

J. H.,

Appellant

v.

BALTIMORE COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR07-03

ORDER OF DISMISSAL

In this appeal, J.H.'s parents challenge the local superintendent's decision denying J.H.'s application for enrollment in the Chatsworth School magnet program for the 2006-2007 school year.¹ Appellants sought J.H.'s admission to the program and also sought J.H.'s early admission to kindergarten. Because Baltimore County Public Schools makes eligibility determinations for early admission to kindergarten after the close of the magnet application process, the school system found J.H. ineligible for admission to Chatsworth because he did not turn age five by September 1, 2006, the kindergarten age of entry cut off date for the 2006-2007 school year.²

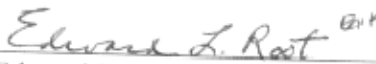
The local board has filed a Motion to Dismiss the appeal based on mootness because the 2006-2007 school year is essentially over and Appellants received and accepted an offer for J.H. to attend kindergarten at Chatsworth for the 2007-2008 school year. It is well established that a question is moot when "there is no longer an existing controversy between the parties, so that there is no longer any effective remedy which the courts [or agency] can provide." *In Re Michael B.*, 345 Md. 232, 234 (1997); *See also Arnold v. Carroll County Board of Education*, MSBE Opinion No. 99-41 (September 22, 1999); *Farver v. Carroll County Board of Education*; MSBE Opinion No. 99-42 (September 22, 1999); *Chappas v. Montgomery County Board of Education*, 7 Op. MSBE 1068 (1998). Because the school year is ending, there is no existing controversy between the parties and no effective remedy that the State Board can provide.

¹The nine members of the local board who heard the oral arguments in this case could not reach a majority decision. Five members would have voted to reverse the local superintendent and four members would have voted to affirm. Because a majority of the local board did not find in favor of the Appellants, the local superintendent's decision prevailed.

²The superintendent's designee testified that the timing of the early kindergarten entry determinations is based on the kindergarten assessment which is conducted at a particular time due to concerns related to age and developmental milestones. (Hearing Examiner Report, p.6). The magnet office supervisor testified that the time frames for the magnet admission process reflect the need for appropriate data projections for staffing, budgeting, programming, and other school requirements. (*Id.* at p.8).

Therefore, it is this 30th day of May, 2007, by the Maryland State Board of Education,
ORDERED, that the appeal referenced above be and the same is hereby dismissed
because it is moot. See COMAR 13A.01.05.03C(1)(b).

MARYLAND STATE BOARD OF EDUCATION
By:



Edward L. Root
President