

#298-14 (OAL Decision: http://njlaw.rutgers.edu/collections/oal/html/initial/edu5340-12_1.html)
(DOE Decision: <http://www.state.nj.us/education/legal/commissioner/2014/apr/162-14.pdf>)

BOARD OF EDUCATION OF THE BOROUGH :
OF INTERLAKEN, MONMOUTH COUNTY, :

PETITIONER, :

V. :

BOARD OF EDUCATION OF THE CITY OF :
ASBURY PARK, MONMOUTH COUNTY, :
BOARD OF EDUCATION OF THE BOROUGH OF :
WEST LONG BRANCH, MONMOUTH COUNTY, :
AND BOARD OF EDUCATION OF THE :
SHORE REGIONAL SCHOOL DISTRICT, :
MONMOUTH COUNTY, :

RESPONDENTS. :

AND :

M.L., on behalf of minor children, J.F. and D.F.; :
E.O. and B.O., on behalf of minor children, D.O. :
and G.O.; J.P. and M.P., on behalf of minor children, :
A.P. and M.P.; and L.R. and M.R., on behalf of :
minor children, S.R. and F.R., :

PETITIONERS, :

V. :

BOARD OF EDUCATION OF THE BOROUGH :
OF INTERLAKEN, MONMOUTH COUNTY; :
BOARD OF EDUCATION OF THE CITY OF :
ASBURY PARK, MONMOUTH COUNTY; :
BOARD OF EDUCATION OF THE BOROUGH OF :
WEST LONG BRANCH, MONMOUTH COUNTY; :
AND BOARD OF EDUCATION OF THE :
SHORE REGIONAL SCHOOL DISTRICT, :
MONMOUTH COUNTY, :

RESPONDENTS. :

SYNOPSIS

This consolidated matter involves an application to change where the Borough of Interlaken – a non-operating school district – sends its pre-K through 12th grade students to receive a public education. The Interlaken Board of Education (Interlaken) filed a petition of appeal in April 2012 which sought to sever

its send-receive relationship with the Asbury Park Board of Education (Asbury Park), and permission to establish send-receive relationships with the West Long Branch and Shore Regional Boards of Education (*Interlaken I*). Petitioner also sought and received an order permitting those Interlaken students who were registered to attend school in West Long Branch and/or Shore Regional – as of the date of the order – to attend school in those districts pending the final outcome of the case. *Interlaken II* was filed by a group of Interlaken parents after this initial order was granted, and sought permission to allow their children to also be registered in West Long Branch and/or Shore Regional. The Commissioner’s Order in *Interlaken II* granted relief to all children residing in the Borough of Interlaken and permitted them to attend school in West Long Branch and Shore Regional pending the final outcome of *Interlaken I*. Subsequently, Asbury Park submitted a letter – in response to a motion for summary decision from petitioners in the now consolidated matter – stating that it did not oppose the severance of its send-receive relationship with Interlaken.

The ALJ found, *inter alia*, that: although there is no party opposing the petitioners’ motion for summary decision, a change in a sending/receiving relationship cannot be made “except upon application made to and approved by the commissioner,” *N.J.S.A. 18A:38-13*; as no facts are contested in this matter, a hearing is not warranted; however, the record must be reviewed to determine if petitioners’ request satisfies the requirements of *N.J.S.A. 18A:38-13*; summary decision is appropriate here as a feasibility study and accompanying certifications and exhibits demonstrate that petitioners have satisfied all of the statutory elements required for severance of the relationship with Asbury Park and entrance into new sending/receiving relationships with the West Long Branch and Shore Regional school districts; the demographic enrollment in Asbury Park schools will not change if severance is granted; dissolution of the sending/receiving relationship and creation of the new relationships will have no negative impact upon the education of students in any of the implicated school districts; and the proposed changes to Interlaken’s sending/receiving relationship will have little financial impact on any of the districts involved, with the exception of a possible tax increase for Interlaken residents. The ALJ concluded that petitioners have satisfied the criteria of *N.J.S.A. 18A:38-13*, and accordingly recommended granting their request to sever the sending/receiving relationship with Asbury Park, and to enter into new sending/receiving relationships with West Long Branch and Shore Regional.

