



New Jersey School Boards Association

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WEST MORRIS REGIONAL BOARD OF EDUCATION REGIONAL COST APPORTIONMENT ARTICULATION MEETING

**West Morris Central High School
259 Bartley Road
Chester, N.J.
March 22, 2011**

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EVERYTHING YOU WANTED TO KNOW ABOUT CONSOLIDATION/REGIONALIZATION, BUT WERE AFRAID TO ASK

- I. Historical Perspective - Legislative Attempts to Promote Regionalization**
- A. 1871 - Districts less than 45 pupils - No State Aid
 - B. 1893 - Township Act - abolished existing school districts, except cities and boroughs. Township boundaries = school district boundaries
 - C. 1895 - No borough hereinafter created could be a school district unless 400 pupils
 - D. 1900 - Union Graded schools authorized (2 or more districts could unite) - "best interests of children"
 - E. 1931 - 1st true regionalization law – P.L 1931 c. 275, N.J.S.A. 18:8-1 et seq. Permitted all purpose and limited purpose regional districts
 - F. 1954 - Incentive aid to encourage regionalization

Nothing contained in this document should be construed as legal advice. This document is for informational purposes only. Please consult your board attorney for legal advice.

- G. 1975 – Chapter 212 – All regional school districts – costs apportioned by equalized valuation.
- H. 1987 - N.J.S.A. 18A:7A-27.1 – Chapter 212 Incentives to regionalize (1st. 5 districts) – 110% State Aid (Equalization Aid, Debt Service) for 1st five years. Repealed by QEA. (Chatham)
- I. 1993 – N.J.S.A. 18A:7D-37 – QEA Supplemental State Aid. Hold Harmless; difference between sum constituent/regional foundation aid, phase out five year period. Repealed by CEIFA. (Great Meadows, Somerset Hills)
- J. 1993 – N.J.S.A. 18A:13-23, 23.3, 34 – Apportionment of Appropriation – Equalized valuation, pupil counts, combination
- K. 1997- N.J.S.A. 18A:7F-32 – CEIFA continues Supplemental State Aid - Core Curriculum Standards Aid - 5-year phase out - Difference between regional aid and sum of constituent aid. No new regional school districts since 1997. Repealed by SFRA 2008.
1. N.J.S.A. 18A:7F-30 - Consolidation of Services Grant Program
 2. N.J.S.A. 18A:7F-31 - Regionalization Advisory Panel-Report issued January 1998
 3. N.J.S.A. 18A:7F-32 - Continues Supplemental State Aid - Core Curriculum Standards Aid - 5-year phase out - Difference between regional aid and sum of constituent aid. No new regionals.
- L. 1999 Enactments
1. P.L. 1999 c. 61 – Establishes Regional Efficiency Aid Program (REAP) to provide aid to local units that regionalize services – credits on tax bill
 2. P.L. 1999 c. 60 – Establishes Regional Efficiency Development Incentive (REDI) program to provide aid to local units to study regional services
 3. P.L. 1999 c.59 – Permits local units and certain school districts to offer retirement or termination incentives to certain employees affected by regionalization of services
- M. 2007 Enactments
1. P.L. 2007 c. 63 – Uniform Shared Services and Consolidation Act, A-4
N.J.S.A. 18A:7-8 g, h – Executive County Superintendent
 2. P.L. 2007 c. 222 – Permits the consolidation of the boards of education of a county vocational school district and a county special services school

district into one board. (Gloucester, 2008 Salem 6/09)

3. N.J.A.C. 6A:23A – School District Fiscal Accountability, Efficiency and Budget Procedures – Original draft 4/30/08 – P.L. 2008 c. 32 7/7/08 Filings 7/1, 7/15, 8/19 Draft, 11/17 Draft, 12/18. Proposed readoption – posted 5/20/09. Public Hearing Dates – June 18, 19, 22. Public Comment Due – August 14, 2009. Regulations Expire December 28, 2009.
4. N.J.A.C. 6A:23A-2 – Executive County Superintendent of Schools
 - a. Regionalization and Consolidation of Services Advisory Committee
 - b. Consolidation of Administrative Services
 - c. Designation of Lead Administrative Services Providers
 - d. Establishment of New Service Providers, expansion of current services
 - e. Possible Required Consolidation of Administrative Services
 - f. Plan to Eliminate Non-operating School Districts
 - g. Plan to Create All Purpose Regional School Districts – 3/15/10

N. 2009 Enactments

- P.L. 2009, c. 78 6/30/09 – Clarifies the procedure for the elimination of non-operating school districts.

