

**COMMONWEALTH OF PENNSYLVANIA
STATE BOARD OF EDUCATION**

In Re Application of the Porter Township :
Initiative Independent School District :
for Transfer from the East Stroudsburg : Docket No. ISD 2012-1
Area School District to the Wallenpaupack :
Area School District :

**REPORT AND RECOMMENDATION OF THE SPECIAL COMMITTEE
ON THE PORTER TOWNSHIP INITIATIVE**

INTRODUCTION

On July 2, 2012, the State Board of Education (State Board) received a certified copy of a decree of the Court of Common Pleas of Pike County creating the Porter Township Initiative (PTI) as an independent school district for the sole purpose of its transfer from the East Stroudsburg Area School District (ESASD) to the Wallenpaupack Area School District (WASD). The decree was issued by the court and transmitted to the State Board under Section 242.1 of the Public School Code of 1949 (Public School Code), *as amended*, 24 P.S. § 2-242.1. Under Sections 292.1, 293.1 and 2603-B(d)(1) of the Public School Code, *as amended*, 24 P.S. §§ 2-292.1; 2-293.1; and 26-2603-B(d)(1), it is now the responsibility of the State Board to decide whether to approve or disapprove the creation and transfer of the PTI.

This report is submitted by the Special Committee pursuant to the State Board's resolution of July 12, 2012, charging this Committee to conduct appropriate proceedings and to make a formal recommendation to the State Board. It is the unanimous recommendation of the Committee that the State Board deny the application for creation and transfer of the PTI. In this

report, the Committee makes recommended findings of fact and conclusions of law and proposes an order by the State Board denying the transfer of the PTI from ESASD to WASD.

BACKGROUND

Pennsylvania’s Public School Code provides a mechanism in which the majority of taxable inhabitants within a geographic territory may seek to transfer school students within that territory from one school district to another contiguous school district. The procedure for creating an independent school district and ultimately transferring territory from one school district to another is a multi-step process involving the court of common pleas, the Secretary of Education, and the State Board of Education.

To begin the process, taxpayers file with the court of common pleas a petition for creation of an independent school district. The court reviews the petition to determine whether it satisfies requirements set forth in Section 242.1 of the Public School Code. The court’s role is limited to confirming whether the petition was submitted by a majority of the taxable inhabitants within the territory, whether the petition properly describes the territory, and whether the petition sets forth the reasons for seeking the transfer.¹ Upon receipt and initial review of the petition, the court of common pleas then forwards the petition to the Secretary of the Pennsylvania Department of Education to determine whether the proposed transfer is “meritorious” from an educational perspective.

By statute, the Secretary’s role is limited to a single issue – namely, whether the proposed transfer of territory from one school district to another has merit “from an educational standpoint.” A finding by the Secretary that the proposed transfer has educational merit is a pre-

¹ See Sections 242.1 and 311.1 of the School Code, *as amended*, 24 P.S. §§ 2-242.1 and 3-311.1.

condition to the creation of the independent school district. That is, only if the Secretary finds that the proposed transfer has educational merit may the court of common pleas proceed with the creation of the independent school district.

In this case, the Secretary, via memorandum dated March 16, 2011, found that the Petition for Formation of Independent School District filed by PTI was meritorious from an educational standpoint. The Secretary made three distinct points: (1) the anticipated transfer of Porter Township from East Stroudsburg to Wallenpaupack would have a positive educational impact on the group of students subject to the transfer; (2) the anticipated transfer of Porter Township from East Stroudsburg to Wallenpaupack would have no negative educational impact on the group of the students remaining at East Stroudsburg; and (3) the anticipated transfer of Porter Township from East Stroudsburg to Wallenpaupack would have no negative educational impact on the group of children currently attending Wallenpaupack. Thus, the Secretary deemed the transfer meritorious from an educational standpoint because it would be expected to have a positive educational impact on at least one group of students – those subject to the transfer – without having a negative impact on any of the groups.

Upon receipt of the Secretary's decision, the Court of Common Pleas of Pike County issued a decree dated August 3, 2011, transmitting the matter to the State Board. East Stroudsburg appealed this decision to the Commonwealth Court, but the Commonwealth Court affirmed the order of the Court of Common Pleas and denied re-argument via an order dated June 28, 2012. *See Porter Twp. Initiative v. E. Stroudsburg Area Sch. Dist.*, 44 A.3d 1201 (Pa. Commw. Ct. 2012); *Porter Twp. Initiative v. E. Stroudsburg Area Sch. Dist.*, No. 1679 C.D. 2011, 2012 Pa. Commw. LEXIS 188 (Pa. Commw. Ct. June 28, 2012) (reargument denied).

