

ADAMS GUTIERREZ & LATTIBOUDERE, LLC

The Legal Center

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Attorneys for Petitioner, Keyport Board of Education

KEYPORT BOARD OF EDUCATION,	:	BEFORE THE COMMISSIONER OF
	:	EDUCATION OF THE STATE OF
	:	NEW JERSEY
Petitioner,	:	
	:	
v.	:	OAL Docket No.:
	:	Agency Ref No.:
UNION BEACH BOARD OF	:	
EDUCATION, HAZLET TOWNSHIP	:	
BOARD OF EDUCATION, and	:	
HENRY HUDSON REGIONAL	:	
BOARD OF EDUCATION,	:	
	:	
Respondents.	:	VERIFIED PETITION

Petitioner, Keyport Board of Education (hereinafter referred to as “Petitioner” or “Keyport”), with offices located at 370 Broad Street, Keyport, New Jersey, 07735, hereby requests that the Commissioner of Education (hereinafter referred to as the “Commissioner”) consider a controversy that has arisen between Petitioner and Respondents, the Union Beach Board of Education (hereinafter referred to as “Union Beach”), with offices located at 221 Morningside Avenue, Union Beach, New Jersey 07735; Hazlet Township Board of Education (hereinafter referred to as “Hazlet”), with offices located at 421 Middle Road, Hazlet, New Jersey 07730; and Henry Hudson Regional Board of Education (hereinafter referred to as “Henry Hudson”), with offices located at 1 Grand Tour, Highlands, New Jersey 07732, pursuant to the authority of the Commissioner to hear and determine controversies under the school laws of the State of New Jersey, N.J.S.A. 18A:6-9, by reason of the following facts:

FACTS COMMON TO ALL COUNTS

1. The Petitioner is a public body organized pursuant to N.J.S.A. 18A:1-1 *et. seq.* to operate the Keyport School District (hereinafter referred to as “Keyport”), which is a K-12 school district serving the Borough of Keyport, as well as high school students from Union Beach pursuant to a sending-receiving relationship.

2. Respondent Union Beach is a public body organized pursuant to N.J.S.A. 18A:1-1 *et. seq.* to operate the Union Beach School District, which is a K-8 school district serving the Borough of Union Beach.

3. Respondent Hazlet is a public body organized pursuant to N.J.S.A. 18A:1-1 *et. seq.* to operate the Hazlet Township School District, which is a preschool-12 school district serving Hazlet Township.

4. Respondent Henry Hudson is a public body organized pursuant to N.J.S.A. 18A:1-1 *et. seq.* to operate the Henry Hudson Regional School District, which is a grades 7-12 school district serving the towns of Atlantic Highlands and Highlands.

5. A sending-receiving relationship has existed between Keyport and Union Beach for at least several decades prior to 1964, whereby Union Beach agreed to send its high school students to Petitioner’s Keyport High School. Keyport and Union Beach entered into a written sending-receiving relationship in 1964, and that sending-receiving relationship has continued to exist since that time.

6. At no time has Union Beach sought the Commissioner’s approval to modify or sever that sending-receiving relationship.

7. At no time has the Commissioner modified or severed that sending-receiving relationship.

8. Union Beach has been violating the sending-receiving relationship by illegally sending students to Henry Hudson and/or Hazlet High Schools and paying tuition for the students it sends to those schools instead of to Keyport.

9. The courses of study offered by Keyport are the same or similar to those offered by Respondents Henry Hudson and Hazlet.

10. Furthermore, Union Beach is violating the sending-receiving relationship by illegally sending a substantial number of its general education high school students to other districts, including Henry Hudson, Hazlet and Red Bank Regional, while virtually all of its special education students attend Keyport.

COUNT I

11. The existing sending-receiving relationship between Keyport and Union Beach may be modified only upon application made to and approved by the Commissioner, following the procedure and criteria set forth in N.J.S.A. 18A:38-13.

12. Respondent Union Beach has been unlawfully circumventing the sending-receiving relationship without making the requisite application to the Commissioner to modify or sever its sending-receiving relationship with Keyport. Moreover, the Commissioner has not granted any such modification or severance of the sending-receiving relationship between Keyport and Union Beach. Therefore, Union Beach has violated these essential procedural requirements of the statute.