II. Regionalization Reports

- A. New Jersey Regionalization Advisory Panel Report – January 1998
- B. School District Regionalization: Current Status and Issues – Background Paper – Department of Education, November 1998
- C. Assembly Task Force on School District Regionalization, February 1999
- D. 2006 Special Session Joint Legislative Committee – Government Consolidation and Shared Services
- E. A Plan for School District Consolidation in New Jersey – Dr. Ernest Reock – 1995, 1996, 2003
- F. Department of Education Memoranda
 1. Regionalization Support Team Memo – 1999

2. School District Regionalization: Current Status and Issues – Leo Klagholz, Commissioner John Sherry, Assistant Commissioner for Field Services – November 1998
3. Advisory Administrative Procedures, Questions and Answers Concerning the Formation of Regional School Districts – Leo Klagholz, Commissioner, Peter B. Contini, Assistant Commissioner, Division of Field Services, NJDOE – 1997
4. Advisory Administrative Procedures, Questions and Answers Concerning the Formation of Regional School Districts – Dr. Elena Scambio, Assistant Commissioner, Division of Urban and Field Services – October 1993
5. Advisory Administrative Procedures, Questions and Answers Concerning the Formation of Regional School Districts – Walter J. McCarroll, Assistant Commissioner, Division of County and Regional Services – June 1989
6. Questions and Answers about Regional School Districts – Vincent Calabrese – Assistant Commissioner, Division of Finance and Regulatory Services – January 1980
7. Report of the State Committee to Study the Next Steps of Regionalization and Consolidation in the School Districts of New Jersey (Mancuso Report) – April 1969
8. Severing Sending Receiving Relationship Memo – Patricia Horton – Cape May County Superintendent – June 1988

G. Report of NJSBA State Task Force on Regionalization - 1991

III. Formation of Regional Districts - N.J.S.A. 18A:13-34

- A. “If the boards of education of two or more ... districts...and the commissioner...after consultation, study and investigation, shall determine, that it is advisable for such districts to join and create...” No regionalization code exists.
- B. Informal Fact Finding Meeting with Executive County Superintendent(s) Identify issues, discuss process – DOE suggests not subject to OPMA. Consult with your attorney.
- C. Second Fact-Finding Meeting - Executive County Superintendent
 1. Reviews feasibility study process
 2. Identifies fiscal responsibilities of the districts in conducting the study
 3. Requests resolution from each board to proceed

D. Formal Feasibility Study

Analysis of constituent districts, enrollment data and projections, educational plan, racial composition, fiscal information, facilities, effects on existing schools, legal considerations, public awareness/input, transitional budget.

E. Advisory Committee formed – two board members/district, CSA, solicitor/atty., community representatives appointed by each board

1. Selects chairperson
2. Develops plan of action to implement feasibility study
3. Reviews and critiques study as it develops
4. Develops and implements plan to report content and progress of study to respective boards and constituents

F. Formal Feasibility Study to Executive County Superintendent for Review

- Final action on plan, copy of resolution – Each Board

G. Executive County Superintendent submits Request for Approval through Division of Field Services to the Commissioner of Education. Board of Review reviews with recommendation. N.J.S.A. 18A:13-56.

1. If Board of Review (Commissioner, State Board Member, State Treasurer, Director of Division of Local Government Services) indicates plan not feasible, Executive County Superintendent notifies all districts
2. If Board of Review indicates plan is feasible, forwards final report with recommendations to Assistant Commissioner, Division of Field Services

H. If Commissioner approves – Special Election N.J.S.A. 18A:13-34 (4/15 – 12/1, Consider 4 current special election dates, N.J.S.A. 19:60-2 – 4th Tuesday in January, 2nd Tuesday in March, last Tuesday in September, 2nd Tuesday in December)

I. If voters in each potential constituent district approve, N.J.S.A. 18A:13-5, Executive County Superintendent sets date of formation of new regional. N.J.S.A. 18A:13-41

J. Executive County Superintendent appoints the number of qualified members for each constituent district. Number of board seats based on number of residents as

per census. N.J.S.A. 18A:13-36, 37, 38 and N.J.S.A. 18A:13-8.

