

New Jersey Commissioner of Education

Decision

Board of Education of the City of Absecon,
Atlantic County,

Petitioner,

v.

Board of Education of the City of Pleasantville,
Atlantic County,

Respondent.

Synopsis

Petitioner Absecon Board of Education (Absecon) filed a petition seeking a severance of its sending-receiving relationship with respondent Pleasantville Board of Education (Pleasantville), which provides for Absecon’s high school students to be educated in Pleasantville. Absecon proposed to enter into a sending-receiving relationship with the Greater Egg Harbor Regional School District Board of Education, under which Absecon would send its high school students to Greater Egg Harbor’s Absegami High School (Absegami). Subsequent to transmittal of the matter to the Office of Administrative Law, Pleasantville withdrew its opposition to Absecon’s request for severance of the sending-receiving relationship. The file was returned to the Commissioner as an uncontested case, to proceed according to the procedural requirements set forth in *N.J.A.C. 6A:3-6.1*.

Upon review of the record, the Commissioner found, *inter alia*, that: the criteria for withdrawal from a sending-receiving relationship at the high school level is set forth at *N.J.S.A. 18A:38-13*, and establishes that prior to severance of a relationship, the Commissioner must consider public comment regarding the proposed severance and make an equitable determination that the proposed severance will have no substantial negative impact on the educational programs, finances, and racial composition of the districts; in this case, a feasibility study established that the withdrawal of Absecon’s high school students from Pleasantville would cause no substantial negative educational or financial impact on the two school districts; however, severance of the sending-receiving agreement would have a substantial negative effect on the racial composition of Pleasantville’s student body because, while the proportional change in the racial demographics of the school may seem negligible, it would result in the loss of 50 to 80 percent of Pleasantville’s white population – a significant reduction in the gross number of white students attending Pleasantville. Accordingly, the Commissioner denied Absecon’s application for severance from its sending-receiving relationship with Pleasantville.

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.

New Jersey Commissioner of Education

Final Decision

Board of Education of the City of Absecon,
Atlantic County,

Petitioner,

v.

Board of Education of the City of Pleasantville,
Atlantic County,

Respondent.

In this matter, petitioner Absecon Board of Education (Absecon) filed a petition seeking a severance of the sending-receiving relationship with respondent Pleasantville Board of Education (Pleasantville) which provides for Absecon’s high school students to be educated in Pleasantville. Absecon proposes to enter into a sending-receiving relationship with the Greater Egg Harbor Regional School District Board of Education to send its high school students to Absegami High School (Absegami). After the matter was transmitted to the Office of Administrative Law as a contested case, Pleasantville withdrew its opposition to the request for severance of the sending-receiving relationship. Accordingly, the file was returned to the Commissioner so that it could proceed as an uncontested case, in compliance with the procedural requirements set forth in *N.J.A.C. 6A:3-6.1*.¹

¹ Several months later, Pleasantville advised the Commissioner that it intended to rescind its prior withdrawal of its opposition to the petition for severance of the sending-receiving relationship and

Subsequently, the Commissioner received numerous public comments regarding the proposed severance, from parents, educators, and statewide advocacy groups. Supporters, who consisted mostly of parents with children who reside in Absecon, argue that severance will provide Absecon's students with more academic and extra-curricular opportunities, as Absegami offers more Advanced Placement courses, magnet schools, and sports and clubs. They also expressed concern about student safety and the financial mismanagement at Pleasantville. Finally, supporters contend that lower income and special education students are the most negatively impacted by the current sending-receiving relationship since wealthier families often send their children to private schools, and others compete for slots at choice schools or technical schools.

The comments submitted in opposition to the severance argue that if granted, there will be a significant impact on the racial composition of Pleasantville. One comment submitted by the New Jersey Coalition Against Racial Exclusion, on behalf of parents with children in Pleasantville, faith and community leaders, and the local chapter of the NAACP, strenuously objected to the severance, maintaining that it would completely isolate Pleasantville as a segregated and impoverished district, and would leave its students without any hope of an integrated and inclusive education. Although there are only a small number of Absecon students at issue here, those few students represent a large percentage of the total white population at Pleasantville. Therefore, opponents of the severance emphasize that losing Absecon students will effectively result in Pleasantville becoming an all-minority district. As

reinstate its opposition to its termination. Because the matter was already pending before the Commissioner, however, it has proceeded as an uncontested case.

such, the Commissioner should deny Absecon's application to sever its sending-receiving relationship with Pleasantville.

