

SB #2-03

IN THE MATTER OF THE WITHDRAWAL :
OF THE NORTH HALEDON SCHOOL : STATE BOARD OF EDUCATION
DISTRICT FROM THE PASSAIC COUNTY : DECISION
MANCHESTER REGIONAL HIGH SCHOOL :
DISTRICT, PASSAIC COUNTY. :

Decided by the Commissioner of Education, December 17, 2002

Decision on motion by the State Board of Education, March 5, 2003

For the Appellant, Fogarty & Hara (Rodney T. Hara, Esq., of Counsel)

For the Respondent Board of Education of the Borough of Haledon,
Schwartz, Simon, Edelstein, Celso & Kessler (Allan P. Dzwilewski,
Esq., of Counsel)

For the Respondent Board of Education of the Borough of North Haledon,
Porzio, Bromberg & Newman, P.C. (Vito A. Gagliardi, Jr., Esq., of
Counsel)

For the Respondent Board of Education of the Borough of Prospect Park,
Anthony Sartori, Esq.

For the Respondent Commissioner of Education, Allison Colsey Eck,
Deputy Attorney General (Peter C. Harvey, Attorney General of
New Jersey)

On February 7, 2002, a Board of Review granted a petition filed by the North Haledon Board of Education seeking approval to conduct a voter referendum on whether North Haledon should be permitted to withdraw from the Passaic County

Manchester Regional High School District over a three-year period.¹ The Board of Education of the Manchester Regional High School District (hereinafter “Regional Board”) appealed the Board of Review’s decision to the Appellate Division.²

While the appeal from the Board of Review’s decision was pending before the Appellate Division, the voters approved North Haledon’s withdrawal from the Regional District, and on December 17, 2002, the Commissioner established July 1, 2003 as the effective date for the withdrawal.

On January 17, 2003, the Regional Board appealed to the State Board of Education from the Commissioner’s determination of the date for withdrawal.

On May 15, 2003, the Appellate Division rendered its decision resolving the Regional Board’s appeal from the Board of Review’s determination authorizing submission to the voters of the question of whether North Haledon should be permitted to withdraw from the Regional District.³ In re North Haledon School Dist., ___ N.J. Super. ___ (App. Div. 2003). The Appellate Division found that the racial diversity of the Regional District would be negatively affected by North Haledon’s withdrawal. Citing Englewood Cliffs v. Englewood, 257 N.J. Super. 413 (App. Div. 1992), the Appellate Division concluded that the loss of 9% of the Regional District’s white population which would result from North Haledon’s withdrawal would not constitute a

¹ A Board of Review consists of the Commissioner of Education, who serves as the chairperson, a member of the State Board of Education appointed by the president, the State Treasurer or his designee, and the Director of the Division of Local Government Services in the Department of Community Affairs. N.J.S.A. 18A:13-56.

² Appeals challenging the Board of Review’s decision also were filed by the Haledon Board of Education, the Borough of Haledon, the Prospect Park Board of Education and the Borough of Prospect Park. The Appellate Division consolidated these appeals with the appeal filed by the Regional Board challenging the language of the voter referendum approving the withdrawal.

³ See, supra, note 2.

negligible educational impact. The Appellate Division found that when this loss was coupled with the demographic data showing a substantial increase in the non-white population of the other constituent municipalities, “the Board of Review misperceived not only the impact on the racial diversity of the school by withdrawal of North Haledon students but also its obligation to refrain from actions which will exacerbate racial imbalance.” North Haledon, supra, slip op. at 20. The Court therefore reversed the Board of Review’s determination permitting the referendum.

As a consequence of the Appellate Division’s decision, the referendum approving North Haledon’s withdrawal is without effect. Hence, the Regional Board’s challenge to the date established by the Commissioner for the withdrawal is moot, and the State Board of Education dismisses the appeal in this matter.

July 2, 2003

Date of mailing _____