

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. :

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RESPONDENTS. :

\_\_\_\_\_ :

COMMISSIONER OF EDUCATION  
DECISION

SYNOPSIS

This consolidated matter involves an application to change where the Borough of Interlaken – a non-operating school district – sends its pre-K through 12<sup>th</sup> 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.

<p>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.</p>
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April 21, 2014

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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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SHORE REGIONAL SCHOOL DISTRICT, :  
MONMOUTH COUNTY, :

RESPONDENTS. :

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions to the Initial Decision.

This consolidated matter involves an application to change where the Borough of Interlaken, a non-operating district, sends its students to be educated from pre-K through 12<sup>th</sup> grade.<sup>1</sup> In April 2012, the Interlaken Board of Education (Interlaken) filed a petition of appeal seeking severance of its send-receive relationship with respondent Asbury Park Board of Education (Asbury Park), and the Commissioner's permission to establish send-receive relationships with the respondents West Long Branch Board of Education (West Long Branch) and Shore Regional Board of Education (Shore Regional). Interlaken also filed a motion for emergent relief seeking an order permitting those Interlaken students who were registered to attend school in West Long Branch and/or Shore Regional to continue attending school in those districts pending the final outcome of the petition. On June 14, 2012, Interlaken's request for emergent relief was granted by the Commissioner (*Interlaken I*).

In August 2012, M.L., on behalf of minor children, J.F. and D.F., et. als. (parent petitioners), filed a petition of appeal and a motion for emergent relief (*Interlaken II*). The parent petitioners were the parents of minor children who resided in Interlaken but who had not registered to send their children to West Long Branch or Shore Regional prior to the Order in *Interlaken I*. The parent petitioners sought emergent relief from the Commissioner to allow their children to register in West Long Branch and/or Shore Regional pending the final outcome of *Interlaken I*. On August 30, 2012, the Commissioner issued an Order in *Interlaken II* granting relief to all children residing in Interlaken and permitting them to attend school in West Long

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<sup>1</sup> The procedural history is thoroughly outlined in the Initial Decision and will not be fully repeated here.

Branch and Shore Regional pending the final outcome of *Interlaken I*. On January 9, 2013, *Interlaken I* and *Interlaken II* were consolidated.

After the cases were consolidated, Interlaken filed a motion for summary decision seeking to sever its current relationship with Asbury Park and to enter into a new send-receive relationship with West Long Branch and Shore Regional. The motion for summary decision included a feasibility study, dated March 2013, that was conducted on behalf of Interlaken. This study evaluated the potential educational, financial and racial implications that Interlaken's request would have on each of the districts. The parent petitioners joined Interlaken in its request for summary decision, and neither West Long Branch nor Shore Regional opposed the motion. Additionally, Asbury Park submitted a response to the motion for summary decision at the OAL, stating that it no longer opposed the severance of the send-receive relationship. The Administrative Law Judge determined that there was no substantial negative impact on the districts under *N.J.S.A. 18A:38-13*, and recommended granting Interlaken's request to sever its current relationship with Asbury Park and enter into a new send-receive relationship with West Long Branch and Shore Regional.

In accordance with *N.J.A.C. 6A:3-6.1(f)*, the Commissioner finds that 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*. Although Asbury Park opposed the requests for emergent relief made by Interlaken and the parent petitioners, Asbury Park withdrew its opposition to the severance of the sending-receiving relationship at the OAL. As a result, the record before the Commissioner 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.<sup>2</sup> Therefore, each of the district boards of education must follow the process set forth in *N.J.A.C.* 6A:3-6.1 before Interlaken's application to sever its current relationship with Asbury Park and enter into a new send-receive relationship with West Long Branch and Shore Regional can be granted.

Accordingly, this matter will now be treated as an unopposed application for termination and a change in allocation under *N.J.A.C.* 6A:3-6.1. At the next public meeting of each board of education, Interlaken, Asbury Park, West Long Branch and Shore Regional shall 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.

IT IS SO ORDERED.<sup>3</sup>

ACTING COMMISSIONER OF EDUCATION

Date of Decision: April 21, 2014

Date of Mailing: April 22, 2014

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<sup>2</sup> The petitions of appeal requesting emergent relief in *Interlaken I* and *Interlaken II* were filed prior to the completion of the March 2013 feasibility study.

<sup>3</sup> This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L.* 2008, *c.* 36 (*N.J.S.A.* 18A:6-9.1).