

SB #13-98

IN THE MATTER OF THE GRANT OF THE:

CHARTER SCHOOL APPLICATION OF : STATE BOARD OF EDUCATION

THE GREATER BRUNSWICK CHARTER : DECISION

SCHOOL, MIDDLESEX COUNTY. :

Decided by the Commissioner of Education, January 21, 1998

For the Appellant, Apruzzese, McDermott, Mastro & Murphy (James L. Plosia, Esq., of Counsel)

For the Respondent, Bucca & Campisano (Benjamin S. Bucca, Jr., Esq., of Counsel)

For the Participant Commissioner of Education, Michelle L. Miller, Deputy Attorney General (Peter Verniero, Attorney General of New Jersey)

This is one of fourteen appeals from contingent approvals given by the Commissioner of Education to applications submitted to obtain charters to operate charter schools pursuant to the Charter School Program Act of 1995, N.J.S.A. 18A:36A-1 et seq. We have presumed the validity of the statute and implementing regulations for purposes of determining whether a specific applicant should be permitted to proceed in this process. Hence, for purposes of this review, we have focused on whether the appeal raises concerns of such character as to preclude the grant of a charter or has revealed circumstances which must be addressed before the proposed school can become operational.

In support of its appeal, the Highland Park Board of Education (hereinafter "Board") contends that the Commissioner's decision should be reversed because the administrative process was flawed and the Commissioner's approval of the application submitted by the proposed Greater Brunswick Charter School was in violation of both statute and regulation. The Board argues that there is no statutory basis for the approval of a regional charter school and that the Commissioner improperly permitted the proposed school to alter its region of residence on the basis of proposed regulations after the application was approved. The Board further argues that the Commissioner failed to consider the financial and racial impact of the proposed school on the district.

We find that the Board has not shown that the substance of the application is such that we should set aside the Commissioner's determination that the proposed charter school may continue the process which would allow it to become operative if the Commissioner grants it final approval. In so concluding, we note that the Board has challenged the Commissioner's subsequent approval of the proposed school's amendment of its region of residence by a separate appeal, which is currently pending before the State Board.

Margaret M. Bennett abstained.

April 1, 1998

Date of mailing _____