

**COMMONWEALTH OF PENNSYLVANIA
STATE BOARD OF EDUCATION**

***Application of the Riegelsville Independent School District for
Transfer from the Easton Area School District to the Palisades School
District***

Report of the Special Committee

Following is the Report of the Special Committee (“Committee”) established by the State Board of Education (“State Board”) to consider and make recommendations to the State Board regarding the Application of the Riegelsville Independent School District for Transfer from the Easton Area School District to the Palisades School District (“Application”). For the reasons described in this Report, the Committee recommends that the State Board **approve** the Application.

The members of the Committee would like to state at the outset how enormously impressed they have been with the astonishing level of civic engagement by the citizens of Riegelsville that the members witnessed throughout these proceedings – especially the huge public turnout and widespread individual participation exhibited in the beautiful Borough of Riegelsville during the public meeting the Committee held there on May 1. It was truly a moving display of traditional grassroots American democracy and local pride.

All of the residents of Riegelsville should feel fortunate to be part of a town that has a keen sense of itself and is full of neighbors who clearly care about one another and their community. Transfer proponents and opponents alike were honestly and ably represented in their respective positions. That each resident cares deeply about the education that his or her children receives from the public school system – whether it be provided by Easton or Palisades

– was both obvious and heartening to the members of the Committee. We have been humbled to be a part of this momentous decision for the community of Riegelsville.

BACKGROUND

The Borough of Riegelsville is located along the Delaware River in the northeastern corner of Bucks County, immediately adjacent to Northampton County to its north. The area of the borough is one square mile, and it has a population of 850 people based on census data.

Currently the borough is split on an east-west axis between two school districts. The eastern part of the borough – where nearly all of its population resides – is part of the Easton Area School District (“Easton”). The western part of the borough, which consists of sparsely populated farm land, is part of the Palisades School District (“Palisades”).

In addition to the split of the tiny Borough of Riegelsville into two school districts, another stark geographic fact is that the Borough of Riegelsville in Bucks County is not in any way contiguous to the rest of Easton, which lies entirely within Northampton County. Lying directly between Riegelsville and Easton is the Wilson Area School District (“Wilson”). As clearly demonstrated by a map, to travel from Riegelsville into Easton one must travel for several miles through Wilson. Thus, Riegelsville is both a small municipality divided between two school districts, and also a territorial island with its western half separated by several miles from the rest of the school district of which it is a part.

Acting under section 242.1(a) of the Public School Code of 1949, 24 P.S. § 2-242.1(a), a majority of the taxable inhabitants of the Easton part of the Borough of Riegelsville on March 19, 2007, filed with the Court of Common Pleas of Bucks County a petition asking that the Easton part of the borough be established as an independent school district for the sole purpose

of its transfer from Easton to Palisades – an adjacent school district contiguous to the Borough of Riegelsville and of which a portion of the borough is already a part. The court on April 24, 2007, determined that the petition satisfied the requirements of the statute and transmitted the petition to the Secretary of Education so that he might pass upon the merits of the petition “from an educational standpoint,” as required by section 242.1(a) of the Public School Code.

In accordance with his responsibility under the statute, Secretary of Education Ronald Tomalis on October 20, 2011,¹ approved the transfer from an educational standpoint. Then, following the requirements of the Public School Code, the Court of Common Pleas of Bucks County on February 24, 2012, entered an Order (1) establishing the Riegelsville Independent School District (“ISD”) for the sole purpose of its transfer from Easton to Palisades; (2) determining the amount of the indebtedness and obligations of Easton that Palisades must assume and pay and the schedule for remitting payment; and (3) stipulating that, if approved by the State Board, the transfer would take effect on July 1, 2013. The court’s order also confirms that neither Easton nor Palisades opposes the requested transfer.

As required by section 292.1 of the Public School Code, 24 P.S. § 2-292.1, the Court of Common Pleas on February 24, 2012, submitted to the State Board a certified copy of its order creating the Riegelsville ISD. Upon receipt of a court decree creating an independent district for transfer purposes, the State Board is obligated to place the item on its agenda and either approve or disapprove the creation and transfer of the ISD. *See* 24 P.S. § 2-293.1.

¹ Former Secretary of Education Gerald Zahorchak twice – on January 24, 2008, and October 26, 2009 – disapproved the petition from an educational standpoint. However, the Commonwealth Court reversed both decisions and each time remanded for the Secretary of Education to decide the issue again in accordance with guidance from the court. *See In re: Petition of Riegelsville Indep. Sch. Dist.*, 962 A.2d 24 (Pa. Commw. Ct. 2008) (*Riegelsville I*), and 17 A.3d 977 (Pa. Commw. Ct. 2011) (*Riegelsville II*).

Following its past practice under the ISD provisions of the Public School Code, the State Board on March 15, 2012, approved a resolution establishing the Committee to conduct such proceedings as might be appropriate under the General Rules of Administrative Practice and Procedure, to take any action (except final action) that may or must be taken under the rules by the State Board, and to make a report to the State Board with a recommendation as to the proper disposition of the application for transfer.

On March 10, 2012, the Committee published in the *Pennsylvania Bulletin* a notice providing an opportunity for interested persons to file petitions to intervene, notices of intervention or protests and invited requests for public hearing. *See* 42 Pa.B. 1350. Identical notices were published in the *Easton Express-Times* and the *Bucks County Courier Times*.

No petitions or notices of intervention were filed. However, the Committee did receive several letters of protest to the transfer and requests for public hearing. The Committee also received numerous letters supporting the requested transfer. Consequently, the Committee conducted a public hearing on the evening of May 1, 2012, in the Borough of Riegelsville. All members of the public who wished to address the Committee were able to do so.

