

March 4, 1997

Vincent J. Occhino
Board Secretary
Board of Education of Highland Park
435 Mansfield Street
Highland, NJ 08904

Andrew C. Fisk
Greater Brunswick Regional Charter School
124 VanLien Avenue
Milltown, NJ 08850-1023

Dear Mr. Occhino and Mr. Fisk:

IN THE MATTER OF THE GRANT OF THE CHARTER APPLICATION OF THE
GREATER BRUNSWICK REGIONAL CHARTER SCHOOL, MIDDLESEX COUNTY,
STATE BOARD DOCKET #21-97

This appeal was initiated by a letter filed on February 25, 1997 by the Board Secretary of the Board of Education of Highland Park (hereinafter "Board") appealing from a determination of the Commissioner of Education made pursuant to N.J.S.A. 18A:36A-1 et seq. to grant a charter to the Greater Brunswick Regional Charter School (hereinafter "charter school").

On March 3, 1997, Andrew Fisk, Chairman of the Interim Board of Trustees of the charter school, filed a motion to dismiss the appeal. The charter school sought the State Board's determination of this issue on an emergent basis.

The charter school asserts that the State Board does not have the jurisdiction to consider the Board's appeal because it was not filed within thirty days of the Commissioner's determination as required by N.J.S.A. 18A:6-28. The charter school contends that the operative date for determining the timeliness of this appeal should be January 14, 1997, the date on which the Commissioner and the Governor publicly announced the successful school charter applicants.

Initially, we agree that N.J.S.A. 18A:6-28 is applicable in determining the timeliness of an appeal made pursuant to N.J.S.A. 18A:36A-4(d) from the grant of a charter. However, after carefully reviewing the Board's letter to us, the papers filed by Mr. Fisk

on behalf of the charter school, and the record transmitted to us on behalf of the Commissioner, the State Board of Education denies the motion to dismiss.

The Commissioner's letter to us of February 27, 1997, which accompanied the record, expressly states that his decision to approve the application in this case was made on January 31, 1997. This is consistent with the fact that the only document in the record which sets forth the Commissioner's determination to grant the charter is his letter to Mr. Fisk of January 31. In point of fact, there is nothing in the record provided to us on behalf of the Commissioner which relates to any announcement of the grant of a charter on January 14.

In this respect, we find that the packet of materials which the Board received on February 17 did not constitute adequate notice that the Commissioner had made a final determination in this matter. That packet included only a general memorandum from the Commissioner directed to all chief school administrators and district board presidents, a general press release and a list from the Office of Innovative Programs of "New Jersey Charter Schools Approved January 1997." We would hesitate to consider such materials as constituting sufficient notice to bar an appeal such as involved here. Our conclusion is reinforced both by the fact that the only notice letter from the Commissioner was on January 31, 1997, and the fact that this letter indicated that the approval "announced" on January 14 "was contingent upon receipt of outstanding documentation not included in your application." A list of the required documentation, which included bylaws and a building lease, was enclosed with that letter.

Accordingly, on the basis of the record before us, we find that the operative date for determining the timeliness of the appeal involved here is January 31, 1997. That being the case, there is no question that the Board's appeal of February 25, 1997 is timely.

Finally, we deny that portion of the charter school's motion which would compel the State Board of Education to decide the merits of this appeal at our March 5 meeting. However, in order to enable the State Board to consider the merits as expeditiously as possible, all parties to this matter should make their submissions in accordance with the schedule we previously established.

Sincerely,

Robert A. Woodruff, President
State Board of Education

Maud Dahme, Chairperson
Legal Committee of the State Board

c: Members, State Board of Education
John F. Donahue, Board Secretary, New Brunswick
Carolyn B. Joseph, Board Secretary, Milltown
Daniel P. Michaud, Board Secretary, Edison Township
Nancy Kaplen, DAG
Dr. Mary Jean Guidette

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