In a resolution dated July 12, 2012, the State Board designated this Committee (appointed by the State Board chairperson) to conduct appropriate proceedings under the General Rules of Administrative Practice and Procedure (1 Pa. Code Part II), and upon completion of all appropriate proceedings, to recommend the proper action that the State Board should take under Section 293.1 of the School Code disposing of the application for transfer. After appropriate public notice, a hearing was held on May 16-17, 2013, at the East Stroudsburg High School North, 297 Timberwolf Drive, Dingman's Ferry, Pennsylvania.

The hearing proceeded under the General Rules of Administrative Practice and Procedure. The parties stipulated to certain portions of the record before the hearing commenced, while others were introduced during the hearing. Expert witness reports were submitted and included in the record, but no expert testified in person. Many members of the community testified at the hearing either as witnesses or in the public comment period. The Committee weighed and considered all of the evidence on the record in order to come to its recommendation.

STANDARD OF REVIEW

The role of the Secretary of Education is to pass upon the petition from an educational standpoint as a pre-condition to the court creating the independent district. The Secretary's approval is also a pre-condition to the State Board's action approving or disapproving the creation and transfer of the independent district. In contrast to the roles of the Court of Common Pleas and the Secretary of Education, the State Board's role is very broad since it alone finally approves or disapproves the creation and transfer of the independent district.

Section 293.1 of the Public School Code provides as follows:

§ 293.1. Independent districts

When a court decree is received creating an independent district for transfer purposes, the State Board of Education shall place such item upon its agenda and either approve or disapprove the creation and transfer. If approval is given, the board shall direct the Council of Basic Education to make the necessary changes in the county plan. If disapproved, the board shall state its reasons for such disapproval and the independent district shall be provided a hearing if it so desires.

24 P.S. § 2-293.1.

When making its decision, the State Board is not bound by the Secretary's determination, and is free to consider the educational merit of the transfer as well as other matters that the State Board deems relevant. Matters may include, but are not limited to: geography; transportation; teacher assignments; facilities; and financial impact of the transfer. It is the State Board that has the final word.

ANALYSIS OF THE RECORD

In this part of its report, the Committee summarizes the record created in its proceedings, including its evidentiary hearing in East Stroudsburg. This summary does not include all of the information made available to the State Board through various written submissions and oral testimony. That record is available for review by all members of the State Board. The Committee has endeavored to capture those portions of the record that the Committee believes are most relevant and important to the State Board's decision in this matter.

I. Property Taxes

A. Overview

ESASD presented compelling evidence that one of the true motivating factors for pursuing the transfer was PTI's desire to reduce property taxes. If the PTI transfer to WASD

were approved, Porter Township property taxes would be essentially cut in half. PTI contends that lower property taxes are merely an ancillary benefit of the transfer and not a primary goal or concern of the PTI.

B. Historical Background

ESASD Superintendent Sharon Laverdure provided the historical context for including Porter Township in the ESASD. ESASD currently has ten school buildings – six elementary schools, two intermediate schools, and two high schools. The ESASD “North Campus” was opened in 2001 and includes one elementary school, one intermediate school, and one high school. The North Campus contains the three schools primarily attended by the residents of Porter Township.

Ms. Laverdure was familiar with the basic facts and considerations made at the time the North Campus was purchased and constructed. She testified that the ESASD understood from growth projections that population growth in the district would occur mostly in the northern part of the district. When it became clear that the growth projections for the district would require a second intermediate and high school, ESASD concluded it would be most prudent to build the second campus to the north.

When a public school entity undertakes a major school construction project and seeks reimbursement from the Commonwealth, a process known as PlanCon is initiated. PlanCon, an acronym for Planning and Construction Workbook, is a set of forms and procedures through which public school building projects are reviewed and approved for reimbursement by the commonwealth. PlanCon is authorized by statutes, State Board of Education regulations, as well as PDE standards.

The PlanCon process is designed to: (1) document a local school district's planning process; (2) provide justification for a project to the public; (3) ascertain compliance with state laws, regulations and standards; and (4) establish the level of state participation in the cost of the project. The PDE Division of School Facilities administers PlanCon for the Commonwealth. The Division reviews proposed school building projects including their plans and specifications, enrollments, building utilization and building condition. The Division also calculates state reimbursement and approves financing for these projects.