13. Prior to submitting an application to sever or modify a sending-receiving relationship, the district seeking to sever the relationship must “prepare and submit a feasibility study, considering the educational and financial implications for the sending and receiving districts, the impact on the quality of education received by pupils in each of the districts, and the effect on the racial composition of the pupil population of each of the districts.” N.J.S.A. 18A:38-13.

14. To Petitioner’s knowledge, Union Beach has neither prepared nor submitted to the Commissioner any feasibility study in support of an application to sever or modify the sending-receiving relationship with Keyport. Therefore, Union Beach has failed to comply with this essential procedural requirement of the statute.

15. Union Beach continues to violate the sending-receiving relationship by unlawfully failing to follow the procedures required by statute before it attempted to unilaterally modify the sending-receiving relationship with Keyport. Therefore, there is no legal basis for Union Beach’s students to attend other districts.

COUNT II

16. Petitioner reiterates and incorporates by reference the allegations and assertions included in Count I, as if fully set forth herein.

17. Even assuming arguendo that Union Beach had followed the procedures required by the statute in order to modify or sever the sending-receiving relationship with Keyport, such a modification or severance would result in substantial negative educational and financial implications for Keyport, as well as a substantial negative impact on the quality of education

received by pupils at Keyport. As such, a severance or modification would be improper under N.J.S.A. 18A:38-13, and any such request should properly be denied by the Commissioner.

COUNT III

18. Petitioner reiterates and incorporates by reference the allegations and assertions included in Counts I and II, as if fully set forth herein.

19. Union Beach students have comprised a significant percentage of the total student enrollment at Keyport.

20. Keyport has received all or nearly all of Union Beach's special education students, while Union Beach has withdrawn significant numbers of general education students from Keyport and educated them elsewhere.

21. This selective withdrawal of students has changed the balance of students attending Keyport by increasing the percentage of special education students and reducing the percentage of general education students and higher achieving learners.

22. The improper loss of Union Beach general education students from Keyport, the loss of tuition for those students, the resulting imbalance of the remaining student population at Keyport, and the resulting limitation on the expansion of programs and opportunities for the remaining students at Keyport, have resulted in and will continue to result in negative financial and educational implications for Keyport, as well as a substantial negative impact on the quality of education received by the pupils remaining at Keyport High School.

23. Since a modification of the long-standing sending-receiving relationship between Keyport and Union Beach would result in substantial negative financial and educational implications for Keyport and in a substantial negative impact on the quality of education

received by pupils at Keyport, no modification of the sending-receiving relationship between Keyport and Union Beach is proper under N.J.S.A. 18A:38-13.

COUNT IV

24. Petitioner reiterates and incorporates by reference the allegations and assertions included in Counts I, II and III, as if fully set forth herein.

25. Pursuant to N.J.S.A. 18A:38-15, a district may send students to another district in order to allow the students to attend a specialized course of study not furnished by the home or receiving district.

26. Union Beach is only permitted to pay the tuition for students to attend Henry Hudson and/or Hazlet if Keyport does not furnish "instruction in a particular high school course of study." See N.J.S.A. 18A:38-15.

27. A comparison of the courses of study offered by the schools demonstrates that Keyport does provide a course of study in the area or areas in questions.

28. Since the same or similar course of study is available at Keyport, Union Beach violated and continues to violate the sending-receiving relationship by sending students to Henry Hudson and/or Hazlet and paying tuition to those schools instead of to Keyport.

29. Since Union Beach cannot avail itself of the provisions of N.J.S.A. 18A:38-15 because a similar course of study is available at Keyport, Union Beach is not permitted to pay tuition for its students to attend Henry Hudson and/or Hazlet. By doing so, Union Beach is in violation of the sending-receiving relationship with Keyport.