1. Franklin Twp., Hunterdon County v. Bd. of Ed. of North Hunterdon Regional High School, 74 N.J. 345 (1977). One-man, one-vote principle was applicable to apportionment of regional high school district.
2. Twp. of Marlboro v. Bd. of Ed. of Freehold, 992 F. Supp 756 D.N.J. (1998) 9 F. Supp 2d 500 D.N.J. (1998) N.J.S.A. 18A:13-8 is unconstitutional as applied to a regional high school district with less than nine constituent districts. Contradicts “one person one vote.” Plan approved 6/23/98 – Each board retained a seat, fractionalized voting – 1 vote = 15,602 citizens
3. See Branchburg/Somerville, Lincoln Park – Boonton – sending-receiving

K. First elected members to be elected at next annual election N.J.S.A. 18A:13-39

IV. Membership on Regional Board

A. N.J.S.A. 18A:13-8 Apportionment

1. Nine or less constituent districts – members of board apportioned by Executive County Superintendent according to numbers of inhabitants. Each constituent district has at least one member.
 - Twp. of Marlboro v. Bd. of Ed. of Freehold, 992 F. Supp 756 D.N.J. (1998) 9 F. Supp 2d 500 D.N.J. (1998) N.J.S.A. 18A:13-8 is unconstitutional as applied to a regional high school district with less than nine constituent districts. Contradicts “one person one vote.” Plan approved 6/23/98 – Each board retained a seat, fractionalized voting – 1 vote = 15,602 citizens
2. More than nine constituent districts – members of board apportioned by Executive County Superintendent according to number of inhabitants, through a representative ratio and equal proportions process. Number of constituent districts plus 1. North Hunterdon-Voorhees Regional School District – 13 board members, weighted voting

B. N.J.S.A. 18A:13-9 – Reapportionment - Official promulgation of next Federal census triggers – transmittal to governor – or enlargement of regional.

1. State v. Flemington-Raritan, App. Div. Unpub op. Dkt. No. A-3522-90T5, April 1, 1991
2. Springfield, 1991 S.L.D. 479, aff’d St. Bd. 1991 S.L.D. 2596
3. Northern Burlington County Regional, 372 N.J. Super. 341 (App. Div.

2004) – Use of equal proportions method for reapportionment of seats on nine member board with four constituent districts not improper. State prison inmates could not be counted.

4. Rancocas Valley Regional, 364 N.J. Super. 623 (App. Div. 2003) – Use of equal proportions method for reapportionment of seats among five constituent districts on nine member board was not improper.
 5. 2000 census – 16 regional districts affected – 2002 election
- C. Members continue in office for elected/appointed terms
- D. Increased representation at next annual school election
- E. Commissioner has power to adjust term of office (1 yr.) if disproportionate number of representative up for election
- Pascack Valley, 1991 S.L.D. 519
- F. N.J.S.A. 18A:13-9.1 Special election of board members under certain circumstances

V. **Apportionment of Costs**

- A. 1993 - N.J.S.A. 18A:13-23, 23.3, 34 - Apportionment of Appropriations-must be approved by voters of each constituent municipality
1. Equalized Valuation
 2. Pupil Enrollment
 - Great Meadows Regional (1993) – K-8, Liberty, Independence; 2007 Election to change apportionment; In Re Petition for Authorization to Conduct a Referendum on the Withdrawal of Liberty Township from the Great Meadows Regional School District, App. Div. Dkt. No. A-4783-06T3, April 1, 2009
 - West Windsor-Plainsboro, 2008 School Election, effective 2009-10 school year
 3. Combination
 - Somerset Hills Regional 95/5
 4. Modification of cost apportionment
 - a. Ten years have elapsed since last voter approval
 - b. 10% change in equalized valuation
 - c. 10% change in pupil counts