Public hearings are required by law as part of the PlanCon acquisition process, and they were in fact held in the present case. Further, ESASD accounted for the fact that the district included parts of Lehman and Porter Townships in Pike County when making the determination to build the new schools in the northern end of the district. ESASD built the northern campus in reliance on having property tax dollars from Lehman and Porter Township available to support the expansion. Because of its proximity to the resort areas of the Pocono Mountains, ESASD also had to prepare for the potential phenomenon of second homes/summer homes eventually transitioning into year-round full-time homes, with accompanying public school population growth. The North Campus of ESASD is necessary not only for educating the children that attend school there already, but also for keeping space open and maintaining room for potential expansion in the future. The Committee found Ms. Laverdure's testimony to be credible and convincing.

C. Financial Impact of Transfer

It is currently estimated that Porter Township residents pay approximately \$2.2 million in property taxes to ESASD each year. ESASD Business Manager Jeffrey Bader outlined for the Committee how important property taxes are in funding ESASD. To begin, ESASD has a much

higher reliance on local property tax than typically seen in other districts. Typical reliance on local taxes for a school district in Pennsylvania ranges between 50% - 60%, while ESASD relies on local taxes for 72% of its funding. Assessing only the real estate portion of local taxes results in a number amounting to approximately 63% of all ESASD revenues, which is still high for a school district. Thus, the effect of losing revenue likely would hit taxpayers harder in a district such as ESASD because of its heavy reliance on the local tax base. Moreover, losing approximately forty-six (46) students across all grade-levels would not allow the district to reduce teaching staff, classes, fixed costs of operation, building maintenance costs, debt service, *etc.* The only way to deal with the loss in revenue, in Mr. Bader's professional opinion, would be to eventually cut some of the educational programming to cover the transfer of PTI students. The Committee found Mr. Bader's testimony to be credible and convincing.

D. Other Relevant Evidence

ESASD presented additional testimony that rebuts PTI's position that the property tax issue is merely a coincidental side benefit of the transfer. In the summer of 2009, when this process began, advocates for the transfer approached neighbors in the community and stated that the benefit of a transfer would be a "drastic tax reduction." Those initial interactions – intended to engender support from the Porter Township community – made no mention of the educational superiority of WASD, the increased school safety at WASD, or the increased transportation safety at WASD. In fact, one ESASD parent who opposes the transfer testified that lower property taxes was the *only* reason given to support the transfer.

PTI contends that lower property taxes are merely a secondary side benefit of the proposed transfer. A Porter Township official, Terri Koch, testified that tax rates were "similar" when discussions about transferring began in approximately 1997. It is telling, however, that in

its petition to residents PTI listed the 47% decrease in property taxes as the number one reason to support the transfer, but it excluded that statistic in the petition submitted to the Court of Common Pleas.

E. Conclusions

Based on testimony and the evidence provided at the hearing, the Committee has reached the following conclusions regarding the property tax issue:

1. ESASD had given proper notice and consideration to residents of Porter Township when it planned and developed the North Campus.
2. ESASD educational programs and facilities would be negatively impacted if it were to lose Porter Township property tax revenue.
3. Reducing property taxes appears to be as much a motivating factor for the transfer as any of the educational factors espoused by PTI.

II. Community of Hemlock Farms

A. Overview

The vast majority of Porter Township residents supporting the transfer reside in the residential community of Hemlock Farms. Hemlock Farms consists of approximately 3,200 private residences incorporating portions of Porter Township, Dingman Township, and Blooming Grove Township. It is the single largest community in Porter Township. Most students in Hemlock Farms attend WASD, others attend ESASD, and a few (five or six) students attend a third school district, the Delaware Valley School District (DVSD). The community offers its members special services such as a public safety function, which provides a year-round police presence, paramedic service, and maintenance. The community also offers a year-round

indoor clubhouse with a pool, sauna, and fitness center, as well as outdoor facilities such as outdoor pools, tennis courts, basketball courts, boating, docks, *etc.*

B. Land Use and Future Residential Development

Hemlock Farms is located in a rural area, with the overwhelming majority of land consisting of either public or private forest. Only 2.67% of Porter Township's landmass is residential. PTI claims that there will be little or no further residential growth in Porter Township because of the strict planning and zoning laws associated with the conservation district of the state forest lands. However, during cross-examination of Ms. Koch, it became clear that although it would require a rollback of certain tax breaks associated with developing the property, there are approximately 500 acres of privately-owned land that could in time result in an additional fifty (50) private residences in Porter Township. Thus, the Committee concludes that there is room for further residential development in Porter Township that could increase the number of students that would be impacted by the transfer and the number of households paying property taxes.