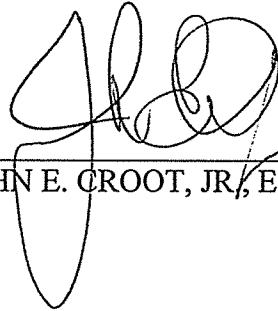
WHEREFORE, the Petitioner, Keyport Board of Education, requests the Commissioner of Education to issue an order:

- A. Enforcing the existing sending-receiving relationship between Keyport and Union Beach;
- B. Enjoining Respondent Union Beach from violating its sending-receiving relationship with Keyport by educating its students in districts other than Keyport;
- C. Enjoining Respondent Union Beach from providing disparate educational opportunities to its special education and general education students;
- D. Enjoining Respondent Union Beach from paying tuition for its high school students to attend any high school other than Keyport to pursue a course of study for which Keyport furnishes instruction in a similar course of study;
- E. Enjoining Respondent Union Beach from sending to Hazlet and Henry Hudson, and Respondents Hazlet and Henry Hudson from receiving, students domiciled in the Borough of Union Beach;
- F. Declaring that the Respondents' actions have led directly to this action to enforce the sending-receiving relationship between Keyport and Union Beach and enjoining Respondents from actions which have resulted in disparate educational opportunities to and the segregation of special education students.
- G. Ordering Respondent Union Beach to pay damages to Keyport for the tuition lost from those students who attended other districts that should have attended Keyport High School;
and

H. Such other relief as the Commissioner deems just and equitable under the circumstances.

ADAMS, GUTIERREZ & LATTIBOUDERE, LLC
Attorneys for Petitioner, Keyport Board of
Education

By:



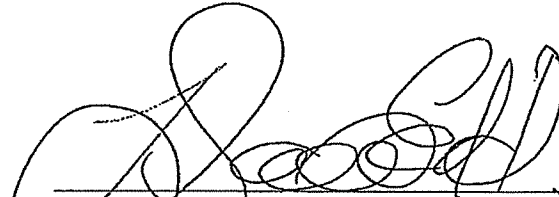
JOHN E. CROOT, JR., ESQUIRE

Dated: August 6, 2019

VERIFICATION OF PETITION

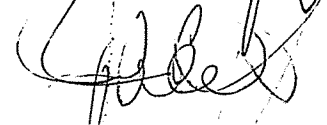
I, Dr. Lisa M. Savoia, of full age, being duly sworn in accordance with the law, upon my oath, depose and say:

1. I am employed by Petitioner, Keyport Board of Education, as Superintendent of Schools and, as such, I am fully familiar with the facts in the within matter.
2. I have read the Verified Petition and I swear and aver that the allegations contained therein are true to the best of my knowledge, information and belief.



LISA M. SAVOIA, Ed.D.

Sworn to and subscribed before me
this 2nd day of April, 2019.



Notary Public of the State of New Jersey
AN ATTORNEY AT LAW OF NJ

CERTIFICATION OF SERVICE

I hereby certify that on this day I caused an original and two (2) copies of the Petitioner's Verified Petition in the above referenced matter to be served via Federal Express to:

Jennifer Killough-Herrera
Acting Director, Office of Controversies & Disputes
NJ Department of Education
100 Riverview Plaza
P.O. Box 500
Trenton, NJ 08625

I also certify that on this day I also caused a copy of the Petitioner's Verified Petition in the above referenced matter to be served via regular mail to Respondents at:

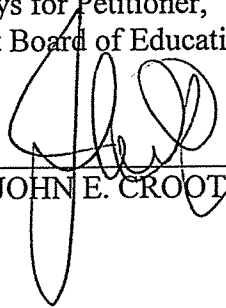
Amanda M. Lewert, Superintendent
Union Beach Board of Education
221 Morningside Avenue
Union Beach, New Jersey 07735

Dr. Scott Ridley, Superintendent
Hazlet Township Board of Education
421 Middle Road
Hazlet, New Jersey 07730

Dr. Susan E. Compton, Superintendent
Henry Hudson Regional Board of Education
1 Grand Tour
Highlands, New Jersey 07732

ADAMS GUTIERREZ & LATTIBOUDERE, LLC
Attorneys for Petitioner,
Keyport Board of Education

By: _____


JOHN E. CROOT, JR., ESQ.

Dated: August 7, 2019