

SB #25-98

IN THE MATTER OF THE GRANT OF THE:

CHARTER SCHOOL APPLICATION OF : STATE BOARD OF EDUCATION

THE PATRICK DOUGLAS CHARTER : DECISION

SCHOOL, MONMOUTH COUNTY. :

Decided by the Commissioner of Education, January 21, 1998

For the Appellant, Kenney & Gross (Michael J. Gross, Esq., of Counsel)

For the Respondent, Tammy A. Ward, pro se

For the Participant Commissioner of Education, John K. Worthington, 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 Matawan-Aberdeen Regional School District contends that the Commissioner has exceeded his authority by directing calculation of

the local levy figure on the basis of proposed regulations rather than those now in effect. The District further contends that the Charter School Act and implementing regulations are constitutionally deficient and in violation of the Administrative Procedure Act because they do not provide for a hearing prior to the Commissioner's determination. The District argues that the transfer of funds to the proposed school will cause it to breach its obligation to provide a thorough and efficient education, and that the charter school laws deprive the electorate of the right to vote on an accurate budget, create unfunded State mandates and create an inherent conflict of interest in the Commissioner. The District also maintains that the application in this case is materially defective in that numerous founders are not qualified and because the application fails to address compliance with the desegregation order in effect in the school district.

We find that the Matawan-Aberdeen Regional School District 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. However, the Commissioner should review the racial composition of the student population of the proposed school before granting final approval in order to insure compliance with the desegregation order in effect in the district.

Margaret M. Bennett abstained.

April 1, 1998

Date of mailing _____