In response, Absecon maintains that severance of the sending-receiving relationship will not cause a substantial educational, financial, or racial impact. Absecon argues that the loss of its students will cause no educational impact in Pleasantville and will in fact have a positive effect on Absecon's students, especially its 45% economically disadvantaged population, as they are more likely to perform better academically at Absegami. With respect to race, Absecon argues that any racial impact on Pleasantville will be *de minimis* because Absecon's white population represents only about half a percent of Pleasantville's total population, with about 1 white Absecon student in each Pleasantville graduating class of approximately 200 students. Absecon contends that severance of the sending-receiving relationship will not render Pleasantville an all-minority district, as evidenced by the increased white population in Pleasantville's elementary and middle schools. Finally, Absecon maintains that there will be no racial impact on its own students as it has a diverse student body that is made up of 50% minority students, and Absegami is also a diverse school.

Upon a comprehensive review of the record in this matter including the public comments, the feasibility study, the parties' submissions, and the updated enrollment information submitted by Absecon at the Commissioner's request, the Commissioner cannot approve the severance of the sending-receiving agreement between Absecon and Pleasantville. The criteria for withdrawal from a sending-receiving relationship at the high school level is set forth at *N.J.S.A. 18A:38-13*, and establishes that prior to severance of a relationship, the Commissioner will make an equitable determination based on the circumstances, "including the

educational and financial implications for the affected districts, the impact on the quality of education received by pupils, and the effect on the racial composition of the pupil population of the districts.” If there is no substantial negative impact, the Commissioner will grant the requested severance. *N.J.S.A. 18A:38-13*. Here, the Commissioner is satisfied that the withdrawal of Absecon’s high school students from Pleasantville would cause no substantial negative educational or financial impact on the two school districts. However, the removal of Absecon’s high school students from Pleasantville would have a substantial negative effect on the racial composition of Pleasantville.

In 1988, the Commissioner denied a previous request from Absecon to sever the sending-receiving relationship with Pleasantville, finding that the removal of one-third to one-half of the white population at Pleasantville, which had an overwhelming black to white student population ratio, would have a significant negative effect on the racial composition of the school. The Commissioner further explained:

Moreover, the Commissioner finds the true issue in this matter is not what number of whites actually attend the public high school, but rather is what number are eligible to attend. The undisputed operative facts reveal that there are some 350 Absecon students attending a parochial school in the area. Thus, if white residents of Absecon choose to send their children to private schools rather than to the school which is legally designated as the receiving district, their choice of non-attendance should not be expected to result in a state-endorsed policy which would result in total or almost total racial isolation of the school officially designated as the receiving district.

[Board of Education of the City of Absecon v. Board of Education of the City of Pleasantville, Atlantic County, 1988 S.L.D. 1034, 1052 (emphasis in original).]

In affirming the Commissioner's dismissal of this matter, the State Board of Education did not reach the issue of racial impact, and instead based its denial of the sending-receiving relationship on Absecon's failure to propose a new receiving district.

In *Board of Education of the Borough of Englewood Cliffs, Bergen County v. Board of Education of the City of Englewood, Bergen County*, 257 N.J. Super. 413 (App. Div. 1992), severance of Englewood Cliffs' sending-receiving relationship with Englewood – in which Englewood Cliffs sent its high school students to Englewood's high school – was denied because of the substantial negative impact on racial balance and educational quality. Had severance been granted in that case, the percentage of white students at Englewood's high school would have decreased by only 1.6 percent – arguably a negligible or *de minimis* effect on the racial population at Englewood. *Id.* at 439. However, the loss of those 15 white Englewood Cliffs students – considering that Englewood had only 94 white students in total – represented a 16 percent reduction in the overall white population at Englewood, resulting in a significant impact on the racial balance of Englewood's high school. *Ibid.* Additionally, given the trend toward a rapid decline in white student enrollment, withdrawal of the Englewood Cliffs students would have a substantial negative impact on the quality of education because it would be seen as a symbolic loss. *Id.* at 430.