C. Socialization Concerns and Dividing the Hemlock Farms Community

Through testimony from parents and other supporters of the transfer, PTI raised a number of "socialization concerns" for the Committee's consideration. The majority of these concerns stemmed from the fact that the Hemlock Farms community is divided between WASD, ESASD, and DVSD.

First, PTI contends that the "similar rural characteristics" of WASD and the PTI would foster a better educational environment than currently exists with ESASD. Terri Koch testified

she believed the remoteness and “small town atmosphere”² of both Hemlock Farms and WASD would allow the PTI transfer students to fit in better with their classmates and have greater success at WASD than they would have at ESASD. However, PTI failed to provide the Committee any objective evidence to support this assertion, and the Committee has found no meaningful correlation between living in a rural environment and academic achievement.

ESASD countered this contention with data from the National Center for Education Statistics (NCES), which is a division of the U.S. Department of Education. This information noted that the school districts in question were designated generally as “rural” – with only slight differences³ existing due to differences in geographic distance to an urbanized area. In layman’s terms, both districts are considered “rural” as that term is generally understood.

Next, PTI alleges that children who attend ESASD but live in Hemlock Farms will, over time, lose lifelong friendships and be left out of/disconnected from the Hemlock Farms community and/or the ESASD community. Because the majority of Hemlock Farms students attend WASD, the Hemlock Farms extracurricular activity schedule revolves around the WASD schedule. That means, occasionally, ESASD students and DVSD students are unable to participate in certain Hemlock Farms events. This, PTI contends, disrupts both adult and childhood relationships that have already formed in Hemlock Farms. One Hemlock Farms mother in support of the transfer testified that she had grown very close to the other mothers in a Hemlock Farms children’s playgroup and now felt “really left out of things” because many of those mothers had children who attend WASD. There were also a number of references during

² Examples of a “small town atmosphere” included not having strip-malls, understanding that not everything is “grab it on your way home,” and a “need to be organized and plan ahead.”

³ Examples include “Rural-Fringe” vs. “Rural-Distant.”

PTI's testimony to instances in which Hemlock Farms parents found ESASD parents/children unwilling to carpool to school events or attend play dates or birthday parties in Hemlock Farms because of its remote location.

The Committee finds these arguments unpersuasive on a number of fronts. First, ESASD witness Eric Forsyth, the Director of Administrative Services for ESASD, explained that dividing communities such as Hemlock Farms is quite common in that part of the state. He oversees the Office of Child Accounting, which is responsible for registering every student within the district and processing their proofs of residency. Mr. Forsyth testified that it is actually very common for neighborhoods and communities such as Hemlock Farms to be divided in odd ways. According to Mr. Forsyth, questions often arise from residents regarding their school district memberships due to how the communities are divided. Utilizing a county mapping tool, Mr. Forsyth walked the Committee through no fewer than five different examples of township/school district boundaries cutting through communities and neighborhoods in the area. In fact, all six municipalities serviced by ESASD have divisions in them of the type seen in Porter Township/Hemlock Farms. Thus, following PTI's logic, all of the neighborhoods discussed during the testimony and all of the neighborhoods in every township that borders ESASD theoretically would be ripe to transfer to another district.

Second, in the view of the Committee, it is not ESASD's duty or responsibility to concern itself with Hemlock Farms' community programming. There is no evidence to suggest that Hemlock Farms has made any effort to better tailor its programming to include the ESASD and DVSD children to alleviate these concerns. The Committee finds unpersuasive the argument that a school district should be re-zoned so that children can participate in monthly community social events.

Even giving this position merit for the sake of argument, it was rebutted during credible testimony presented by a Hemlock Farms parent, Lisa Herman, who opposes the transfer and has children attending ESASD. Ms. Herman testified that her children frequently participate in *both* ESASD and Hemlock Farms events.

