



State of New Jersey

DEPARTMENT OF EDUCATION

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PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

ANGELICA ALLEN-McMILLAN, Ed.D.
Acting Commissioner

September 22, 2023

Vito Gagliardi, Esq.
Porzio, Bromberg & Newman
100 Southgate Parkway
P.O. Box 1997
Morristown, NJ 07962-1997

Re: September 8, 2023 Amended Petition from the Borough of Sea Bright

Dear Mr. Gagliardi,

I have completed my review of the September 8, 2023 Amended Petition submitted to the New Jersey Department of Education on behalf of the Borough of Sea Bright ("Sea Bright") requesting to form a pre-kindergarten through twelfth grade Regional School District with the Atlantic Highlands and Highlands municipalities, and the responses filed jointly on behalf of the Oceanport Board of Education ("Oceanport") and Shore Regional High School Board of Education ("Shore Regional") and jointly on behalf of Henry Hudson Regional High School District, Atlantic Highlands School District and Highlands School District (collectively "Tri-Districts"). For the following reasons, and in consultation with the Monmouth County Office, Sea Bright's Amended Petition is granted in part and denied in part.

As an initial matter and to clarify the procedural posture, the Petition dated July 15, 2022 and filed on behalf Sea Bright, Henry Hudson Regional High School District, Atlantic Highlands and Highlands is dismissed as moot in light of the light July 21, 2023 decision permitting the Boards of Education of Atlantic Highlands and Highlands to proceed to referendum on forming a pre-kindergarten through grade 12 regional school district.

Sea Bright's Amended Petition filed on September 8, 2023 is granted in part and denied in part. *N.J.S.A. 18A:13-47.1*, et seq. permits a board of education or municipality to request permission from the Commissioner of Education to form or enlarge a regional school district. The request must demonstrate that the withdrawal and formation of a regional school district:

(2) does not, and is not foreseeably likely to, increase or exacerbate the segregation of students by racial, socioeconomic, disability, or English Language Learner status as

determined by the number and percentage of affected students enrolled in the school districts seeking to consolidate or in the regional district or consolidated school district from which a school district is seeking to withdraw;

(3) consolidates school districts that are in close geographic proximity of each other. School districts need not be immediately contiguous as long as any geographic separation is not so large as to contradict the potential for improved efficiency and cost savings;

(4) to the maximum extent practicable, reduces student seat time and transportation costs;

(5) possesses the potential for improved efficiency and cost savings;

(6) possesses the potential to advance an enhanced learning environment for participating school districts;

(7) coordinates curriculum across schools and grades throughout the proposed limited purpose or all purpose regional district; and

(8) reflects a documented commitment from the affected boards of education to make good faith efforts to implement practices that promote efficiency and quality of education. (*N.J.S.A. 18A:13-47.11*).

Oceanport and Shore Regional argue that Sea Bright as a standalone municipality that is part of a consolidated school district lacks standing to pursue withdrawal and request to join a regional school district pursuant to *N.J.S.A. 18A:13-47.1*, et seq. They further argue that it is Oceanport and Shore Regional Boards of Education that are responsible for education the students of Sea Bright, and therefore, only they have standing to seek withdrawal. This reading of the statute belies its clear language. The statute applies not only to boards of education, but also specifically identifies “the governing body of a municipality constituting a constituent district of a limited purpose regional district, part of an all-purpose regional district, or part of a consolidated school district” as governmental bodies that may request withdrawal to join or form an enlarged regional school district. The statute contemplates that a municipality, such as Sea Bright, may seek withdrawal from a regional or consolidated school district. Therefore, Sea Bright has standing to seek withdrawal from Oceanport and Shore Regional in accordance with *N.J.S.A. 18A:13-47.11*.

The relief requested and its timing, however, places this matter in a unique procedural posture. The Petition requests to move forward with a referendum to join a regional school district that does not yet exist and presents alternative relief requests depending upon whether the September 26, 2023 referendum passes or fails. In light of the pending referendum, Sea Bright’s requested relief is premature. If the referendum passes on September 26, 2023, Sea Bright and the newly formed school district may refile a joint request for form an enlarged regional school district. The joint request should

address the requirements of *N.J.S.A. 18A:13-47.1 et seq.*, including revised feasibility study, if necessary, and revised resolutions reflecting this new request. All other requests for relief are denied.

Sincerely,

A handwritten signature in black ink, reading "Angelica Allen-McMillan, Ed.D." in a cursive style.

Angelica Allen-McMillan, Ed.D.
Acting Commissioner

AAM/CH/hl

c: Christopher Irving
Lester V. Richens
Jennifer Simons
Jonathan Busch, Esquire
Isabel Machado, Esquire