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Attorneys for Petitioner, Keyport Board of Education

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KEYPORT BOARD OF EDUCATION,	:	BEFORE THE COMMISSIONER OF
	:	EDUCATION OF THE STATE OF
	:	NEW JERSEY
Petitioner,	:	
	:	OAL Docket No.:
v.	:	Agency Ref. No.:
	:	
UNION BEACH BOARD OF	:	
EDUCATION AND RED BANK	:	
REGIONAL BOARD OF EDUCATION,	:	
	:	<b>VERIFIED PETITION</b>
Respondents.	:	

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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; and the Red Bank Regional Board of Education (hereinafter referred to as “Respondent” or “Red Bank”), with offices located at 101 Ridge Road, Little Silver, New Jersey 07739, 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 Red Bank is a public body organized pursuant to N.J.S.A. 18A:1-1 *et. seq.* to operate the Red Bank Regional School District, which is a grades 9-12 school district serving the boroughs of Little Silver, Red Bank, and Shrewsbury.

3. 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.

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

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

6. Union Beach has been violating the sending-receiving relationship by illegally sending students to other school districts and paying tuition for the students it sends to those school districts instead of to Keyport.

7. In particular, 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 Red Bank, while virtually all of its special education students attend Keyport.

#### COUNT I

8. 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.

9. 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.

10. 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.

11. 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.

12. 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

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

14. 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

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

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

17. 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, particularly at Red Bank.

18. Red Bank accepts virtually no special education students from Union Beach.

19. 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.

20. The improper loss of Union Beach general education students from Keyport, the loss of tuition for those students, Red Bank's acceptance of general education but not special education students from Union Beach, 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, including students from Union Beach.

#### COUNT IV

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

22. The actions of Union Beach and Red Bank set forth above are discriminatory in violation of the New Jersey Law Against Discrimination, the Americans with Disabilities Act, and the Individuals with Disabilities Education Act.

WHEREFORE, the Petitioner, Keyport Board of Education, requests that the Commissioner of Education 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 sending to Red Bank, and Respondent Red Bank from receiving students domiciled in the Borough of Union Beach;

E. Enjoining Respondents Union Beach and Red Bank from actions which result in disparate educational opportunities for, segregation of, and discrimination against special education students.

F. Ordering Respondents Union Beach and Red Bank to pay compensatory damages and attorneys' fees to Keyport; and

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

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

*/s/ John E. Croot, Jr.*


By: \_\_\_\_\_  
JOHN E. CROOT, JR., ESQUIRE

Dated: December 20, 2021

VERIFICATION OF PETITION

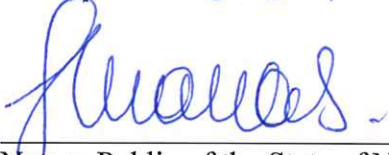
I, Dr. Lisa M. Savoia, of full age, being duly sworn in accordance with the law, upon my oath, depose and say:

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.

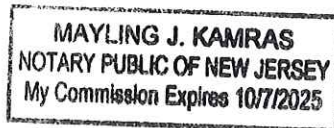
  
LISA M. SAVOIA, Ed.D.

Sworn to and subscribed before me

this 20 day of December, 2021.



Notary Public of the State of New Jersey



**CERTIFICATION OF SERVICE**

I hereby certify that on this day, I caused the Petitioner's Verified Petition in the above-referenced matter to be served via e-mail:

Commissioner of Education  
Department of Education,  
Riverview Executive Plaza, Bldg. 100  
Route 29, PO Box 500  
Trenton, NJ 08625  
ControversiesDisputesFilings@doe.nj.gov

I also certify that on this day, I also caused a copy of the Petitioner's Verified Petition in the above matter to be served via e-mail and regular mail to:

Daniel R. Roberts, Esq.  
Kenney, Gross, Kovats & Parton  
130 Maple Avenue, Building 8  
Red Bank, New Jersey 07701  
droberts@kenneygross.com  
*Attorneys for Respondent, Union Beach*

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

Red Bank Regional Board of Education  
101 Ridge Road  
Little Silver, New Jersey 07739

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

By: */s/ Katarina Simovic*

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Katarina Simovic, Paralegal

Dated: December 23, 2021