Finally, every parent who testified in support of the transfer understood when they were purchasing his or her home in Hemlock Farms that the house was in the ESASD. PTI and the residents of Hemlock Farms – who value the community for its remote location and isolation – cannot credibly rely on the community’s isolation as justification for their socialization concerns and thus necessitate the transfer.

D. Conclusion

Much, if not all, of PTI’s evidence in this section – socialization concerns respecting the Hemlock Farms community – consisted of purely anecdotal testimony. Without any objective evidence to provide support for PTI’s argument, the Committee had a difficult time assessing the proper weight to give the testimony.

For its part, ESASD countered PTI with its own set of anecdotes, but it was also able to provide objective evidence to support its anecdotal claims. This is especially apparent regarding PTI’s “similar rural characteristics” claim and its “wrongful division of Hemlock Farms” claim. ESASD was able to provide objective evidence that divisions of the type found in the Hemlock Farms community are very common within the region, and that the school districts at issue in this case are in fact classified by the NCES as “rural” in nature. It was also difficult for the Committee to reconcile some of PTI’s positions when on one hand it extols the virtues of living in an isolated and rural area, but then turns around on the other hand to point to the difficulties of

interacting with other parents and other members of the community due to Hemlock Farms' isolation.

Taking this all into account, the Committee concludes that the residents of PTI chose to buy property in the ESASD. These residents were, or should have been, aware of the compromises this decision entailed when they purchased their homes. The Committee finds PTI's anecdotal evidence based on socialization issues to be unpersuasive and an insufficient basis to justify the transfer.

III. Quality of Education Comparison

A. PSSA Test Scores and Adequate Yearly Progress

PTI utilized two methods to create a side-by-side comparison of WASD and ESASD in an effort to justify the educational merit of the transfer: the state-wide PSSA test administered annually, and statistics about what schools in each respective district met the Adequate Yearly Progress (AYP) measures established in the federal No Child Left Behind Act, *as amended*, 20 U.S.C. § 6301 *et seq.*

PTI contends that, through side-by-side comparisons, it is able to demonstrate that WASD students performed better on PSSA testing and that WASD schools met AYP in a majority of its segments compared to ESASD, which did not test as well on the PSSA and had more schools failing to meet AYP over the covered amount of time (2003-2011). This, according to PTI, serves as the clearest indicator that WASD provides a superior education to ESASD. However, PTI left the interpretation of this analysis to laymen, parents, and other interested parties who support the transfer but who have no professional experience or firsthand knowledge in this area. As a result, it became clear on cross-examination that none of these

witnesses was able to explain in depth or answer detailed questions regarding the particulars of PSSA testing, or to demonstrate a mastery of what the AYP numbers meant or how school districts arrived at those numbers.

ESASD countered with credible testimony from its Superintendent, its Director of Administrative Services, and its Business Manager, all of whom are professionals currently working in the field in which they were testifying. Superintendent Laverdure – who has been Superintendent for the past four years and has over forty years of professional experience with the school district – testified why PSSA testing was not a coherent way to measure the quality of a school’s education in a one-to-one comparison of school districts. She testified that while the PSSA is certainly helpful to her as an executive administrator within the district, it is in fact only one piece of a total picture.

Further, Ms. Laverdure explained what subgroups are in the context of the PSSA. Subgroups are specific groups categorized mostly by race, but also by socioeconomic status, and then measured for performance as a group. Common subgroups include: African-Americans, Caucasians, English as a Second Language learners, Economically Disadvantaged, Special Education, *etc.* Essentially, subgroups dissect the entire population of a school; and if one subgroup fails to meet AYP, it can prevent the entire school from making AYP. This results in a drastic skew of how AYP is reported and how those numbers should be interpreted.

Superintendent Laverdure explained how economically disadvantaged children who have not had the same opportunities as other children traditionally test lower. It does not mean these children cannot learn, it does not mean they do not have the ability, and it does not mean the school is doing a poor job providing them an education. In fact, Superintendent Laverdure stated

that based on the PSSA data utilized by PTI, some of the schools in ESASD that failed to meet AYP actually exhibited growth in both reading and math. In the context of one of the primary schools Porter Township students attend – Bushkill Elementary – the special education subgroup did not meet its goals, and so even though the rest of the school exhibited growth and progress, it did not make AYP for that year. In short, not making AYP does not mean a school is a “bad” school or a “failing” school – it is just another piece of a puzzle that must be looked at as a whole in order to be understood.

