

**COMMONWEALTH OF PENNSYLVANIA
BEFORE THE STATE BOARD OF EDUCATION**

In Re:
Washington Township Independent School District :
Application for Assignment to the Northern : **Docket No. 2017-01**
York County School District :

FINAL REPORT AND ORDER OF
THE STATE BOARD OF EDUCATION

PROCEDURAL HISTORY

This matter arises from an Application filed by the Washington Township Independent School District (“WTISD”) with the York County Court of Common Pleas in July 2012, through which it requested a transfer from the Dover Area School District to the Northern York County School District. The present iteration of this case originated from a January 20, 2017 Order of the Pennsylvania Commonwealth Court which vacated a November 19, 2015 decision of the Pennsylvania State Board of Education (the “Board”) which disapproved WTISD’s Application, and remanded this matter to the Board for further proceedings consistent with its opinion. See, Washington Township Independent School District v. State Board of Education, 153 A.3d 1177, 1189 (Pa. Cmwlth. 2017).¹ The Board convened a hearing on March 9, 2017 in accordance with the Commonwealth Court’s Order and, thereafter, denied WTISD’s Application upon its reconsideration thereof. WTISD requested a hearing on the Board’s decision on March 30, 2017, and the Board memorialized the reasons for its final determination by letter dated May 11, 2017.

By letter dated May 19, 2017, the Board delegated this matter to the Presiding Officer for a hearing pursuant to 24 P.S. §2-293.1 with instructions to prepare a proposed report with proposed findings of fact, conclusions of law and an order for the Board’s review in accordance with 1 Pa.Code §§35.202 and 35.205. However, the delegation letter did not identify the standards for approval of administrative units and/or standards for the organization of school districts for which the concerns articulated by the Board are to be evaluated based upon the evidentiary record to be developed at the hearing. The Presiding Officer convened a pre-hearing conference with the parties on August 1, 2017, during which the parties and the Presiding Officer

¹A more comprehensive recitation of this case’s procedural history prior to the Commonwealth Court’s January 20, 2017 decision is set forth within the Commonwealth Court’s Opinion.

were unable to arrive at a consensus regarding whether the evidence to be developed at the hearing should pertain to the Northern York County School District, Dover Area School District, or both School Districts as it pertains to whether the transfer, and the financial impact of the transfer, would affect the District'(s) ability to provide a comprehensive program of education. Similarly, the parties and Presiding Officer were not able to develop a consensus regarding whether the evidence to be developed at the hearing pertaining to the diversification of curriculum as a component of a comprehensive program of education should pertain to the Northern York County School District, Dover Area School District, or both School Districts.

For the foregoing reasons, the Presiding Officer issued an Order Certifying Questions to the Board on August 2, 2017, which sought clarification for whether the evidence pertaining to the financial impact of the transfer should pertain to the Northern York County School District, Dover Area School District, or both School Districts' ability to provide a comprehensive program of education, and whether evidence pertaining to the diversification of curriculum as a component of a comprehensive program of education should pertain to the Northern York County School District, Dover Area School District, or both School Districts. The Presiding Officer additionally sought clarification regarding the standards for approval of administrative units and/or standards for the organization of school districts.

By letter dated September 14, 2017, the Board provided the Presiding Officer and the parties with clarifying instructions regarding the issues to be addressed at the hearing, the school districts to be considered, and the burden of proof to be satisfied. On or about October 24, 2017, WTISD filed an Application for Relief with the Pennsylvania Commonwealth Court pursuant to Pa.R.A.P. 2591(b), Docket No. 2582 C.D. 2015, through which it challenged the factors identified by the Board in the September 14, 2017 correspondence, and the Board's

determination that WTISD must demonstrate by a preponderance of the evidence that the factors identified by the Board weigh in favor of the transfer. By Memorandum and Order dated November 29, 2017, the Commonwealth Court denied WTISD's Application for Relief without having substantively addressed the issues raised through the Application.

