

#348-15

AGENCY DKT. NO. 66-3/15

IN THE MATTER OF THE PETITION FOR :  
AUTHORIZATION TO ENTER INTO A :  
SENDING-RECEIVING RELATIONSHIP : COMMISSIONER OF EDUCATION  
WITH THE BOARD OF EDUCATION OF THE : DECISION  
BOROUGH OF LAVALLETTE, :  
OCEAN COUNTY. :

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For Petitioner, Board of Education of the Borough of Seaside Park:  
Vito A. Gagliardi, Jr., Esq. (Porzio, Bromberg & Newman, P.C.)

For Respondent, Board of Education of the Borough of Lavallette:  
Joseph F. Betley, Esq. (Capehart & Scatchard, P.A.)

For Respondent, Board of Education of the Toms River Regional Schools:  
Stephan R. Leone, Esq. (Carluccio, Leone, Dimon, Doyle & Sacks, LLC)

Petitioner, the Board of Education of the Borough of Seaside Park (“Seaside Park”) – a non-operating, elementary school district – having applied pursuant to *N.J.S.A.* 18A:38-13 and *N.J.A.C.* 6A:3-6.1<sup>1</sup> to the Commissioner of Education for authorization to enter a sending-receiving relationship with the Board of Education of the Borough of Lavallette (“Lavallette”), while maintaining its already established sending-receiving

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<sup>1</sup> The proposed change in allocation of Seaside Park students could, if authorized, result in at least a partial withdrawal – if not a complete withdrawal – of Seaside Park students from Toms River. Therefore, the requirements of *N.J.S.A.* 18A:38-13 and *N.J.A.C.* 6A:3-6.1 are applicable. See *Board of Education of the Township of Mine Hill v. Board of Education of the Town of Dover*, Commissioner’s Decision No. 510-04, decided December 15, 2004, at 9 (Commissioner determined standards for evaluating requests to withdraw from high school sending-receiving relationships are applicable when evaluating requests to withdraw from elementary school sending-receiving relationships).

relationship with the Board of Education of the Toms River Regional School District (“Toms River”);<sup>2</sup> and

The Commissioner having recognized that the ultimate creation of a dual sending-receiving relationship would allow Seaside Park’s Kindergarten through Grade 6 students to continue attending school at Toms River (Washington Street Elementary through Grade 5 and Toms River Intermediate East for Grade 6)<sup>3</sup> or to attend at Lavallette (Lavallette Elementary through Grade 6) instead; and

The Boards of Education of Lavallette and Toms River not having opposed Seaside Park’s request;<sup>4</sup> and

Seaside Park having conducted a feasibility study in accordance with *N.J.S.A.* 18A:38-13 and *N.J.A.C.* 6A:3-6.1, analyzing the educational, financial and racial impact – on all affected districts – of establishing a dual sending-receiving relationship between Seaside Park and the Boards of Education of Toms River and Lavallette;<sup>5</sup> and

The feasibility study having recommended that Seaside Park be permitted to enter into a dual sending-receiving relationship, as its establishment would not have a substantial negative educational, financial or racial impact on any of the districts involved; and

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<sup>2</sup> In or around 2009, Seaside Park closed its elementary school and entered into a sending-receiving relationship with the Toms River Regional School District, wherein Toms River agreed to educate Seaside Park’s elementary students. Seaside Park’s Grade 7 through 12 students are educated at the Central Regional School District, along with students from Berkeley Township, Island Heights, Ocean Gate, and Seaside Heights.

<sup>3</sup> As of March 2015, 22 out of 387 students enrolled at Washington Street Elementary were from Seaside Park, and just 2 sixth-grade students out of over 1350 students enrolled at Toms River Intermediate School East were from Seaside Park.

<sup>4</sup> Lavallette expressed its support for establishment of the dual sending-receiving relationship – and passed a Board resolution indicating its readiness to receive and educate students from Seaside Park in Grades K through 6. Toms River did not file a formal objection to the petition.