ESASD also cited PVAAS, which is publicly available and addresses the growth of an individual school and the growth children make from the moment they come into the school until they leave the school. ESASD has a very high transience rate, meaning that on average nearly one-thousand (1,000) total students either leave or come into the district each year. Thus, it is very difficult to measure performance from year to year, and PVSAS is one effective way to measure those students who have stayed in the district. Superintendent Laverdure testified that examining the PVSAS statistics demonstrates that ESASD has shown student growth since entering the district, particularly in the elementary school context. PTI did not utilize PVSAS in its school analysis.

In addition to PVAAS, ESASD brought to the Committee’s attention that under the School Choice Initiative, a parent may elect to send his or her child to another school within the district that has met its AYP target if the school that child is currently attending has failed to do so. At a time designated by law, PDE’s Office of Curriculum and Instruction must notify all the parents who have children attending the school of their right to exercise this option, and the parents may choose to send their child to another school. For example, in the ESASD, Bushkill Elementary had not met AYP, while Resica Elementary had met AYP. Thus, the parents whose

children should be going to Bushkill can elect to go to Resica, and the district is obligated to provide the students with necessary transportation to and from the school.

B. School Safety

School safety was another aspect addressed by PTI as it attempted to demonstrate the superior education offered by WASD. The general concept of “safety” was addressed more specifically in terms of student transportation to and from school and in terms of physical safety of the students while on school premises.

i. Transportation Safety

PTI cites transportation difficulties that result from weather in Porter Township as a significant contributor to student safety, and as a reason to approve the transfer. According to parent witnesses for PTI, Porter Township has “special” weather that is “very questionable.” Terri Koch fleshed out this testimony, explaining that it is PTI’s belief that Porter Township is in a “snow zone” and has a climate more like WASD than ESASD.

Michael Sibio, Property Manager for Hemlock Farms, testified that snow removal in Hemlock Farms creates a safety hazard for those students who attend ESASD at a particular bus stop in Hemlock Farms because the buses come at different times and priority is given to WASD. This is particularly troublesome when WASD and ESASD have varying early dismissals, because when a stop is cleared for the WASD children, the Hemlock Farms staff may not be able to clear it a second time in preparation of the ESASD children.

PTI contends that there have been times where it has been snowing and unsafe in Porter Township, yet school has opened in East Stroudsburg because the weather was not as bad in East Stroudsburg. Terri Koch of PTI posited the theory that because WASD and Porter Township

have similar weather patterns, it is safer for the children of PTI to attend WASD because when WASD cancels school, it likely has similar weather to what is occurring in Porter Township on that day.

ESASD convincingly addressed and rebutted each of these concerns. First, Superintendent Laverdure explained to the Committee the procedure ESASD uses when deciding whether to implement a delay or school cancellation due to weather. ESASD works with other school districts/transportation dispatch to understand conditions. Both WASD and ESASD know what the other is doing through mutual contact with the DVSD. In instances of bad weather, ESASD school police patrols through the night to gather information and report on current weather conditions throughout the district, including Porter Township. Ms. Laverdure testified she takes the Northern Campus into consideration when deciding whether to delay or cancel school due to weather, and she has in fact made a call for a snow day when the Southern Campus could operate because of concerns about the Northern Campus (and *vice versa*).

Next, ESASD submitted documents from local weather stations comparing the last year of weather (average temperatures, dew points, precipitation) for the weather station closest to ESASD administrative offices, the weather station closest to WASD, and the weather station closest to the ESASD North Campus. This information, while of limited value as it only compiled data from over the last year, indicated that the Northern Campus station had precipitation that was more in line with the Southern ESASD campus than the WASD weather station.

Finally, ESASD presented evidence that demonstrated that – regardless of weather patterns – WASD is a longer commute from Porter Township both in time and distance than

from Porter Township to ESASD. The farthest point from ESASD to Porter Township is 11 miles. The closest point from ESASD to Porter Township is two miles. Conversely, the closest point from WASD to Porter Township is 14 miles. The farthest point from WASD to Porter Township is 25 miles. Further, the estimates used by ESASD when presenting this testimony were in fact conservative, and the times and distances could actually be longer depending on what route a bus took.

