

27-18 (OAL Decision: Not available online)

BOARD OF EDUCATION OF THE TOWNSHIP :  
OF MINE HILL, MORRIS COUNTY, :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
: DECISION  
BOARD OF EDUCATION OF THE TOWN OF :  
DOVER, MORRIS COUNTY, :  
RESPONDENT. :

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SYNOPSIS

Petitioning Mine Hill Board of Education sought a limited severance of its sending-receiving relationship with the respondent Dover Board of Education in order to educate petitioner's seventh and eighth grade students in the Mine Hill school district. Petitioner proposed a two-year phase out program, beginning with the seventh grade class in the 2017-2018 school year, followed by the eighth grade class in the 2018-2019 school year. The petitioning Board did not seek any change to the sending-receiving relationship for Mine Hill students in the ninth through twelfth grades. The matter was transmitted to the OAL as a contested case.

The ALJ found that: subsequent to the transmittal of the matter to the OAL, the parties proposed a settlement agreement in which the parties agreed that petitioner would educate its seventh and eighth grade students in Mine Hill beginning in the 2018-2019 school year; the parties voluntarily agreed to the settlement; the settlement fully disposed of all issues in the petition, and is consistent with the law. The ALJ concluded that the agreement met the requirements of *N.J.A.C. 1:1-19.1*, and should be approved. Accordingly, the ALJ ordered that the parties comply with the terms of the settlement.

Upon comprehensive review of the record, the Commissioner rejected the Initial Decision, finding that the statutory criteria for adjudicating the termination of sending-receiving relationships are set forth in *N.J.S.A. 18A:38-13*, and the procedural requirements for same are set forth in *N.J.A.C. 6A:3-6.1*. In that the procedural rules governing uncontested applications for severance apply in this case, the Commissioner declined to permit severance at this time, and instead ordered further proceedings in accordance with the procedural rules so that the parties' now-mutual application can be properly assessed under the standard prescribed by law.

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.

February 9, 2018

OAL DKT. NO. EDU 05427-17  
AGENCY DKT. NO. 60-3/17

BOARD OF EDUCATION OF THE TOWNSHIP	:	
OF MINE HILL, MORRIS COUNTY,	:	
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PETITIONER,	:	COMMISSIONER OF EDUCATION
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Petitioner Mine Hill Board of Education filed a petition seeking a limited severance of the sending-receiving relationship with respondent Dover Board of Education so that petitioner’s seventh and eighth grade students would be educated in Mine Hill. Petitioner proposed a two-year phase out program beginning with the seventh grade class in the 2017-18 school year, followed by the eighth grade class in the 2018-19 school year. Petitioner did not seek to terminate the parties’ sending-receiving relationship for Mine Hill’s ninth through twelfth grade classes which would continue to attend school in Dover. After the matter was transmitted to the Office of Administrative Law (OAL) as a contested case, the parties proposed a settlement agreement in which the parties agreed that petitioner would educate its seventh and eighth grade students in Mine Hill beginning in the 2018-19 school year. The Administrative Law Judge (ALJ) recommended approval of the settlement.

The record, proposed settlement agreement, and Initial Decision issued by the OAL, pursuant to *N.J.A.C.* 1:1-19.1, have been reviewed. Upon review, the Commissioner notes that the statutory criteria for adjudicating the termination of sending-receiving relationships are enumerated in *N.J.S.A.* 18A:38-13. The party proposing the severance must provide the Commissioner with a thorough feasibility study which addresses the educational and financial implications, the impact on the quality of education, and the effect on the racial composition of the pupil population for each of the districts. *Ibid.* After consideration of the circumstances, the Commissioner must make an equitable determination. *Ibid.*

Also governing any application for severance of a sending-receiving relationship are the procedural requirements in *N.J.A.C. 6A:3-6.1*. Pursuant to *N.J.A.C. 6A:3-6.1(f)*, when an application is initially contested, but – either prior to or after transmittal to the OAL – the parties settle and no longer oppose the application for severance, the process set forth for uncontested severance of sending-receiving relationship matters must be followed. Under *N.J.A.C. 6A:3-6.1(b)*, the Commissioner must notify the petitioning and respondent boards of education, who – at their next public meetings – “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 that interested persons or entities may submit written comments to the Commissioner.”<sup>1</sup> *N.J.A.C. 6A:3-6.1(b)* and (c) contain further instructions about the information to be included in the announcements by the respective boards of education, and the nature and purpose of the comments. Certifications indicating the dates and contents of the boards’ announcements are required to be filed with the Commissioner within ten days of the publishing of the announcements, pursuant to *N.J.A.C. 6A:3-6.1(b)(1)*.

At the end of the 20-day comment period, the boards of education who are parties to the severance application have 20 days to serve responses upon the Commissioner and all other parties. *N.J.A.C. 6A:3-6.1(d)*. Thereafter, it is within the Commissioner’s discretion to direct further proceedings or make a determination. *N.J.A.C. 6A:3-6.1(e)*.

In accordance with the foregoing, the Commissioner rejects the Initial Decision of the OAL. The parties are directed to make the announcements mandated by *N.J.A.C. 6A:3-6.1(b)*, and to submit to the Commissioner the certifications required by same.

IT IS SO ORDERED.<sup>2</sup>

ACTING COMMISSIONER OF EDUCATION

Date of Decision: February 9, 2018  
Date of Mailing: February 9, 2018

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<sup>1</sup> The Commissioner has already received a packet of twelve comments from Mine Hill parents and students.

<sup>2</sup> 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)*.