

IN THE MATTER OF THE DENIAL OF :
THE CHARTER SCHOOL APPLICATION : STATE BOARD OF EDUCATION
OF THE JERSEY SHORE CHARTER : DECISION ON MOTION
SCHOOL, MONMOUTH COUNTY. :

Decided by the Commissioner of Education, January 11, 2002

For the Appellant, Kathleen Devine, pro se

For the Respondent West Long Branch Board of Education, Wilentz, Goldman &
Spitzer (Viola S. Lordi, Esq., of Counsel)

On January 18, 2002, Kathleen Devine filed an appeal to the State Board of Education from a determination of the Commissioner of Education rejecting the application of the proposed Jersey Shore Charter School to operate a charter school pursuant to the Charter School Program Act of 1995. On February 22, 2002, the West Long Branch Board of Education, one of the districts comprising the region of residence of the proposed charter school, filed a motion with the State Board to intervene or, in the alternative, to participate in the appeal.

As set forth below, under the statutory scheme and implementing regulations, the district boards of education comprising the district or region of residence of a proposed charter school are without question party respondents to the proposed school's appeal to the State Board from the denial of a charter.

The Charter School Program Act and the implementing regulations expressly provide for the participation of a district board included in the proposed charter school's district or region of residence in the application approval process. More specifically, an application to establish a charter school must be submitted to the district board, which "shall review the application and forward a recommendation to the Commissioner..." N.J.S.A. 18A:36A-4c. The regulations implementing the statute provide that the Commissioner may approve or deny an application "after review of the application submitted by an eligible applicant and the recommendation(s) from the district board(s) of education...of the district of residence of the proposed charter school." N.J.A.C. 6A:11-2.1(a). Hence, the statute affords the district board the opportunity to provide the Commissioner with its recommendation on the application, and the Commissioner is required to review that recommendation in determining whether to approve the application. We stress, in addition, that the district board is authorized to appeal the Commissioner's decision on the application to the State Board. N.J.S.A. 18A:36A-4d.

Given the foregoing, it is evident that a district board of education in the proposed charter school's district or region of residence is a party respondent to an appeal by the proposed school from a decision of the Commissioner rejecting its application. Consequently, the West Long Branch Board and the other district boards comprising the region of residence of the proposed Jersey Shore Charter School are party respondents to the instant appeal.¹ Having clarified the status of district boards, it is not necessary to

¹ The districts comprising the region of residence of the proposed charter school are Eatontown, Oceanport and West Long Branch. The appellant complied with the regulation requiring that all parties be served with a copy of the notice of appeal, N.J.A.C. 6A:4-1.6(a), by serving the superintendents of each of those districts with a copy of her notice.

confer the status of participant or intervenor on the West Long Branch Board since it is a party respondent to this matter.

April 3, 2002

Date of mailing _____