On March 19, 2018 WTISD filed a motion with the Presiding Officer to preclude the intervention of Keep Us in Dover Schools ("KIDS") despite KIDS having been previously involved as an intervenor prior to the delegation of this matter to the Presiding Officer. By Order dated April 4, 2018, the Presiding Officer denied WTISD's Motion and permitted KIDS to participate at the hearing subject to the limitations set forth by the Board's Special Committee as described in the Board's April 14, 2015 Memorandum. The administrative hearing convened on April 23, 2018, April 24, 2018 and April 26, 2018 before Presiding Officer, Marc A. Moyer, Esquire. Daniel M. Fennick, Esquire represented WTISD, Benjamin L. Pratt, Esquire represented the Dover Area School District, Robert M. Frankhouser, Esquire represented the Northern York County School District, Joseph Canamucio, Esquire represented the Dover Area Education Association, and Rachel Mailey participated in the hearing on behalf of KIDS. The April 26, 2018 hearing was limited exclusively to addressing the admissibility of the parties' exhibits.

By Order dated May 22, 2018, the Presiding Officer directed WTISD to file its Post-Hearing Brief no later than June 29, 2018, and directed all other parties to file their Post-Hearing Briefs no later than August 13, 2018. The Order additionally directed WTISD to file its Reply Brief, if any, no later than August 28, 2018. The record closed upon the filing of the hearing transcripts on May 24, 2018. Northern York County School District requested an extension of time for which to file its Post-Hearing Brief on August 17, 2018. WTISD filed its Post-Hearing

Brief on or about June 29, 2018. Dover Area School District filed its Post-Hearing Brief on or about August 13, 2018. Dover Area Education Association filed its Post-Hearing Brief on or about August 14, 2018, and the Northern York County School District filed its Post-Hearing Brief on or about August 22, 2018. WTISD filed a Reply Brief on or about August 31, 2018.

EVIDENTIARY RECORD/FINDINGS OF FACT

Robert A. Schoch

1. Robert A. Schoch (“Mr. Schoch”) obtained a Bachelor of Arts Degree in Economics and History from Bard College, Annandale, New York in 1976. (WTISD 0369).
2. Mr. Schoch obtained a Master’s Degree in Public Administration from Cornell University in 1981, and a Master’s Degree in Educational Administration from the Pennsylvania State University in 2007. (N.T. 20; WTISD 369).
3. Mr. Schoch is currently a doctoral candidate in educational finance at the Pennsylvania State University. (N.T. 20; WTISD 0369).
4. Mr. Schoch has been employed as an education finance consultant since approximately 2014, and he has performed consulting work with State-declared financial recovery school districts. (N.T. 19, 21-22).
5. Mr. Schoch has worked as the Business Administrator for the Penn Manor School District, School District of Lancaster, Reading School District, Council Rock School District, and the North Penn School District from 1984 through 2014. (N.T. 21-22; WTISD 0369-0371).
6. Mr. Schoch’s curriculum vitae is set forth at Exhibit 21. (WTISD 0369-0376).
7. Mr. Schoch has been involved in the planning, design, construction and financing of more than \$500 million worth of school construction in the Commonwealth of Pennsylvania. (N.T. 25).

8. The focus of Mr. Schoch's testimony and his March 2018 expert report was on the comprehensive program of education aspect of the factors identified at 24 P.S. §2-291, and the factors and standards articulated by the Board in its September 14, 2017 correspondence. (N.T. 25, 62; Exhibit 21, WTISD 0363-0368).

9. Mr. Schoch's March 2018 expert report contained updated information related to school district enrollment planning and the impact the WTISD transfer would have on Dover Area School District enrollment. (N.T. 25; Exhibit 21, WTISD 0363-0368).

10. Mr. Schoch's understanding of a comprehensive program of education is the ability of a school district to "provide for needs of all students", including the needs of the regular education students, special education students and, at the high school level, the needs of vocational students. (N.T. 63).