On the other hand, in *Board of Education of the Borough of Longport, Atlantic City v. Board of Education of the City of Atlantic City, Atlantic County and Board of Education of the City of Ocean City, Cape May County*, Commissioner's Decision No. 238-14, dated June 5, 2014, the withdrawal of 9 white Longport students from Atlantic City's high school represented a proportional change of 0.4 percent of the total student body. Those 9 students, in the overall

context of Atlantic City's 442 white students, represented a 2 percent change in the gross population of white students in Atlantic City. *Id.* at 7-8. Considering the circumstances, the Commissioner granted permission for Longport to sever its sending-receiving relationship with Atlantic City, finding that severance would not have a substantial negative impact on the racial composition of Atlantic City's high school. *Id.* at 8-9.

The Commissioner recently applied these concepts and denied the request for limited severance of a sending-receiving relationship proposed in a settlement agreement that was submitted by the Mine Hill Board of Education (Mine Hill) and the Dover Board of Education (Dover). *Board of Education of the Township of Mine Hill, Morris County v. Board of Education of the Town of Dover, Morris County*, Commissioner's Decision No. 9-19, dated January 14, 2019, affirmed, Appellate Division, March 10, 2020. Since 1963, Mine Hill and Dover have had a send-receive relationship in which Mine Hill students in grades seven through twelve are educated in Dover. In the proposed settlement agreement, the parties' sought a modification of their sending-receiving relationship so that Mine Hill's seventh and eighth grade students would be educated in Mine Hill and return to Dover for high school. If the severance were allowed, the loss of Mine Hill students from Dover Middle School would have resulted in a proportional change of only 2.6 to 3 percent of the total student body. *Id.* at 5. However, the loss of 17 of the 38 white students in one of the years at issue would have reduced the gross population of white students at Dover Middle School by 45 percent, a figure that the Commissioner found was not insignificant and could not be ignored. *Id.* at 5-6. Therefore, the Commissioner denied the request for severance, despite the fact that it was supported by both

districts, due to the substantial negative impact severance would have on the racial composition of Dover Middle School.

In the current application, reviewing the enrollment information for the 2019-2020 school year indicates that 26 Absecon students attended Pleasantville, 4 of whom were white, while Pleasantville High School had 5 total white students out of a total student body of 820 students. Given the limited total number of white students in the school compared to the entire student body, removal of the Absecon students would result in a proportional change of less than half a percent of the total student body. However, when considering the gross population of white students, it would result in a loss of 4 of 5 total white students, or an 80 percent reduction in the white population of Pleasantville. Similarly, in the 2021-2022 school year, while the loss of 25 Absecon students, including 6 white students, would result in a proportional change of less than a percent of the student body, the loss of 6 out of 11 white students would result in a 54.5 percent reduction in the gross population of white students at Pleasantville.

The Commissioner cannot find that the loss of 50 to 80 percent of Pleasantville's white population is insignificant. The loss of 50 to 80 percent of the white population is larger than the 45 percent loss in *Mine Hill* or the 16 percent loss in *Englewood Cliffs*, both of which resulted in denial of the applications for severance. While the proportional change of less than a percent may seem *de minimis* given the few Absecon students leaving Pleasantville, the Commissioner cannot ignore the substantial negative effect withdrawal would have on the gross population of white students at Pleasantville.

Accordingly, Absecon's application for severance of the sending-receiving relationship with Pleasantville is denied due to the substantial negative impact severance would have on the racial composition of Pleasantville.

IT IS SO ORDERED.²


ANGELINA ALLEN MCMILLAN, J.D.
ACTING COMMISSIONER OF EDUCATION

Date of Decision: May 25, 2022
Date of Mailing: May 25, 2022

² This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A.* 18A:6-9.1. Under *N.J.Ct.R.* 2:4-1(b), a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.