- d. Enlargement of regional district
 - e. Regional formed prior to 1993 and never changed apportionment
5. Northern Burlington County Regional, 94 N.J.A.R. 2d (EDU) 385
 6. North Haledon v. Manchester Regional, 1996 S.L.D. September 4, St. Bd. aff'g 96 N.J.A.R.2d (EDU) 654. Majority vote in regional not enough. Each constituent district must approve. (North Haledon, Haledon, Prospect Park)
 7. North Haledon/Manchester Regional, 181 N.J. 161 (2004). Because racial imbalance would result, Board of Review should have refused North Haledon's petition to withdraw from regional high school district. 9% decrease in white population was not negligible. Commissioner ordered to develop "equitable cost apportionment" scheme for regional. See also, 363 N.J. Super. 130 (App. Div. 2003)
 8. January 18, 2005. Commissioner orders remedy on Manchester Regional apportionment of costs as per Supreme Court directive – 67% equalized valuation, 33% pupil enrollment. Phase-in over four-year period. (90/10-2005-06, 80/20-2006-07, 2007-08, 67/33-2008-09) Specifically only for Manchester Regional.
 9. February 1, 2006. State Board – Record does not provide a sufficient explanation of the methodology used to develop the Commissioner's revised cost allocation. State Board cannot judge whether allocation fulfils the terms of the New Jersey Supreme Court's remand. Remands to Commissioner with the request that she amplify the record by providing the basis and rationale for the specific determinations set forth in the decision of January 18, 2005. State Board notes that decision arrived at after consultation with representatives of constituent districts, of which no record has been supplied to the State Board. Acting Commissioner not precluded from initiating further proceedings necessary to develop a complete record, including transmittal to the OAL for a hearing.
 10. November 7, 2007. State Board upholds Librera cost allocation pending remand determination. Also, in a separate proceeding, reaffirms decision of February 1, 2006.

VI. Mandated Regionalization - Commissioner may mandate the formation of a regional district N.J.S.A. 18A:4-22, 23

- A. Jenkins v. Morris Twp. School District, 58 N.J. 483 (1971) "single community"
- B. Bd. of Ed. of Borough of Englewood v. Bd. of Ed. of City of Englewood v. Bd. of Ed. of Borough of Tenafly, 257 N.J. Super. 413 (App. Div. 1992), aff'd 132 N.J. 327 (1993) as to study only - no comment on ability to force regionalization

1. single community exists
 2. regionalization is reasonable, feasible, workable
 3. regionalization accomplished without practical upheaval
- C. State Board Decision, 1998 S.L.D. October 7 – Mandatory regionalization not ordered. Continue to explore voluntary alternatives to reduce racial imbalance, aff'd App. Div. 333 N.J. Super. 370 (App. Div. 2000), aff'd as modified 170 N.J. 323 (2002)
- D. Series of decisions – Commissioner ordered to submit magnet program status report, St. Bd. (02:Dec. 4); Prohibition on tuition students lifted, semiannual report May and September, St. Bd. (03:April 12); Commissioner to report semiannually, July and November, St. Bd. (04:May 5); Commissioner report postponed until January 2005, St. Bd. (04:Dec. 1); Commissioner to report at Aug., Nov. meetings, St. Bd. (05:May 4); Commissioner to develop benchmarks to measure racial progress, St. Bd. (05:June1)

VII. Additional Purposes of Regional District N.J.S.A. 18A:13-33

- A. See IV. Formation of Regional Districts
- B. Voters of regional must approve - "majority of the votes cast thereon in the regional"
- C. If limited purpose to all purpose regional - voters of each constituent district must approve.

VIII. Enlargement of Regional District N.J.S.A. 18A:13-5, N.J.S.A. 18A:13-33, N.J.S.A. 18A:13-44

- A. Local district(s) seeking to join and regional district must agree
- B. Commissioner must deem advisable
- C. See III. Formation of Regional Districts
- D. Approval by the voters - Regional district, each proposed new constituent district

IX. Withdrawal from Regional/Dissolution

- A. Withdrawal – Constituent district or Governing Body of constituent district may, by resolution, apply to Executive County Superintendent to investigate advisability of withdrawal. N.J.S.A. 18A:13-51, N.J.A.C. 6A:32-11 et seq.

