

#58-08 (OAL Decision: Not yet available on-line)

JALEESA A. DOWLING, :
 :
 PETITIONER, :
 : COMMISSIONER OF EDUCATION
 V. :
 : DECISION
 STATE-OPERATED SCHOOL DISTRICT :
 OF THE CITY OF JERSEY CITY, :
 HUDSON COUNTY, :
 :
 RESPONDENT. :

SYNOPSIS

Petitioner, who transferred into the respondent's district after completing the eleventh grade in another district, challenged the respondent's decision not to issue her a diploma at the end of the 2006-2007 school year, and requested special permission to graduate based on having completed the courses necessary for graduation from her prior school district. Respondent contends that petitioner failed to meet the district's academic requirements for receiving a diploma.

The ALJ found that: there are no genuine issues of material fact in this matter; petitioner transferred into the Jersey City school district with 81 credits in September 2006; petitioner completed 121 credits by the end of the 2006-2007 school year; pursuant to *N.J.S.A. 18A:7C-2*, respondent's district requires the completion of 140 credits to graduate; and petitioner admits that she did not have the 140 credits necessary to graduate from Jersey City schools at the end of the 2006-2007 school year. The ALJ concluded that the respondent's decision should be affirmed, and the petition dismissed with prejudice.

The Commissioner concurred with the ALJ and adopted the Initial Decision of the OAL as the final decision in this matter.

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.

February 5, 2006

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed, as have the petitioner’s exceptions and the Jersey City School District’s (District) reply, both timely filed in accordance with *N.J.A.C. 1:1-18.4*.

In her exceptions, the petitioner contends that certain statements in the Initial Decision are misleading – largely because the Administrative Law Judge (ALJ) failed to ask pertinent follow-up questions that would have clarified the petitioner’s situation – and seeks to place these statements in context by elaborating upon the OAL factual record. She further contends that 1) the ALJ’s legal analysis does not apply to the District, since – as a State-operated school district – it is not governed by a “local board of education” as are districts referenced in laws authorizing the adoption of local district graduation policies, and 2) the District lacks policies and procedures specifically addressing students in her situation. She concludes that she has worked hard and suffered, “yet no one can tell [her] how it would hurt the district” to grant the requested diploma. (Petitioner’s Exceptions at 1-2, quotation at 2)

In reply, the District objects to the petitioner’s attempt to expand the factual record after the close of OAL proceedings in violation of *N.J.A.C. 1:1-18.4(c)*, and proffers that

her arguments – both before the ALJ and on exception – “cannot overcome the controlling law and the conclusions that follow from it.” The District urges adoption of the Initial Decision’s grant of summary decision in its favor, additionally noting that – because the ALJ allowed the petitioner to appear at hearing despite her failure to oppose the District’s motion for summary decision – the Commissioner could alternatively sustain the District’s action on grounds that the petitioner failed to carry her burden of proof at hearing. (District’s Reply at 1-3, quotation at 2)

Upon review and consideration, although not unsympathetic to the petitioner’s circumstances, the Commissioner must concur with the ALJ that State law expressly contemplates that public school districts – including State-operated districts – may set and enforce local graduation requirements over and above the State-mandated minimum, and that, in light of the undisputed fact that the petitioner lacked the requisite number of credits to graduate from the Jersey City School District at the end of the 2006-07 school year, there is no basis on which the District may grant her a high school diploma based solely on completion of the lesser number of credits required for graduation from her school district of prior attendance.

Accordingly, for the reasons expressed therein, the Initial Decision of the OAL – granting the District’s motion and dismissing the petition of appeal – is adopted as the final decision in this matter.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: February 5, 2008

Date of Mailing: February 6, 2008

* This decision may be appealed to the State Board of Education pursuant to *N.J.S.A. 18A:6-27 et seq.* and *N.J.A.C. 6A:4-1.1 et seq.*