11. Mr. Schoch opined that school districts have an opportunity to obtain educational services from various third parties, including regional agencies, intermediate units, vocational technical schools, local colleges and neighboring school districts when they develop comprehensive programs of education. (N.T. 26-27).

12. The Dover Area School District and the Northern York County School District currently offer comprehensive programs of education. (Joint Stipulation; N.T. 9-10, 17).

13. Dover Area School District and the Northern York County School District each have approximately 3,000 – 3,500 students. (N.T. 28; DAEA Ex. 2, p. 12; DOVER 00045-000049).

14. Approximately 253 (approximately 7%) of Dover Area School District students currently live in Washington Township. Approximately 300 Dover Area School District students lived in Washington Township in 2015. (N.T. 28; DOVER 000044).

15. Mr. Schoch opined that the loss of Dover Area School District students to the Northern York County School District, including revenue loss, will be offset by the Dover Area School District's growth within ten (10) years of the transfer. (N.T. 29, 88; Exhibit 21, WTISD 0363-0368).

16. Mr. Schoch's opinion that the revenue loss experienced by the Dover Area School District will be offset within ten (10) years of the transfer is based, in part, upon the District's potential to recover from the recent economic recession, rather than being based upon its actual recovery, to date. (N.T. 84-86, 93-94).

17. Mr. Schoch opined that the Dover Area School District's student population is expected to increase by approximately 3,000 students due to new residential construction over the next ten (10) to twenty (20) years. (N.T. 38-41, 50; WTISD 0358, 0382).

18. Mr. Schoch is unaware of whether Dover Township or Dover Borough has begun developing new residential properties. (N.T. 87).

19. Mr. Schoch's growth projections for the Dover Area School District are based, in part, upon the York County Planning Commission's population projections. He has not made similar projections for the Northern York County School District. (N.T. 92-93).

20. Mr. Schoch is unaware of whether there are any new housing development plans within Washington Township. (N.T. 107).

21. Dover Area School District's annual budget is approximately \$75 million. (N.T. 32).

22. Dover Area School District estimates that it will experience a net loss of approximately \$2.3 million in annual revenue (3% of its budget) if the Washington Township transfer occurs. (N.T. 30-32).

23. Mr. Schoch opined that a loss of approximately 3% of revenue was “not unusual” for the school districts with which he has consulted. (N.T. 32, 51).

24. The PA School District Profile produced by the Pennsylvania School Boards Association identified Northern York County School District as spending \$13,844.00 per student, Cumberland Valley School District spending \$14,235.00 per student, West Shore School District spending \$12,900.00 per student, and the Dover Area School District spending \$20,597.00 per student. (N.T. 34-35; Exhibit 28, WTISD 0421-0428).

25. In 2015, the millage rate of the Dover Area School District was 40% higher than the millage rate of the Northern York County School District. (N.T. 30-34; Exhibit 22, WTISD 0378-0407).

26. Mr. Schoch opined that Dover Area School District’s high student expenditures, combined with its “high tax rates” will “make it difficult for the Dover community to continue to raise taxes at the levels that a typical district could raise them...”. (N.T. 35).

27. Mr. Schoch opined that the Dover Area School District’s high student expenditures and “high tax rates” suggest that the Dover Area School District could find ways to save money and reduce expenses. (N.T. 35, 120).

28. Dover Area School District is currently renovating and expanding its High School. The District is also considering changes to its grade-level structure, including the removal of a grade level. (N.T. 35-36, 38; Dover 000039-000058).

29. The anticipated cost of construction for the Dover High School renovation is approximately \$65 million. (N.T. 37-38).

30. Mr. Schoch opined that the Transfer of Washington Township students to Northern York County School District would provide Dover Area School District relief from having to

accommodate the anticipated 250-300 students at all grade levels who would enroll with the Northern York County School District. (N.T. 41-42, 95-97).