1. North Haledon/Manchester Regional, 181 N.J. 161 (2004) Because racial imbalance would result, Board of Review should have refused borough's petition to withdraw from regional high school district. 9% decrease in white population was not negligible. See also, 363 N.J. Super. 130 (App. Div. 2003)
 - a. Commissioner orders remedy on apportionment of costs as per Supreme Court directive – 67% equalized valuation, 33% pupil enrollment. (90/10-2005-06, 80/20-2006-07, 2007-08, 67/33-2008-09) Specifically only for Manchester Regional. North Haledon cannot petition for withdrawal because of adverse racial impact. 18A:13-23 does not apply, Commissioner has ability to order cost allocation.
 - b. February 1, 2006. State Board – Record does not provide a sufficient explanation of the methodology used to develop the Commissioner's revised cost allocation. State Board cannot judge whether allocation fulfils the terms of the New Jersey Supreme Court's remand. Remands to Commissioner with the request that she amplify the record by providing the basis and rationale for the specific determinations set forth in the decision of January 18, 2005. State Board notes that decision arrived at after consultation with representatives of constituent districts, of which no record has been supplied to the State Board. Acting Commissioner not precluded from initiating further proceedings necessary to develop a complete record, including transmittal to the OAL for a hearing.
 - c. November 7, 2007. State Board upholds Librera cost allocation pending remand determination. Also, in a separate proceeding reaffirms decision of February 1, 2006.
 2. In Re: Petition for Authorization to Conduct a Referendum on the Withdrawal of Liberty Township from the Great Meadows Regional School District, App. Div. Dkt. No. A-4783-06T3, April 1, 2009
 3. In Re: Petition for Authorization to Conduct a Referendum on the Withdrawal of the Borough of Oradell from the River Dell Regional School District, App. Div. Dkt. No. A-1318-07T1, April 1, 2009
- B. Dissolution – Majority of constituent boards of education and majority of governing bodies may, by separate resolution, apply to Executive County Superintendent to investigate advisability of dissolution. N.J.S.A. 18A:13-51. No dissolution code exists. Statute amended 1995.

1. Union County Regional – 1996
 2. Lower Camden County Regional – 1998
 3. Current Discussions - Central Regional litigation
- C. Executive County Superintendent calls meeting of representatives within 21 days. Meeting may predate adoption of resolutions. N.J.S.A. 18A:13-51
- D. Executive County Superintendent may require feasibility study to determine educational and financial impact. N.J.S.A. 18A:13-52
- E. Executive County Superintendent report due within 60 days of submission of feasibility study. N.J.S.A. 18A:13-52
- F. Petition for withdrawal/dissolution within 30 days of Executive County Superintendent report. N.J.S.A. 18A:13-54
- G. Board of Review decides within 60 days. N.J.S.A. 18A:13-56
- Commissioner, State Board member, State Treasurer, Director of Division of Local Government Services
- H. If granted, date of election fixed by Executive County Superintendent, after conferring with the boards of education of the constituent districts. N.J.S.A. 18A:13-57
1. Withdrawal – constituent, regional as a whole
 2. Dissolution – Majority of individual constituent districts/regional as a whole
- X. Distribution of Assets – Post-Dissolution Case Law**
- A. Union County Regional – 168 N.J. 1 (2001) – Liquid assets to be divided up among two constituent districts that did not receive real estate. Several other pieces of litigation regarding the distribution of assets, including claims by Mountainside and Kenilworth. Commissioner, State Board, Appellate Division decisions.
- B. Where regional district had dissolved, Commissioner, upon remand from New Jersey Supreme Court, adopted ALJ's findings to equitably distribute the regional district's entire amount of its assets and liabilities based upon a formula designed by expert consultant, despite the absence of the proposed distribution in the

referendum for dissolution. (04:Feb. 5, I.M.O. Union County Regional H.S., aff'd St. Bd. 04: August 4)

- C. Lower Camden County Regional - Strict application of the formula in N.J.S.A. 18A:8-24 to determine how best to distribute liquid assets from dissolved regional high school district would be inequitable. The Commissioner and State Board determined that the "liquid assets" of the now-dissolved regional high school district should be distributed solely to the constituent districts of the former regional district that did not receive any distribution of buildings and real estate. Appellate Division agreed. In re Div. of Assets & Liabs. Among the Constituent Dists. of Lower Camden County Reg'l High School Dist. No. 1, 381 N.J. Super. 91 (App. Div. 2005). Petition for certification denied. 186 N.J. 605 (2006)