Having concluded all proceedings required by the Public School Code and the State Board's procedural rules, the matter of the Riegelsville ISD's application for transfer from Easton to Palisades is now ripe for consideration and final determination by the State Board.

RECOMMENDATION

The Committee recommends **approval** of the application for the creation of the Riegelsville Independent School District and its transfer from the Easton Area School District to the Palisades School District. The Committee makes its recommendation based on the record submitted to the State Board by the Court of Common Pleas of Bucks County, including especially the written determination of the Secretary of Education that the transfer has merit from an educational standpoint. The Committee also considered very carefully the comments that it received from members of the community, both in writing and through the oral presentations made in Riegelsville on May 1.

Though the State Board is not bound by the findings and conclusions of the Secretary of Education, the Committee finds the detailed and comprehensive decision of Secretary Tomalis to be compelling and persuasive. Thus, we recommend that the State Board adopt as its own the findings and conclusions made by Secretary Tomalis in his determination issued October 20, 2011. A copy of Secretary Tomalis's written determination regarding the educational merit of the transfer is attached and made a part of this report.

Perhaps the most important component of Secretary Tomalis's decision – and the one that weighed most heavily in the opinion of the Commonwealth Court in *Riegelsville II* vacating the determination of former Secretary Zahorchak and remanding to Secretary of Education Tomalis for him to re-determine the educational merits of the requested transfer – is the ***geographic isolation*** of the Riegelsville ISD from the rest of Easton. Quoting Commonwealth Court's opinion in *Riegelsville II*, Secretary Tomalis emphasized that the proposed transfer not only would “place all of Riegelsville into one school district,” but it would “end Easton's

discontiguous borders, with its ‘island’ of one half of Riegelsville, which is not even in the same county as the rest of the Easton [Area] School District.” Tomalis Decision, at 13 (quoting *Riegelsville II*, 17 A.3d at 989). This anomalous reality alone, Secretary Tomalis concluded – echoing Commonwealth Court in *Riegelsville II* – commends approval of the transfer of Riegelsville from Easton to Palisades. Indeed, both Commonwealth Court and the Secretary observed, the Public School Code *itself* strongly favors both contiguous school districts and unification of municipalities into a single school district. *See* Tomalis Decision at 13-14 (citing and quoting *Riegelsville II*, at 989, and 24 P.S. §§ 2-201, 2-242.1).

Like Secretary Tomalis and Commonwealth Court, the Committee believes that the Public School Code establishes a strong presumption that municipalities should be contained within a single school district (*see* 24 P.S. § 2-201), and that school districts should be composed of contiguous territory (*see* 24 P.S. § 2-242.1). Thus, when a petition for transfer of territory from one school district to another would eliminate both the split of a municipality between school districts and the elimination of a non-contiguous school district, the merits of the application for transfer of the independent school district must be *presumed* under the Public School Code. In other words, under the circumstances presented here, the State Board should approve the transfer, absent compelling reasons to maintain the status quo.

Like the Secretary of Education, the Committee finds no compelling reason not to approve the transfer, thereby unifying the Borough of Riegelsville into a single school district and eliminating the geographic disconnection between Riegelsville and the school district of which it has been a part for many decades. Instead, there is much to recommend the transfer.

As Secretary Tomalis found, the public school students of Riegelsville should benefit educationally from a transfer to Palisades. He said:

Upon examination of the academic achievement/performance of students enrolled in the two school districts, Palisades['] students have consistently exceeded the academic achievement of students attending ... Easton ... on the PSSAs, the SATs, and the ACTs. While both school districts achieved AYP each of the past five years, only Palisades ... achieved AYP at each school building over the past five years. In addition, the percentage of students achieving proficiency or above in ... Palisades ... has exceeded that of ... Easton ... and the state average in every subject for the past five years. Based upon the academic performance of students in the two school districts, there is no doubt that the educational impact upon students residing in the portion of Riegelsville subject to the proposed transfer would be positive.

Tomalis Decision, at 14 (citations omitted).

Secretary Tomalis also was satisfied – as is the Committee – that the transfer would not harm Easton and its remaining students. On this point, the Secretary made the following observations:

Upon consideration of ... Easton[']s argument² that students remaining in [Easton] [would] not have access to some AP courses due to lack of enrollment, the district's assertion is not supported by the record. The number of students subject to the proposed transfer is about 60 students, less than 1% of Easton[']s total enrollment. The record establishes a possibility that the proposed transfer of territory might prevent some AP courses from attaining the districts' established minimum enrollments. However, other than a general assertion that “the Riegelsville students make up a significant portion of the registration for honors and advanced placement courses within the School District,” there is no evidence related to the actual number, actual percentage and/or trends of such enrollments as they relate to students currently residing in Riegelsville. In short, ... Easton ... has not established any harm to the students who would remain in its district following the proposed transfer of a portion of Riegelsville to ... Palisades ..., let alone a sufficient level that would overcome the other reasons why the transfer has educational merit.

Tomalis Decision, at 15-16 (citations omitted; footnote added).

² At the time the transfer was before the Secretary, Easton opposed the transfer. However, Easton since has dropped its opposition to the transfer.

For these reasons, the Committee recommends that the State Board approve the requested transfer. The transfer will for the first time in decades restore the Borough of Riegelsville as part of a single school district – and one that is contiguous to the borough. The transfer will benefit the students of Riegelsville educationally. And there is no evidence that the students who remain in the Easton Area School District or the students in the Palisades School District will be harmed by the transfer.

BY THE COMMITTEE:

Wendy Beetlestone, Chair

Mollie O’Connell Phillips

Sandra Dungee Glenn

DATE: July 11, 2012