31. Based upon the geographic center of Washington Township, the Northern York County School District's school buildings are closer to Washington Township School District students and schools in the Northern York County School District than the school buildings in the Dover Area School District in terms of driving distances on public roads. (N.T. 55-58, 99; WTISD 0367-0368).

32. Mr. Schoch opined that the shorter distance between the Dover Area School District students and the Northern York County School District school buildings will reduce the travel times experienced by Washington Township students if the transfer occurs. (N.T. 55-58; WTISD 0367-0368).

33. Mr. Schoch opined that the transfer of Washington Township students from the Dover Area School District to the Northern York County School District would not violate 24 P.S. §2-291 or the *Hoots* standards adopted by the Board. (N.T. 60, 69).

34. Mr. Schoch has not looked at any joint operating agreements between vocational-technical schools and the Dover Area School District or the Northern York County School District. (N.T. 66).

35. Vo-Tech students within the Dover Area School District attend the School of Vocational Technology on a full-time basis where they receive all of their academic education and extracurricular activities. (N.T. 132).

36. Mr. Schoch's analysis did not consider how Northern York County School District conducts its vocational education, or that the Cumberland Perry Area Vocational-Technical

School used by Northern York County School District operates on a half-day schedule. (N.T. 71-73, 132).

37. Mr. Schoch testified that the Dover Area School District would have to reduce its staffing levels and make other budgetary adjustments if the transfer was implemented over the course of a single year. (N.T. 88-89, 109-110).

38. Mr. Schoch did not speak with any members of the Northern York County School District or the Dover Area School District as part of his review. (N.T. 73-75).

39. Mr. Schoch did not analyze the budgets of the Northern York County School District or the Dover Area School District as part of his updated review. (N.T. 78).

40. Dr. Eric Eshbach's Statement to the Pennsylvania State Board of Education, revised March 7, 2018, stated, in part, "To accommodate this anticipated increase in enrollment [approximately 300 students], new classrooms and shared-use space must be added to the existing facilities at the Wellsville Elementary School and the Northern Middle School." (Dover 000115).

41. Mr. Schoch testified that the amount of additional space required by Northern York County School District would depend, in part, upon the way current space is utilized and the type of shared-use space that will be needed. (N.T. 101-102).

42. Mr. Schoch opined that the transfer of 253 Dover Area School District students to Northern York County School District will not prevent the Dover Area School District from offering a comprehensive program of education because of the Dover Area School District's potential to grow in accordance with municipal and county plans. (N.T. 29; Exhibit 21, WTISD 0363-0368).

43. Mr. Schoch opined that Dover Area School District would continue to be able to make available educational programs and educational opportunities to meet the varying needs, aptitudes, abilities and interests of individuals residing in the District if the transfer occurs (N.T. 121).

Carla Claycomb, Ph.D.

44. Carla Claycomb, Ph.D. (“Dr. Claycomb”) has worked for the Pennsylvania State Education Association (“PSEA”) since 2003, where she has served as a Senior Specialist in best practices related to teaching and learning. She also served as Director of Education Services where she worked on policies to support effective teaching and learning. She was promoted to Manager of the Department in or about 2017. (N.T. 568-569, 571-572; DAEA 1).

45. Dr. Claycomb’s duties and responsibilities include supervising PSEA staff regarding effective teaching and learning policies, school policies, education policies, charter school policies, and teacher preparation. (N.T. 569; DAEA 1).

46. Dr. Claycomb holds a Bachelor of Science Degree in Elementary Education from Bucknell University, summa cum laude, a Master’s of Arts Degree in Multicultural Education/Educational Studies from York University, England, and a Doctorate Degree in Educational Theory and Policy from the Pennsylvania State University. (N.T. 570; DAEA 1).

