

## Board of Education Representation

We have sought a legal opinion from the New Jersey Attorney General's office. The first request for advice on this matter was sent to their offices through the Department of Education in mid-September 2008.

Attached is a letter from Melissa T. Dutton, Deputy Attorney General dated 3 February 2009. As you will see below there is a missing piece to the legal opinion for which we have sought clarification. This clarification is provided below.

Below we attempt to analyze the legal opinion to clearly lay out for your consideration the choices that exist for the Commission.

### ***Sussex-Wantage Regional Board of Education***

According to the legal opinion, the Consolidation Commission has two alternative choices regarding the Sussex-Wantage Regional Board of Education.

A. First, the Commission may recommend that the existing school district would cease to operate as a regional district and **a single school district would be created in its place upon the consolidation of the municipalities.**

If the consolidation plan provides for a single Type II school district the following would take place:

- The existing Sussex-Wantage Regional Board of Education would cease.
- The members' terms would terminate upon the date of consolidation.
- The Sussex Executive County Superintendent would appoint the members of the Board of Education.
- 3 members would be appointed for 3 years; 3 members would be appointed for 2 years and 3 members would be appointed for 1 year.
- The first elected member would be elected at the annual school board election to be held in the first calendar year after the creation of the new board. Subsequently, the member would be elected in the same manner as a single Type II school district.

B. Second, the Commission may recommend that the existing Sussex-Wantage Regional Board of Education would remain in tact. The legal opinion does not address how this could operate under a consolidated municipality. We went back to the Attorney General's office for a clarification. Based upon the response I received from the Division of Local Government Services, this alternative would operate in the following alternative fashions:

- Commission recommends no change in the school district and leaves it intact as the Sussex-Wantage Regional School District – Under this alternative, it become really an anomaly district with artificial election and taxing borders, tax apportionment and separate elections with separate slates of candidates as presently exists.
  - The current municipal borders become the boundary lines for school election districts #1 and #2. Each district would correspond to each of the current municipalities and representation would continue on a proportional basis.
  - Separate taxes are levied as they are now in each municipality however now they would be school taxing districts #1 and #2.
- In effect there is no change to the Regional School District.

## ***High Point Regional Board of Education***

Currently, Wantage and Sussex are constituent municipalities of the High Point Regional High School District. The High Point Regional Board of Education's membership is currently apportioned according to footnote #3 with 4 members representing Wantage and 1 member representing Sussex with the other four members representing Frankford, Branchville and Lafayette.

The legal opinion states that the provision of NJSA 40:43-66.72(c) is clear and unambiguous. The opinion concludes: "Thus, it follows that the newly created school district would continue as a single constituent member of the HP Regional Board of Education."

As a consequence of the consolidation of membership into a single constituent member, footnote #7 reads: "The municipal consolidation will likely require reapportionment . . . , or at a minimum, the Executive County Superintendent should investigate whether the municipal consolidation would affect the current apportionment of the HP Regional BOE." However, it would seem that if relative populations have not changed, the consolidated municipality would have and retain their five (5) seats on the High Point Regional Board of Education.

## ***Intervening Variable***

The current charge to Executive County Superintendents throughout the State of New Jersey is to merge all K-8 systems into K-12 school systems by the end of 2010. In the event this directive is enforced and implemented, the Sussex-Wantage Regional District will be merged into the High Point High School Regional District to form the equivalent of a High Point Regional School District and Board of Education. Representation for the consolidated municipality on the Board will probably mirror the current apportionment of representation on the current Board of Education, five (5) of nine (9) members.

## ***Conclusions***

The Commission must decide if the Sussex-Wantage Regional School District is to be consolidated into a single school district. If this is part of the consolidation recommendation, should one be made, then the effects described above take place.

If the recommendation is to retain the Regional School District, then it continues with no change.

In either event, representation on the High Point Regional High School District becomes consolidated as set forth above, should the consolidation be recommended and passed by the voters.

Finally, the State of New Jersey through the Executive County Superintendent of Schools could merge the current Sussex-Wantage Regional School District into the High Point Regional system to create a complete K-12 school system.