

IN THE MATTER OF THE APPLICATION :
OF THE BOARDS OF EDUCATION
OF THE TOWN OF BOONTON AND : COMMISSIONER OF EDUCATION
THE BOROUGH OF LINCOLN PARK,
MORRIS COUNTY, FOR AN ORDER : DECISION
AUTHORIZING SEVERANCE OF
SENDING-RECEIVING RELATIONSHIP. :

SYNOPSIS

In this uncontested case, the boards of education of the Town Boonton and the Borough of Lincoln Park seek to sever their sending-receiving relationship of over 50 years, asserting that severance is in the best interest of their respective communities. The school district of Lincoln Park sends its high school students (grades 9-12) to Boonton High School, currently making up the majority of the high school's student body.

The ALJ found, *inter alia*, that: while Lincoln Park has the majority of pupils in the high school, it has only one member on the Boonton Board of Education, resulting in a lack of representation that has fostered distrust and a history of protracted litigation between the two boards; pursuant to *N.J.S.A. 18A:38-13*, the Commissioner may not weigh the overall positive and negative impacts of a proposed severance on the affected school districts, and any substantial negative impact on either district will result in a denial of severance; the instant proposed severance would not result in a substantial negative impact on the racial composition of the districts; severance would have a substantial negative impact on the educational quality at Boonton High School, though the quality of education at Lincoln Park would not be adversely affected. The ALJ concluded that the petition for severance must be denied, and commented that she is without jurisdiction to address the inequity of Lincoln Park's limited representation on the Boonton Board of Education.

The Commissioner determines to accept the recommendation of the ALJ that the application for severance not be granted, based upon the well-supported finding that Boonton would suffer a substantial negative educational impact if it were to lose the high school students from Lincoln Park. The Commissioner declines to reach the remainder of the ALJ's report, which summarizes testimony regarding financial impact without making findings or a recommendation, and makes conclusions regarding racial impact with which the Commissioner is reluctant to concur on the present record. Additionally, the Commissioner emphasizes that perceived inequities in the statutorily-prescribed composition of local district boards of education are a matter of State policy to be addressed by the Legislature.

<p>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.</p>

April 25, 2006

OAL DKT. NO. EDU 5623-04
AGENCY DKT. NO. 251-8/02

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The record of this uncontested matter and the Report and Recommendation of the Office of Administrative Law (OAL) issued pursuant to N.J.A.C. 1:1-21.5 have been reviewed.¹ Comments were filed by the Lincoln Park Board of Education (Lincoln Park), to which the Boonton Board of Education duly replied.

In its comments, Lincoln Park urges that if the Report's findings are read correctly, the Administrative Law Judge (ALJ) actually concluded that Lincoln Park (as opposed to Boonton) met all of the statutory conditions for severance; therefore, the recommendation to deny severance should be rejected. According to Lincoln Park, the ALJ found no negative racial impact on either district, accepted testimony to the effect that Lincoln Park would save money by having its own high school, and determined that severance would have educational benefits for Lincoln Park; the fact that Boonton failed to demonstrate an ability to operate without Lincoln Park students "should not be a factor" in the decision to grant severance, the district contends, "since it is not a factor in

¹ The Report and Recommendation of the OAL in this uncontested matter is misidentified as an Initial Decision, and, pursuant to the rules for contested cases, the parties' subsequent submissions – here construed as "Comments" – were filed as exceptions.

the statutory criteria for Lincoln Park, a separate legal entity.” Moreover, Lincoln Park argues, if it can succeed with a small high school— as the ALJ found it could— it then follows that Boonton should be able to do the same; a degree of financial hardship and loss of elective courses of study should not lead to a conclusion of negative educational impact at a time when every district in the state is facing similar difficulties. (Lincoln Park Comments at 1-2, quotation at 2)

Lincoln Park further urges the Commissioner, if severance is not granted, to address the “inequity, unfairness and discrimination” that result from Lincoln Park having only one member on the Boonton Board of Education when its high school population constitutes the majority of Boonton High’s student body. The Board cites with approval the ALJ’s comments at page 23 of the Report, and implores the Commissioner to remedy the representation situation so that “Lincoln Park can have a real voice and impact at the high school level even if it is forced by the final decision in this matter to remain a party in the sending-receiving relationship.” (Lincoln Park Comments at 3)

In reply, the Boonton Board of Education submits that the ALJ’s reference to the statutory representation scheme for sending-receiving districts has no bearing on the statutory criteria for severance—which is the question before the Commissioner—and reiterates that, in any event, the referenced scheme has already been challenged and upheld in federal court.² (Boonton Reply at 1)

Upon review and consideration, the Commissioner determines to accept the recommendation of the ALJ that the parties’ application for severance not be granted,

² See ALJ’s Report at 9.

and does so expressly based upon the finding—well supported in the record—that Boonton would suffer a substantial negative educational impact if it were to lose the high school students from Lincoln Park. As the ALJ properly found, the Commissioner may not collectively weigh the overall positive and negative impacts of the criteria for grant of severance and conclude thereby that a positive impact in one category outweighs a negative impact in another; nor may the Commissioner consider the impact on one district without regard to the impact on the other, as Lincoln Park appears to suggest in its comments. (*Englewood, supra* at 462; Report at 12-14) In this latter regard, it is not enough for Lincoln Park to contend that— notwithstanding the evidence on record to the contrary—Boonton “should” be able to remain viable because small schools can be successful, and because districts are required in other circumstances to make programmatic reductions as a result of fiscal constraints.

Having so found, the Commissioner declines to reach the remainder of the ALJ’s Report³, which summarizes testimony with regard to financial impact without making findings or a recommendation, and makes conclusions with regard to racial impact with which the Commissioner is reluctant to concur on the present record – particularly without benefit of meaningful adversarial perspective.

Accordingly, the Commissioner concurs with the recommended conclusion of the OAL that the parties’ application for severance of their sending-receiving relationship must be denied for failure to meet the criteria of *N.J.S.A.* 18A:38-13. To the extent that the ALJ criticizes the general statutory scheme for

³ The ALJ’s Report notes, at page 9, footnote 5, that an appeal of the referenced decision regarding inclusion of legal fees and costs in tuition assessments “is presently pending in the Superior Court, Appellate Division.” This appeal was decided on May 25, 2005, A-2155-03T3, and affirmed the November 5, 2003 decision of the State Board of Education.

representation of sending districts on receiving boards of education and suggests that the Commissioner remedy its “gross inequity” (Report at 23), the application of *N.J.S.A. 18A:38-8.1 et seq.* is neither before the Commissioner in the present matter nor appropriately addressed in the context of a request for severance pursuant to *N.J.S.A. 18A:38-13*; moreover, perceived inequities in the composition of local district boards of education are first and foremost a matter of State policy to be addressed by the Legislature.⁴

IT IS SO ORDERED.⁵

ACTING COMMISSIONER OF EDUCATION

Date of Decision: April 25, 2006

Date of Mailing: April 25, 2006

⁴ See, for example, *N.J.S.A. 18A:38-8.4 (P.L. 1999, c. 414)* and the sponsor and committee statements thereto.

⁵ 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.*