

SB #29-01

IN THE MATTER OF THE REVOCATION OF :
THE CHARTER OF THE RUSSELL ACADEMY : STATE BOARD OF EDUCATION
CHARTER SCHOOL, ESSEX COUNTY. : DECISION ON MOTION

Decided by the Commissioner of Education, August 10, 2001

Decision on motion by the Commissioner of Education, August 30, 2001

Decision on motion by the State Board of Education, November 7, 2001

Decided by the State Board of Education, December 5, 2001

For the Appellant, Algeier, Tosti & Woodruff (Robert M. Tosti, Esq., of Counsel)

For the Participant Commissioner of Education, Allison Eck, Deputy Attorney General (David Samson, Attorney General of New Jersey)

On December 5, 2001, the State Board of Education affirmed the Commissioner's determination to revoke the charter of the Russell Academy Charter School ("School"), agreeing with him that the School's persistent deficiencies were serious enough to call for such action. In arriving at our decision we, as had the Commissioner when he denied the motion for stay and reconsideration filed in this matter, assumed without deciding that the newly constituted Board of Trustees of the School had the standing to challenge the Commissioner's determination to revoke the School's charter.

On December 19, 2001, the Deputy Attorney General representing the Commissioner in the appeal filed a motion with the State Board seeking clarification of whether the newly constituted Board of Trustees had the standing to appeal the Commissioner's decision. As we did in our decision of December 5, we decline to decide this issue and, accordingly, deny the motion.

As set forth in our decision, we assumed that the newly constituted Board of Trustees had standing in order to permit us to decide the merits of the appeal. Had we not done so, the revocation at issue would have escaped review. However, such review did not require us to decide the standing issue. Nothing in the papers filed by the Deputy Attorney General representing the Commissioner has changed our view. In this respect, we reject the assertion that a determination of the standing issue in this particular appeal is crucial to ensure that the operation of charter schools in general is conducted in an orderly fashion and that structural changes are effected through a fair and proper process. Letter brief in support of motion, at 4.

March 6, 2002

Date of mailing _____