Upon consideration of all the evidence on this issue, the Committee finds the evidence submitted by ESASD demonstrates that the process it uses to determine whether to delay or cancel school is reasonable and adequately takes the Northern Campus/Porter Township conditions into consideration. Further, PTI failed to demonstrate any negative impact on student safety, as it failed to introduce any empirical evidence to demonstrate that PTI's weather is substantially different from ESASD, or that any perceived difference justified a significantly longer daily commute to WASD, which in itself may have a negative impact on student safety.

ii. School Campus Safety

The physical safety of students on campus was the second prong of school safety raised by PTI. Once again, PTI alluded only to a number of anecdotal stories regarding student safety on school grounds. There was one story about a student who was afraid to use the bathrooms at school. Cynthia Brent, a parent in support of the transfer, told a story about school punishments wherein ESASD staff, in her opinion, punished her child inappropriately by making him sit at a desk with his back to his peers during lunch. Another parent supporting the transfer, Robert Toomey, described an ESASD elementary school as "absolute chaos" during a visit to the school.

The ESASD rebuttal included a number of statistics from the Pennsylvania Safe Schools Report that is filed annually by every school district in the Commonwealth. Testimony of ESASD witnesses established that these reports, as opposed to any surveys or anonymous feedback, represent data that is collected based on objective criteria established by state law. Whether a school is deemed “dangerous” by the Commonwealth is determined relative to the number of violations or infractions that occurred with weapons and whether they led to arrests. Those dangerous incidents are then scaled based on the size of the individual school.

The School Safety reports require varying levels of data certification before they can be submitted to the Commonwealth. These reports are available for public consumption on PDE’s website. The reports provide high-level demographics, the number and type of reportable incidents that occurred in the district for that year, the total number of offenders, incidents involving law enforcement, arrests, and the number of assignments to alternative education.

The reports indicated that ESASD had 161 reportable incidents in the year of that report (2011-2012). That is an incident rate per-one-hundred-students of .48 incidents. Put another way, for every 200 students, there was one (1) reported incident. WASD, meanwhile, had 121 incidents in its 2011-2012 Safe Schools report. Based on the data in the report, that equates to 3.5 incidents per one hundred students. For every 200 students, there were seven (7) incidents. It should be noted, however, that thirty-three (33) of the incidents in ESASD resulted in an arrest, while only one incident resulted in an arrest at WASD. Nonetheless, based on this statistical analysis, one would be seven times more likely to witness a reportable incident at WASD than in ESASD. Further, ESASD acknowledged that neither ESASD nor WASD are “dangerous” based on the statistics found in the report and that in fact none of the school districts

found in the surrounding eight-county region fall into the published list of schools and school districts that are classified as “dangerous.”

Based on the evidence provided at the hearing, the Committee finds no credible discernible difference between WASD and ESASD in terms of on-campus safety. In fact, ESASD has provided data from which an argument could be made that ESASD is in fact safer than WASD. While no determination needs to be made on that point, it is clear that PTI failed to demonstrate that WASD in any way provides a patently safer school environment than ESASD.

C. Diversity

The discussion on racial diversity could have been included in either the socialization portion of this report or the comparison of educational quality section. The Committee includes it here because evidence was introduced by ESASD that racial diversity has a positive impact on a student’s education. PTI provided no rebuttal for this evidence.

The racial composition of Porter Township and the PTI students more closely resembles the racial composition of WASD than ESASD. The racial composition of Porter Township, according to 2010 census data, is 91% Caucasian, 3.3% Asian, and 5.6% Latino. ESASD is comprised of 3,072 (48%) Caucasian students; 1,800+ (25%) Hispanic students; nearly 1,800 (25%) African-American students; and 2% Asian (202 total)/American Indian/Alaskan Native (19 total) students. WASD is comprised of just over 3,100 (91%) Caucasian students; 185 (5%) Hispanic students; 91 (2.5%) African-American students; and 19 (.005%) Asian/American Indian/Alaskan Native students.

It is clear from the evidence that ESASD is substantially more diverse than WASD. ESASD takes great pride in its diversity and has noted that it is “blessed” with such diversity.

The Committee concurs with the assertions made by ESASD and its expert, Erica Frankenberg, Ed.D., that there is more to a child's education than pure academics, and that exposure to other cultures and backgrounds leads to a more complete and better-rounded educational experience. ESASD contends that a diverse learning environment provides many benefits to the student population, including: a free exchange of ideas and experiences; a decrease of racial tensions and prejudice; and long-term benefits like continual diversity and civic engagement. Moreover, a diverse learning environment can lead to better critical thinking skills and a stronger understanding of different points of view. The Committee found Ms. Frankenberg's report credible and persuasive; and concludes the proposed transfer likely would deprive the PTI students of the benefits of a diverse learning environment.