47. Dr. Claycomb has taught as a certified elementary school teacher and at the high school level. She has also performed contract work for the United States Department of Education. She additionally worked as a Project Director and Senior Research Associate for the National Association of State Boards of Education from 1996 through 2003. (N.T. 570-571; DAEA 1).

48. Dr. Claycomb’s professional background, training, experience and publications are memorialized in her Curriculum Vitae. (DAEA 1).

49. Dr. Claycomb wrote a report titled “Professional Review Focusing on the Programs of Education Provided By Dover Area School District and Northern York County School District”. (DAEA 2).

50. Dr. Claycomb’s report and hearing testimony addressed whether the Dover Area School District and the Northern York County School District offer comprehensive programs of education by examining the Districts’ inputs and outcomes. Dr. Claycomb’s analysis additionally considered the impact of any potential transfer of students from Washington Township to the Northern York County School District on the ability of the educational programs in each District to meet the needs of their students. (N.T. 575-576; DAEA 2).

51. Dr. Claycomb’s analysis of whether the Dover Area School District and the Northern York County School District offer comprehensive programs of education involved examining the direct and indirect components of their programs, such as special education and vocational education. Dr. Claycomb also examined whether the Districts have a curriculum aligned with State standards across grade levels, whether the Districts have comprehensive early learning and extracurricular programs, have an effective professional development for staff that tie into the curriculum and standards, and have relationships with outside organizations like intermediate units and vocational-technical schools. (N.T. 576-577).

52. Dr. Claycomb considered various inputs as part of her examination of whether the Dover Area School District and the Northern York County School District offer comprehensive programs of education. Those inputs included the Districts’ course booklets, websites, publicly available PDE data, school performance profiles and Board minutes. (N.T. 579).

53. Dr. Claycomb considered various outcomes as part of her examination of whether the Dover Area School District and the Northern York County School District offer comprehensive

programs of education. Those outcomes included the Districts' PSSA and Keystone examination scores over several years. (N.T. 580-581).

54. Dr. Claycomb examined the Districts' PSSA and Keystone examination scores to determine whether the educational programs achieved expected outcomes. (N.T. 581).

55. Dr. Claycomb opined that the Dover Area School District and the Northern York County School District currently offer comprehensive programs of education. (N.T. 581, 590).

56. Dr. Claycomb's analysis regarding the likely impact of Washington Township's proposed transfer focused upon education research which addressed the impact of a shift in schooling on the likelihood of students' success in a program, and the risk presented to students from such a change. (N.T. 582).

57. Dr. Claycomb's analysis regarding the likely impact of Washington Township's proposed transfer concentrated on characteristics of schooling which research has shown are important to being able to meet the needs of individual students in a comprehensive program of education, in addition to characteristics that may present risks to students' ability to participate and benefit from comprehensive programs of education within their school districts. (N.T. 584).

58. Components examined by Dr. Claycomb included student mobility, staff mobility, class size, curriculum and learning communities. (N.T. 584).

59. Dr. Claycomb opined that staffing levels and class size are related in that they contribute to the efficiency of a program of education. (N.T. 585).

60. Dr. Claycomb opined that staffing levels and class size in the Dover Area School District and the Northern York County School District will shift should the transfer occur. Specifically, Dover Area School District would have to furlough staff, and Northern York County School District would have to hire staff. (DAEA Exhibit 2, p. 8; N.T. 586-587).

61. Dr. Claycomb opined that the anticipated shift in students and staff would require the reallocation of students and teachers in ways which will result in a change to the instructional cost per student. (N.T. 587).

62. Dr. Claycomb opined that staff furloughs would significantly disrupt the learning/professional communities in which the teachers had been working. (N.T. 587-589, 591, 596).

63. Dr. Claycomb opined that Dover Area High School Students who transfer to the Northern York County School District could potentially lose access to the programs of study in which they currently participate, including the District's geo-spatial information program, career and technical education program, drop-out re-engagement program, agricultural educational program, and specific pathway programs. (DAEA Exhibit 2, p. 8).