Upon review, the Commissioner found, *inter alia*, that – pursuant to *N.J.A.C. 6A:3-6.1(f)* – there is not a sufficient adversarial perspective in the record for the Commissioner to assess Interlaken’s compliance with *N.J.S.A. 18A:38-13*; and the record does not include a response or opposition to the March 2013 feasibility study that provides the Commissioner with any adversarial perspective on Interlaken’s proposed change in its send-receive relationship. The Commissioner determined that this matter must be treated as an unopposed application for termination and a change in the allocation under *N.J.A.C. 6A:3-6.1*. Accordingly, the Commissioner ordered that the boards of education of Interlaken, Asbury Park, West Long Branch, and Shore Regional shall each, at their next respective public meeting, announce that the record before the Commissioner shall remain open for a period of 20 days from the date of the announcement in order for interested persons or entities to submit written comments to the Commissioner; thereafter, the remaining procedures outlined in *N.J.A.C. 6A:3-6.1* shall be followed.

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.
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July 17, 2014

OAL DKT. NO. EDU 5340-12, 11302-12 (CONSOLIDATED)
AGENCY DKT. NO. 109-4/12, 228-8/12

BOARD OF EDUCATION OF THE BOROUGH :
OF INTERLAKEN, MONMOUTH COUNTY, :

PETITIONER, :

V. :

BOARD OF EDUCATION OF THE CITY OF :
ASBURY PARK, MONMOUTH COUNTY, :
BOARD OF EDUCATION OF THE BOROUGH OF :
WEST LONG BRANCH, MONMOUTH COUNTY, :
AND BOARD OF EDUCATION OF THE :
SHORE REGIONAL SCHOOL DISTRICT, :
MONMOUTH COUNTY, :

COMMISSIONER OF EDUCATION
DECISION

RESPONDENTS. :

AND :

M.L., on behalf of minor children, J.F. and D.F.; :
E.O. and B.O., on behalf of minor children, D.O. :
and G.O.; J.P. and M.P., on behalf of minor children, :
A.P. and M.P.; and L.R. and M.R., on behalf of :
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PETITIONERS, :

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BOARD OF EDUCATION OF THE BOROUGH OF :
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AND BOARD OF EDUCATION OF THE :
SHORE REGIONAL SCHOOL DISTRICT, :
MONMOUTH COUNTY, :

RESPONDENTS. :

The Board of Education of the Borough of Interlaken (Interlaken), having applied
– pursuant to *N.J.S.A.* 18A:38-13 and *N.J.A.C.* 6A:3-6.1 – to the Commissioner of Education for
severance of its send-receive relationship with respondent Asbury Park Board of Education

(Asbury Park) and to establish a send-receive relationship with respondents West Long Branch Board of Education (West Long Branch) and Shore Regional Board of Education (Shore Regional);¹ and

The Boards of Education of Shore Regional and West Long Branch having joined with Interlaken in requesting the establishment of a new sending-receiving relationship between Interlaken and Shore Regional and West Long Branch, and Asbury Park not opposing the termination of the current send-receive relationship; and

Interlaken having conducted a feasibility study in accordance with *N.J.S.A.* 18A:38-13 and *N.J.A.C.* 6A:3-6.1; and

The parties having complied with the public notice and comment provisions outlined in *N.J.A.C.* 6A:3-6.1(b); and

There being no dispute amongst the parties as to certain relevant facts, including that no substantial educational, financial or racial impact will incur to any of the school districts upon severance of the current sending-receiving relationship between Interlaken and Asbury Park or upon establishment of the proposed sending-receiving relationship between Interlaken and Shore Regional and West Long Branch; and

The feasibility study having established to the Commissioner's satisfaction that the withdrawal of the Interlaken students from the Asbury Park School District, and the entry of the Interlaken students into the Shore Regional and West Long Branch School Districts, would cause no substantial negative impact on the educational programs of the school districts or on the quality of education received by the pupils in each of the school districts; and

¹ West Long Branch operates a Pre-K through 8th grade school system and Shore Regional operates a high school for grades 9 through 12.

The feasibility study having further established to the Commissioner's satisfaction that there will be no substantial negative impact on the financial conditions of the school districts; and;

The feasibility study having further established to the Commissioner's satisfaction that there will be no substantial impact on the racial composition of the school districts; and

The Commissioner having received no public comments pursuant to *N.J.A.C. 6A:3-6.1*; now therefore

IT IS ORDERED on this 17 day of July 2014 that – pursuant to *N.J.S.A. 18A:38-13* and *N.J.A.C. 6A:3-6.1* – the application of Interlaken for severance of its send-receive relationship with Asbury Park and to establish send-receive relationship with West Long Branch and Shore Regional, as set forth in its petition of appeal, is APPROVED.

IT IS SO ORDERED.²

ACTING COMMISSIONER OF EDUCATION

Date of Decision: July 17, 2014

Date of Mailing: July 17, 2014

² This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*. (*N.J.S.A. 18A:6-9.1*).