D. Curriculum

ESASD raised the issue of curriculum in challenging PTI's assertion that WASD provides a superior education to ESASD. After reviewing the curricular programs for both ESASD and WASD, Superintendent Laverdure provided a non-exhaustive list of examples of curriculum that ESASD offers that WASD does not. ESASD offers a wider array of electives, offers a more extensive accounting curriculum, a class focused only on Microsoft Office Suite (WASD does not), journalism courses (WASD does not), multicultural and gender diversity literature courses (WASD does not), film studies course (WASD does not), and a cryptology class (WASD does not). Further, WASD offers less Advanced Placement (AP) classes than ESASD does in a given school year, a unique vocational education, and a greater variety of sports for its students. PTI countered by questioning whether there were classes offered by WASD that are not offered by ESASD. While ESASD witnesses acknowledged there "may be" courses offered at WASD that are not offered at ESASD, no specific examples were given.

Upon review of the testimony and evidence provided at the hearing, the Committee concludes that the two schools both offer a variety of courses and extra-curricular activities. One district is not demonstrably “better” than the other in terms of courses and activities for its students. The Committee is not persuaded that WASD offers a superior education to ESASD.

SUMMARY OF FINDINGS

After examining the documents filed with the State Board and hearing exhibits, and listening carefully to all of the testimony, the Committee has become thoroughly familiar with all of the relevant facts and issues involved in this matter.

As a result of the proceedings in East Stroudsburg, the Committee also acknowledges the emotions involved in the issue of transfer that is pending before the State Board and the disagreements among the various groups interested in the matter. The Committee would especially like to recognize the courage of Sabrina and Samantha Herman, who were the only current students from either side of the issue to provide public comment to the Committee.

The Committee is grateful for the cooperation all parties and counsel exhibited during the proceedings. The Committee listened carefully to any person who wished to comment upon the matter during an extensive public comment period. It has been the commitment of this Committee and the State Board to make its decision in this matter deliberatively and based upon all of the facts and evidence and the views of all of the citizens of ESASD, WASD, and PTI.

It is most gratifying to see parents and others who are genuinely concerned about the education of their children, and the Committee sincerely hopes that the interests of parents and citizens will continue regardless of which position those parents and citizens advocate on the

issue of transfer. We emphasize that both school systems, ESASD and WASD, are extremely effective and provide quality educational programs for their students.

By way of summary, the Committee has reached the following conclusions:

1. The significant reduction in property taxes appears to be as much a motivating factor for the transfer as any of the educational factors.
2. The division of Hemlock Farms into separate school districts is not a unique phenomenon for communities in this area of the state, and the State Board should not overly concern itself with how school district boundary lines impact a community's social setting when making a decision on whether to approve or disapprove a transfer.
3. PTI failed to demonstrate that WASD provides a superior education compared to ESASD on multiple fronts, including: school performance, school safety, diversity/socialization, and curriculum. Further, ESASD successfully demonstrated it would be financially harmed if the transfer were to occur.

CONCLUSION

After careful consideration of the record, this Committee has concluded unanimously that the creation of the PTI and its transfer from the ESASD to the WASD should be denied by the State Board. A proposed order is attached hereto.

**COMMONWEALTH OF PENNSYLVANIA
STATE BOARD OF EDUCATION**

In Re Application of the Porter Township :
Initiative Independent School District :
for Transfer from the East Stroudsburg : Docket No. ISD 2012-1
Area School District to the Wallenpaupack :
Area School District :

ORDER

AND NOW, this ____ day of September, 2013, upon the affirmative vote of a majority of the members of the State Board of Education, it is hereby ORDERED, pursuant to Section 293.1 of the Public School Code of 1949, *as amended*, 24 P.S. § 2-293.1, that the creation of the Porter Township Initiative Independent School District and its transfer from the East Stroudsburg Area School District to the Wallenpaupack School District is hereby DENIED. The report of the Special Committee of the State Board of Education dated September ____, 2013 is ACCEPTED and the recommendation contained therein is ADOPTED.

Given under my hand and
seal this ____ day
of September, 2013

Larry Wittig
Chairperson

Attest: _____
Karen Molchanow
Executive Director