64. Dr. Claycomb opined that the proposed transfer would change student community groups/peer groups, and result in larger class sizes in the Northern York County School District which, in turn, is likely to change teaching behaviors and adversely affect student learning. (N.T. 591-592).

65. Dr. Claycomb opined that the anticipated lost revenue to the Dover Area School District may result in loss of programs that are currently of value to the local community. (N.T. 592).

66. Dr. Claycomb opined that although a comprehensive program of education can survive changes, the simultaneous imposition of multiple risk factors increases risk to the effective functioning of the system. (N.T. 589-590).

67. Dr. Claycomb opined that unnecessary or large shifts due to student population changes which disrupt staffing patterns and class size can have a deleterious effect on the provision of a comprehensive program of education for students and teachers. (N.T. 585).

68. Dr. Claycomb opined that the transfer of Washington Township students to the Northern York County School District would “impair the comprehensive program of education offered by the Northern York Area School District.” (N.T. 590-591).

69. Dr. Claycomb did not opine that the transfer will preclude the Dover Area School District from being able to provide a comprehensive program of education. Instead, Dr. Claycomb testified that it would be preferable to return to the School Districts in approximately two years to evaluate the actual effect, if any, upon both Districts. (N.T. 598).

70. Dr. Claycomb did not opine that the transfer of the Washington Township students will preclude the Dover Area School District from educating and training each child within his or her capacity to the extent demanded by the immediate requirements of his or her growth and his or her relationship to strengthening of the Commonwealth. Instead, Dr. Claycomb testified that she is concerned about the effect the transfer will have on the Districts’ programs. For that reason, she found it preferable to return to the School Districts in approximately two years to evaluate the actual effect, if any, the transfer has had upon the Districts. (N.T. 604-605).

Tracy L. Krum

71. Tracy L. Krum (“Ms. Krum”) is the Dover Area School District Superintendent of Schools. (N.T. 360).

72. The Dover Area School District is currently undergoing academic growth, including the adaptation of an instructional model using technology for the purpose of achieving earlier assessments and intervention, when needed, and to provide equal learning opportunities to its diverse student population. (N.T. 360-361, 363-364).

73. The Dover Area School District has approved a construction project involving the two-year construction of a new high school to begin in July 2018. (N.T. 366, 369; WTISD 0004-WTISD 0033).

74. The Dover Area School District is moving towards an academy model where students by grade ten (10) will choose the academy they wish to follow during their high school career. (N.T. 371).

75. The purpose of constructing a new high school building is to accommodate the academies academic model. (N.T. 372).

76. The Dover Area School District also plans to align its classrooms to meet the needs of its Career and Technical Education and Special Education students. The new High School will also facilitate group projects. (N.T. 372).

77. Ms. Krum opined that the Dover Area School District's Intermediate School is currently overcrowded and obsolete, and that its classroom sizes no longer meet the needs of the students. (N.T. 373).

78. Dover Area School District intends to create a middle school by moving students from the Intermediate School to the former High School, and move the sixth grade into the new Middle School. (N.T. 374-375).

79. The Dover High School student population is currently less than 1,200 students. (N.T. 377).

80. The newly constructed Dover High School is forecast to accommodate approximately 1,400 students. (N.T. 376).

81. Ms. Krum provided testimony during the Act 34 hearing pertaining to the construction of the new Dover High School building on January 9, 2018. (N.T. 381-383; WTISD 0430-0438).

82. Ms. Krum expressed her concern that the Dover Area School District may not be able to provide specific electives which align to the academy model due to decreased class size if the Washington Township transfer occurs. (N.T. 384-385).

83. Ms. Krum is hopeful that the Dover Area School District will continue to be able to provide a comprehensive program of education to its students if the transfer of the Washington Township students occurs. (N.T. 383).