XI. Employee Pension/Tenure Rights

- A. N.J.S.A. 18A:13-42. H.S., J.H.S. regional formed - Teachers retain pension/tenure rights. Does not apply to Superintendents, H.S., J.H.S. Principals.
- B. N.J.S.A. 18A:13-49. Dissolving local district, joining regional - Principals, teachers, employees continue employment in a regional.
- C. N.J.S.A. 18A:13-64. Withdrawal/Dissolution – All regional employees shall continue in respective withdrawing districts positions. Transfer applications within 45 days. In dissolution all tenure, seniority, pension, leave of absence and other similar benefits preserved in constituent districts.
- D. N.J.S.A. 18A:28-6.1. Discontinuance of school or grades - teaching staff members spending majority of their time in dissolved grades - tenure rights in new district with option of remaining.
- E. N.J.S.A. 18A:28-15. Change in school district government - Teaching staff members' tenure rights unaffected.
- F. N.J.A.C. 6A:32-11.6. Staff tenure and seniority rights – Staff affected by withdrawal shall have protection of tenure and seniority rights in accordance with Staagard v. Contini and Allen v. Clark.
- G. P.L. 1995 c. 294 - N.J.S.A. 18A:6-31.3 et seq. – “New School District” - Terms and conditions of employment from former constituent district with largest number of teaching staff members applies until successor agreement negotiated. Tenure, seniority and contractual rights of all employees preserved.

N.J.S.A. 18A:6-31.3 – As used in this act, “new school district” means a local school district, regional school district, a county vocational school district, a jointure commission, a county special services school district, or an educational services commission. A new school district shall not include a State-

operated school district established by the State Board of Education pursuant to P.L. 1987, c. 399 (C. 18A:7A-34 et seq.)

In the event that the school district of a municipality or districts in a group of municipalities are abolished and a subsequent district formed, the district subsequently formed shall constitute a new school district under this act and the previously existing school district or districts shall be considered the affected or constituent districts under this act.

H. Case Law

1. Staagard v. Contini, 97 N.J.A.R. 2d. (EDU) 217 – Tenure and seniority rights of staff in dissolving regional school district, Union County Regional. Governed by N.J.S.A. 18A:13-64.
2. Balwierzak/Berkeley Heights, 1999 S.L.D. December 8, aff'd St. Bd. 2000 S.L.D. May 3 – Custodian claim of correction on salary guide after transfer pursuant to dissolution of regional district time barred. (UCR)
3. Hammonton, 2000 S.L.D. January 4 – Teacher tenure rights – N.J.S.A. 18A:28-6.1 does not apply when limited purpose regional (LCCR) dissolves.
4. Nadasky/Clark, 2001 S.L.D. July 9 – Claim for reimbursement for unused sick leave by retired employees of constituent district in dissolved regional time barred. (UCR)
5. Allen v. Clark, 2004 S.L.D. April 30, aff'd St. Bd. 2004 S.L.D. September 1 – Payment for unused sick leave contractual benefit not protected by statute (UCR).
6. Lower Camden County Regional, 2005 S.L.D. April 13 – Matter involved tenure and seniority claims of employee and claims of certain non-tenured employees after dissolution. Non-tenured employee in dissolving regional district had no legitimate claim to employment in constituent districts upon dissolution.

XII. NJSBA Policies File Code 9300

- A. **The NJSBA believes** that when districts determine after thorough study that regionalization would provide educational and/or financial benefits to the districts involved, they should be encouraged to regionalize. [Authority: DA 10/79-CR Regionalization, DA 12/80-CR Deregionalization, DA 12/91-1, DA 11/98 SR]
- B. **The NJSBA believes** that the Commissioner of Education and the State Board of Education should be prohibited from ordering the merger, consolidation or regionalization of two or more existing school districts without a prior public

referendum in each of the affected districts approving such action provided that any such legislation should not permit the denial of rights guaranteed under the Constitution of the United States or the State of New Jersey. *[Authority: DA 5/72-1, 1a, DA 10-79-CR Regionalization, DA 12/80-CR Deregionalization, BD 1/81, DA 11/98-CR (School Finance)]*

