school has since closed, and the District had difficulty obtaining M.R.’s kindergarten records.

When M.R.’s parents enrolled him in the District for the 2020–2021 school year, they disclosed his prior enrollment in kindergarten (Exhibit G, page 1) and the District assigned him to first grade. M.R.’s classroom teacher observed “academic/social concerns” (Exhibit C, page 1).

¹ Using Dr. Fleming’s title should not be viewed as diminishing Appellants’ academic attainments. Appellants are both members of learned professions; however, their professions and titles are omitted to protect the confidentiality of the child.

Based on these concerns, M.R. was assigned to "Reading Lab," a support for students who need additional instruction and intervention in the components of reading.² Additionally, literacy and mathematics screening and assessment data, as well as Reading Lab data, showed M.R. was performing in the aggregate at a kindergarten level, not a first grade level (Exhibit C, page 2). The District decided to place M.R. in kindergarten, and Appellants objected.

The Appellants testified they were concerned about M.R.'s mental health, including the disappointment of no longer being a first grader. Appellants have been providing private instruction to M.R. pending the outcome of this appeal (See, e.g., Exhibit A, page 1). During the hearing, Appellants described the home instruction they provided to M.R., and showed examples of work M.R. has completed. Mr. Fleming testified that M.R. would "do well" if placed in kindergarten.

Conclusions of Law. This appeal is governed by Iowa Code section 282.3, which provides in pertinent part:

No child shall be admitted to the first grade unless the child is six years of age on or before the fifteenth of September of the current school year; except that a child under six years of age who has been admitted to school work for the year immediately preceding the first grade under conditions approved by the department of education, or who has demonstrated the possession of sufficient ability to profit by first-grade work on the basis of tests or other means of evaluation recommended or approved by the department of education, *may be admitted to first grade* at any time before December 31.

Iowa Code § 282.3(2)(c) (2020) (emphasis added). Because of the emphasized language, especially the use of the word "may", this statute grants discretion to promote children to first grade. *Declaratory Ruling # 40*, 5 D.o.E. App. Dec. 5, at *3 (1986) (citing Iowa Code section 4.1(36)(c), now codified at section 4.1(30)(c)). A decision to promote or retain a child in grade "lie[s] initially within the judgment of the professional education staff." *In re A.G.*, 24 D.o.E. App. Dec. 168, 170 (2007). Since the District has substantial discretion in this matter, our review on appeal is limited to whether the District abused the discretion conferred upon it by section 282.3(2)(c). See, e.g., *Sioux City Cmty. Sch. Dist. v. Iowa Dep't of Educ.*, 659 N.W.2d 564, 569 (Iowa 2003).

In applying abuse of discretion standards, we look only to whether a reasonable person could have found sufficient evidence to come to the same conclusion as reached by the school district. In so doing, we will find a decision was unreasonable if it was not based upon substantial evidence or was based upon an erroneous application of the law.

Id. (citation omitted). We must not "substitute our judgment for that of the school district." *Id.* While Iowa Code section 290.3 provides that the State Board "shall make such decision as may be just and equitable," that Code language does not provide a basis for overriding a discretionary

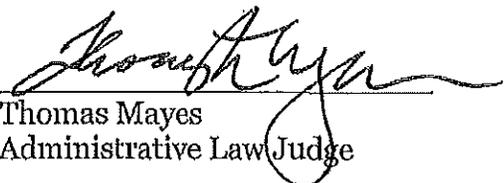
² During quite skillful cross-examination by unrepresented appellants, Dr. Fleming conceded that other students with similar Reading Lab scores remained in first grade. He clarified, however, that all such students had completed kindergarten in an accredited school.

decision made by a school district. The State Board's decision must be "just and equitable" and, in doing justice and equity, the Board is bound to give proper respect to the discretion which our legislature has conferred on school districts. The State Board will not disturb local decisions unless they are "unreasonable and contrary to the best interest of education." *In re J.B.*, 13 D.o.E. App. Dec. 363, 369 (1996).

With this standard of review in mind, we turn to the two options available under section 282.3 for promotion to first grade. The first option is unavailable, as a matter of law. The Montessori school was never accredited under any accreditation option available under section 256.11. On the present record, we cannot say that education M.R. received in the 2019–2020 school year was provided "under conditions approved" by the Department.

As to the second option, we conclude the results of assessments and observations support the District's exercise of its discretion. Rather than specific instruments, the Department has given broad approval to assessment instruments and methods, including teacher observation and in-class performance. *Declaratory Ruling # 40*, 5 D.o.E. App. Dec. 5. The instruments and methods the District used to determine M.R.'s readiness for first grade are reasonable, and the District's conclusions drawn from those instruments and methods are reasonable as well. Having so concluded, we are not in a position to second-guess the District's decisions or "substitute our judgment for that of the school district." While we have considered the parent's sincere concern for M.R.'s mental health and self-esteem, we must consider this alongside the clear picture the evidence paints about M.R.'s "ability to profit by first grade work." Iowa Code § 282.3(2)(c). On the present evidentiary record, we cannot conclude the District abused its discretion. *StouxCity Cmty. Sch. Dist.*, 659 N.W.2d at 569. Its decision was not "unreasonable." *In re J.B.*, 13 D.o.E. App. Dec. at 369. It must be AFFIRMED.

Conclusion. We have considered all issues presented, whether or not specifically discussed in this decision. It is recommended that the decision of the Board of Directors of the Waukee Community School District made on October 26, 2020, be affirmed. There are no costs to be assigned.


 Thomas Mayes
 Administrative Law Judge

12/3/2020
 Date


 Brooke Miller Axiotis, President
 State Board of Education

1/28/2021
 Date