Jennifer Benko

84. Jennifer Benko (“Ms. Benko”) is the Dover Area School District Business Manager. (N.T. 394).

85. Ms. Benko’s primary responsibilities include overseeing transportation, food service, facility maintenance, accounting and the human resources of the Dover Area School District. (N.T. 394).

86. Ms. Benko is additionally tasked with ensuring that Dover Area School District is providing the best education possible to its students, while also being fiscally and financially responsible. (N.T. 395).

87. Ms. Benko is familiar with the Dover Area School District’s total annual revenue, total annual expenditures and total annual fund balances as the District’s Business Manager. (N.T. 405-406).

88. The trailers currently being used by the Dover Area School District at its High School and Intermediate School will not be used following the completion of the new Dover High School building. (N.T. 409).

89. The 2017/2018 Enrollment Study created by Ms. Benko reflects projected class sizes through grade 12 based upon average class size. (N.T. 410-413; DOVER 000045).

90. The 2017/2018 Enrollment Study created by Ms. Benko does not specifically consider the number of anticipated students from residential developments which have already been approved, but not yet constructed. However, the projections include some students from residential developments within the District from those developments. (N.T. 412-413, 441; DOVER 000045).

91. Ms. Benko uses the software, Forecast 5 and Skyward, and information from the Pennsylvania Department of Education to develop enrollment projections for the Dover Area School District. (N.T. 411, 416-418; DOVER 000045-000057).

92. Dover Area School District enrollment projections using the Forecast 5/5Sight model predict a decrease in the number of students enrolled by 2021. (N.T. 438-440; DOVER 000048-000049).

93. Dover Area School District expects to experience a net loss of approximately \$2.3 million if the Washington Township Independent School District transfer occurs. (N.T. 396-397; DOVER 000039).

94. The Dover Area School District's calculations regarding the \$2.3 million net loss to the District are based upon the York County Assessment valuation for 2016-2017. (N.T. 398-402; DOVER 000039).

95. The anticipated \$2.3 million net loss projected by the Dover Area School District includes special education travel expenses, but does not include expenses for special education outside services. (N.T. 437; DOVER 000039).

96. Dover Area School District anticipates the need to increase property taxes based upon the anticipated loss of revenue if the Washington Township Independent School District transfer

occurs. However, the District has not yet conducted a comprehensive analysis of ways to reduce expenses following the transfer. (N.T. 402-403, 433-434).

97. Dover Area School District anticipates a \$2 million deficit for school years 2018-2019, in addition to the anticipated net loss of approximately \$2.3 million if the Washington Township Independent School District transfer occurs. (N.T. 404).

98. Although the Dover Area School District has been projecting annual budget deficits of approximately \$2 million, the District has experienced a revenue surplus of approximately \$3 million for 2016-1017 due, in part, to a return of approximately \$2.1 million in PlanCon reimbursements. (N.T. 424, 428-429).

99. Dover Area School District's subsidy from the Commonwealth of Pennsylvania would likely be reduced if the District lost the anticipated number Washington Township students. (N.T. 404-405).

100. Dover Area School District anticipates the need to furlough or lose 13 professional employees and 8 support staff if the transfer of the Washington Township Students to the Northern York County School District occurs. Such a loss of staff could result in the modification of courses of study offered by the Dover Area School District. (N.T. 456-457).

101. Ms. Benko described the anticipated loss of revenue to the Dover Area School District due to a transfer as being "very significant". (N.T. 404).

Eric C. Eshbach, Ph.D.

102. Dr. Eshbach is the Superintendent of Schools for the Northern York County School District. He holds a Bachelor's Degree in Elementary Education, a Master's Degree in Education Administration with a Principal Certification, a Doctorate in Education Administration, and a superintendent's letter of eligibility from Duquesne University. (N.T. 122-123).

103. Dr. Eshbach submitted written Statements to the Pennsylvania State Board of Education on March 9, 2017, and on March 7, 2018. (N.T. 123; Dover 000105-000120).