<sup>5</sup> The Toms River Regional School District, a K-12 school district, educates students from Seaside Park, Toms River Township, Beachwood Borough, Pine Beach Borough, and South Toms River Borough. The Lavallette School District educates its Pre-K through 8 students at its only school, Lavallette Elementary.

The parties having complied with the public notice and comment provisions outlined in *N.J.A.C. 6A:3-6.1(b)*; and

There being no dispute amongst the parties as to certain relevant facts, including that no substantial negative educational, financial or racial impact will incur to any of the school districts upon establishment of the proposed sending-receiving relationship between Seaside Park and Lavallette; and

The feasibility study having established to the Commissioner's satisfaction that the withdrawal of some or all of Seaside Park's students from Toms River, and the entry of those students into Lavallette, would cause no substantial negative impact on the educational programs of the school districts or on the quality of education received by the pupils in each of the school districts; and

The feasibility study having further established to the Commissioner's satisfaction that establishment of a sending-receiving relationship between Seaside Park and Lavallette would benefit the residents and students of Seaside Park from an educational perspective by allowing parents and guardians to select from two educational programs which provide students with a thorough and efficient education; and

The feasibility study having further established to the Commissioner's satisfaction that there would be no substantial negative impact on the financial conditions of the affected school districts, even if all Seaside Park students who currently attend school in Toms River decide to enroll at Lavallette at the same time; and

The feasibility study having further established to the Commissioner's satisfaction that there would be no substantial negative impact on the racial composition of any of the school

districts, and that there exists no evidence of any aggravating circumstances that would exacerbate any minimal change in racial composition at the affected districts;<sup>6</sup> and

The Commissioner having also considered the public comments<sup>7</sup> received pursuant to *N.J.A.C.* 6A:3-6.1(b); now, therefore

IT IS ORDERED on this 20th day of October, 2015 that – pursuant to *N.J.S.A.* 18A:38-13 and *N.J.A.C.* 6A:3-6.1 – Seaside Park’s application for authorization to enter into a sending-receiving relationship with Lavallette while also continuing its sending-receiving relationship with Toms River, as set forth in its petition of appeal, is APPROVED, thereby establishing a dual sending-receiving relationship that will permit Seaside Park students in Grades Kindergarten through Six to attend school at either district.

IT IS SO ORDERED.<sup>8</sup>

#### COMMISSIONER OF EDUCATION

Date of Decision:     October 20, 2015  
Date of Mailing:     October 21, 2015

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<sup>6</sup> The feasibility study indicated that the racial composition of students at Toms River and Lavallette is similar and would remain so even if Seaside Park’s petition is granted. If all Seaside Park students had been removed from Washington Street Elementary between 2010 and 2014, the percentage of white students enrolled would have decreased by 0.26 to 1.66 percentage points over the four-year time period; and, if all Seaside Park students had been removed from Toms River Intermediate School East during the same time period, the percentage of white students enrolled would have decreased by only 0.03 to 0.18 percentage points. Finally, if all Seaside Park students had attended Lavallette between 2010 and 2014 (a district which had only 137-168 students enrolled during this time period), the percentage of white students enrolled at Lavallette would have decreased by 2.42 to 4.80 percentage points over four years. It is considered unlikely that all Seaside Park students would enroll at Lavallette at the same time if given the opportunity; thus, any resultant change in racial composition to the districts could be even less than those hypothesized above. Due to Seaside Park’s relatively small K-6 student population (Seaside Park Elementary School “graduated” six students in its last year of operation), a decrease or an increase in Seaside Park’s population in either Toms River or Lavallette will not result in a negative impact on any of the students.

<sup>7</sup> The Commissioner received written comments from the following individuals: 1) William Akers, Mayor of the Borough of Seaside Heights (opposed); 2) Triantafillos Parlapanides, Superintendent of Schools, Central Regional School District (opposed); 3) Kevin O’Shea, Business Administrator and Board Secretary, Central Regional School District (opposed); and 4) Walter G. LaCicero, Mayor of the Borough of Lavallette (in favor).

<sup>8</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)