

SB #18-98

IN THE MATTER OF THE GRANT OF :
THE CHARTER SCHOOL APPLICATION : STATE BOARD OF EDUCATION
OF THE EAST ORANGE COMMUNITY : DECISION
CHARTER SCHOOL, ESSEX COUNTY. :

Decided by the Commissioner of Education, January 21, 1998

For the Appellant, McOmber & McOmber (Arsen Zartarian, Esq., of Counsel)

For the Respondent, Robert Taylor, Esq.

For the Participant Commissioner of Education, Arlene G. Lutz, Deputy
Attorney General (Peter Verniero, Attorney General of New Jersey)

This is one of fourteen appeals from contingent approvals given by the Commissioner of Education to applications submitted to obtain charters to operate charter schools pursuant to the Charter School Program Act of 1995, N.J.S.A. 18A:36A-1 et seq. We have presumed the validity of the statute and implementing regulations for purposes of determining whether a specific applicant should be permitted to proceed in this process. Hence, for purposes of this review, we have focused on whether the appeal raises concerns of such character as to preclude the grant of a charter or has revealed circumstances which must be addressed before the proposed school can become operational.

In support of its appeal, the Board of Education of the City of East Orange (hereinafter "Board") contends that the Commissioner's decision should be reversed

because, contrary to the Charter School Act's intent, the proposed East Orange Community Charter School is offering only a "back to basics" program and is not encouraging different and innovative learning methods. The Board also argues that the proposed school is impermissibly entangled with the East Orange Child Development Corporation and that the Charter School Act violates due process because it makes no provision for a hearing before the State Board rules on an appeal from the Commissioner's approval of a charter school application. The Board further contends that the regulations adopted by the State Board are deficient in that they provide no standards for the evaluation of charter school applications. It also maintains that the Charter School Act violates the Equal Protection Clause of the New Jersey Constitution because it exempts charter schools from rules applicable to other public schools without considering the financial, racial and educational impact of the grant of a charter on those other public schools.

We find that the Board has not shown that the substance of the proposed East Orange Community Charter School's application is such that we should set aside the Commissioner's determination that it may continue the process which would allow it to become operative if the Commissioner grants it final approval.

Margaret M. Bennett abstained.

April 1, 1998

Date of mailing _____