- C. **The NJSBA believes** that prior to the submission of a regionalization proposal by any district or districts which desire to join with any other district or districts and become an all-purpose or limited-purpose regional school district, all of the districts involved shall be required to participate in a study of the proposed regionalization. The study of the proposed regionalization should include, but not be limited to the following factors: enrollment trends, goals, philosophy, board member apportionment, racial balance, education program, tax rates, and long-range implications of regionalization. All findings and conclusions of the study should be forwarded to the executive county superintendent who should consider these in his/her determination as to the advisability of regionalization. State aid should be provided for regionalization studies. *[Authority: DA 12/80-CR Deregionalization, DA 12/91-1, DA 11/98-CR (School Finance), DA 5/03-SR, DA 5/08-SR]*

SENDING-RECEIVING

I. Creation of Sending-Receiving Relationships

- A. N.J.S.A. 18A:38-11 - Boards without H.S. facilities must designate high school(s) for their pupils
- B. Initial relationship - voluntary - no Commissioner approval required
- C. Contracts vary from relationship to relationship

II. Termination of Sending-Receiving relationship N.J.S.A. 18A:38-13

- A. Petition to Commissioner by either sender, receiver or both
- B. Feasibility study - new receiver indicated
- C. Factors considered
 - 1. educational and financial implications
 - 2. quality of education received by pupils
 - 3. effect on racial composition
- D. Standard - "no substantial negative impact will result"
- E. Cases under amended statute
 - 1. Absecon v. Pleasantville, 1988 S.L.D. 1021, aff'd St. Bd. 1988 S.L.D. 1062, no severance - racial impact
 - 2. Englewood Cliffs v. Englewood v. Tenafly, 1988 S.L.D. 1501, aff'd St. Bd. 1990 S.L.D. 1720, aff'd St. N.J. Super. 413 (App. Div. 1992) aff'd 132 N.J. 327 (1993), 1997 S.L.D. Nov. 5 - St. Bd. seeks Commissioner's report. Report submitted 2/6/97
 - 3. Belmar v. Asbury Park v. South Belmar v. Bradley Beach, 1989 S.L.D. 1880, aff'd St. Bd. 1996 S.L.D. June 5, no severance - racial impact. Motion to Abbreviate the record denied, 1996 S.L.D. Sept. 4, aff'd App. Div. unreported opinion Dkt. No. A-6651-95T3, May 26, 1998
 - 4. Washington Twp. v. Upper Freehold Regional et al., 1989 S.L.D. 2010, severance allowed
 - 5. Merchantville v. Pennsauken, 93 N.J.A.R.2d (EDU) 464, aff'd St. Bd. 1998 S.L.D. Jan. 7, no severance - racial impact, no designated alternative

6. Boonton v. Boonton Twp. and Mt. Lakes, 92 N.J.A.R.2d (EDU) 235, severance allowed
7. Bloomington v. Butler, 94 N.J.A.R.2d (EDU) 553, aff'd St. Bd. 95 N.J.A.R.2d (EDU) 151, severance denied - negatives outweighed positives
8. Lincoln Park v. Boonton, 95 N.J.A.R.2d (EDU) 494, agreement not to dispute requests to withdraw for 2 years unenforceable
9. Ho-Ho-Kus v. Midland Park and No. Highlands, 1996 S.L.D. Aug. 30, severance granted - no substantial negative impact
10. Logan v. Paulsboro, 1996 S.L.D. Nov. 29, severance granted - Stay denied St. Bd. 1997 S.L.D. April 2, appeal dismissed 1998 S.L.D. Jan. 7
11. Plumsted v. Upper Freehold Regional, 1997 S.L.D. Dec. 23, severance granted - no substantial negative impact.
12. Saddle River v. Ramsey and No. Highlands, 1998 S.L.D. August 28, modification of S/R relationship with Ramsey approved, dual relationship created. Students could choose either Ramsey or No. Highlands.
13. Kingsway Regional v. Logan Township, 1998 S.L.D. October 6, severance denied – significant negative educational, financial and racial impact.
14. HiNella v. Collingswood and Oaklyn, 1999 S.L.D. March 23, modification of S/R arrangement – settlement approved. No negative educational, financial or racial composition impact.
15. Winfield v. Rahway, 2000 S.L.D. March 2, Severance of sending-receiving relationship granted. No substantial financial, educational or racial impact. 1.9% decrease in proportion of white student population and 7.9% of gross percentage decrease not significant. See Union County Regional.
16. Mine Hill v. Dover, 2001 S.L.D. February 15, reversed in part, remanded in part, State Board 2001 S.L.D. August 1, Severance of 7th and 8th grade sending-receiving relationship denied. Substantial negative impact on racial balance and quality of education. Commissioner decision on remand 2004 S.L.D. Dec. 15. Standards at elementary level same as standards at high school level. Severance denied. aff'd St. Bd. 2005 S.L.D. May 4
17. Washington Twp. v. Lawrence Twp., 2001 S.L.D. October 17. Severance of sending-receiving relationship granted. No substantial financial, educational or racial impact. Severance not to take effect until receiving district has constructed its own high school.

