

Students who graduated from schools in their countries

N.J.S.A. 18A:38-26 requires public schools to be made available for any child between the ages of 5 and 20. Attached is a 2009 case where the Commissioner held that a student who has graduated high school in another country may still be eligible to attend a NJ public school if the student starts the school year prior to turning 20 years of age. A case-by-case analysis must be done to determine if the high school diploma the student received from a foreign country meets NJ standards.

#201-09 (OAL Decision: http://lawlibrary.rutgers.edu/oal/html/initial/edu08740-07_1.html)

B.A. AND J.H., ON BEHALF OF
MINOR CHILD, M.A.A.,
COMMISSIONER OF EDUCATION DECISION

SYNOPSIS

In August 2007, petitioners sought to enroll M.A.A. in High School after the sixteen-year-old relocated from Venezuela to live with her mother and stepfather. Initially, a guidance counselor from the high school reviewed M.A.A.'s course transcripts from Venezuela, and petitioners were given a schedule showing that M.A.A. would enter high school in September 2007 as a senior. Subsequently, petitioners were notified that the district had determined M.A.A. to be ineligible to enroll as a student based on the fact that she already held a high school diploma from Venezuela. Petitioners argued that M.A.A. was entitled to attend school in the district because she was eligible by age and residency and had not taken all of the courses necessary to graduate with a New Jersey State-endorsed diploma. Petitioners sought, inter alia, reversal of the Board's determination, reimbursement of private school tuition, and attorney fees and costs. Both parties filed motions for summary decision.

The ALJ granted summary decision to the petitioners, finding that: the Board's determination not to enroll M.A.A. based solely on the fact that she had already graduated from school in Venezuela – and its contention that it was not qualified to review school records from a foreign high school – was arbitrary, capricious and unreasonable, and additionally constituted discrimination based on national origin.

The Commissioner remanded the matter for further proceedings, rejecting the summary positions taken by each of the parties and holding that the appropriate inquiry was a fact-specific determination of whether the credential held by M.A.A. was equivalent to a New Jersey State-endorsed high school diploma. The Commissioner found the existing record insufficient for this purpose, and directed that, on remand, petitioners must present a full recitation of the facts pertaining to M.A.A. and her Venezuelan education, while the Board must present a thorough assessment of such facts in relation to the goals and requirements for graduation from the New Jersey public schools, with petitioners thereafter bearing the burden – if the Board concludes that M.A.A. is not entitled to a free public education because the credential

she holds is equivalent to a New Jersey State-endorsed diploma – of demonstrating by a preponderance of the competent and credible evidence that the Board’s assessment was arbitrary, capricious, unreasonable, or otherwise contrary to law.

This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

June 22, 2009