18. Barnegat v. Southern Regional, 2001 S.L.D. November 2, Severance of sending-receiving relationship granted. No substantial financial, educational or racial impact. Severance not to take effect until receiving district has constructed its own high school.
19. Mountain Lakes v. Boonton, 2002 S.L.D. October 2 – State Board. Where receiver seeks termination, sender bears initial burden of showing that no feasible educational alternative exists, then shifts to receiver.
20. Lincoln Park v. Boonton, 2003 S.L.D. December 23 – Proposed consent order to sever sending-receiving relationship rejected. Record insufficient to determine whether substantial negative impact would result.
21. Boonton and Lincoln Pk. Bds. of Educ., Commr., 06:April 25
Commissioner determines that withdrawal from sending relationship would have a negative educational impact on receiver as majority of high school students come from sending district, even though there would be no negative racial impact on either district. Severance denied.

F. Other relevant statutes

1. N.J.S.A. 18A:38-3.1 Sending-Receiving relationship - Subsequent to termination - minimum 5-year term. Subsequent termination, student at secondary level may continue
2. N.J.S.A. 18A:38-19 Tuition rates - "not in excess of actual cost per pupil" - Commissioner forms - N.J.A.C. 6:20-3.1 et seq.
3. N.J.S.A. 18A:30-20 Additional facilities needed - 10-year agreement to continue relationship - precondition to building facilities
4. N.J.S.A. 18A:38-21 Termination of 10-year agreement - "will not be seriously effected educationally or financially"
5. N.J.S.A. 18A:38-21.1 Termination of school district - sending-receiving relationship without commissioner approval. Recent amendment - P.L. 1996 c.91 (7/26/96)
6. N.J.S.A. 18A:38-8.1 Sending representative on receiving district board of education. Amended by P.L. 1996, c. 100 (8/19/96)
 - a. Lincoln Park v. Boonton, 1997 S.L.D. May 30
 - b. Little Ferry v. Ridgefield Park, 1997 S.L.D. July 24
 - c. Green v. Newton, 1997 S.L.D. Aug. 5

- d. Branchburg v. Somerville, 312 F.3d 614 (3d Cir. 2002) cert. den. 538 U.S. 1032 (2003) State statute limiting representation of township to one member on ten member board of education did not violate the one-person one-vote principle.
- e. Lincoln Park v. Boonton, 301 F.3d 69, 81 (3d Cir. 2002), cert. den. 2003 U. S. LEXIS 270 – Not irrational to limit the power of a sending district’s representation so as to preserve a receiving district’s control over matters that affected the school district as a whole, even where sending students constituted a majority. Rational basis, not strict scrutiny applied. See also, 135 F. Supp. 2d 588 (D. N.J. 2001) and 161 F. Supp 2d 344 (D. N.J. 2001)
- f. Bloomington v. Butler, 2004 S.L.D. June 17 – Reiterates controlling statute and case law – sending representative can vote on non-statutory enumerated matters that encompass internal procedural and organizational board matters only – election of officers, parliamentary items, approval of minutes, etc. See Little Ferry, Green, Lincoln Park.
- g. Somerset Hills, Commr. 06:June 15. Sending district may not appoint “alternate” representative to the receiving board of education to function in the absence of the designated representative.
- h. Evans, St. Bd. 2007:November 7. In light of N.J.S.A. 18A:38-8.1, sending district board members are not entitled to vote on the selection of the board solicitor.
- i. Evans v. Atlantic City, Dkt # 1939-07T3 December 10, 2008, 960 A.2d 768 (App. Div. 2008). Sending district representatives are ineligible to vote on appointment of receiving district's solicitor, because it is not expressly authorized by statute, N.J.S.A. 18A:38-8.1. Legislature intended to limit the eligibility of sending district representative to vote to those matters expressly stated in statute.