104. Dr. Eshbach's March 7, 2018 written Statement to the State Board of Education is incorporated herein. (Dover 000113-120).

105. The Northern York County School District is taking a "neutral" position on the transfer of Washington Township to the Northern York County School District. (N.T. 125; Dover 000105-000120).

106. Dr. Eshbach opined that any addition or reduction in the number of students within a school district "has a significant impact on not just the school district but the child." (N.T. 126).

107. Dr. Eshbach opined that the transfer of 250-300 students from one school district to another is "significant". (N.T. 126).

108. The Northern York County School District renovated the Wellsville Elementary School in 2017 by making space for two classrooms for each grade level, from kindergarten through fifth grade. The renovations also accommodate other needs. (N.T. 126).

109. Although the addition of students to Wellsville Elementary School will not require additions to the school, it would require using current spaces in different capacities and would have an impact on the Northern York County School District's educational program. (N.T. 127).

110. Dr. Eshbach opined that the Northern York County School District would require two years to properly accommodate the additional students it would receive through the transfer of Washington Township students into the District. (N.T. 127-129, 131; Dover 000105-000120).

111. The elementary schools within the Northern York County School District are at 80% capacity. The addition of students from Washington Township would increase the capacity of the District's middle school to 93%. (N.T. 127).

112. Washington Township elementary school students transferring to the Northern York County School District would attend one of two elementary schools based upon the students' geographic location. (N.T. 128, 138).

113. Northern York County School District anticipates the need to rapidly renovate its middle school to properly accommodate the additional students it would receive through the transfer of Washington Township students into the District. (N.T. 127-128).

114. The Northern York County School District would need to hire approximately ten (10) professional staff members at the elementary school level, and approximately ten (10) professional staff members for its special classes should the transfer occur. (N.T. 129).

115. The Northern York County School District anticipates the need to add another teaching team to the middle school to include all core content areas such as Math, English and Social Studies. (N.T. 145).

116. The Northern York County Policy Manual limits its middle school class size to 28-35 students. The addition of Washington Township students would cause class size to exceed that range, absent renovations. (N.T. 146-147; DOVER 000123).

117. Northern York County School District anticipates needing to expand its middle school cafeteria and add or expand some classrooms and common spaces should the transfer occur because the current middle school does not have space to add another teaching team to the building. (N.T. 145-146, 148-149).

118. Northern York County School District anticipates the need to suspend some of the PlanCon rules established by the Commonwealth to renovate its middle school in a timely manner. (N.T. 144).

119. The Northern York County School District would receive increased tax revenue based upon the additional students it receives from Washington Township if the transfer occurs. (N.T. 166).

120. The Northern York County School District does not provide full-day kindergarten. The Dover Area School District provides full-day kindergarten. (N.T. 149-150).

121. The Northern York County School District anticipates being able to provide a comprehensive program of education to its students, in addition to educational programs and opportunities to meet the varying needs, aptitudes, abilities and interests of individuals residing within the District should the transfer occur, and if the District is provided sufficient time to prepare for the transfer. (N.T. 131, 149).

122. Dr. Eshbach opined that students within the Northern York County School District suffered in terms of receiving comprehensive programs and educational opportunities because of the District having received less revenue during the most recent recession. (N.T. 134).

123. The Northern York County School District does not provide its students with every course described in its February 14, 2018 Program of Studies during a given year. (WTISD 0042-0132; N.T. 135, 165).

124. Northern York County School District students are able to take cyber courses that are offered in the course selection book. Students are also able to take higher-level courses at local colleges. (N.T. 136-137).

125. The Northern York County School District adopted a Resolution on January 15, 2015 which addressed the potential transfer. (N.T. 141; WTISD 0322-0327).

126. The Career Technology Education (“CTE”) Program in the Northern York County School District has two programs of study consisting of an agriculture program and a business education program. (N.T. 155-156).

127. The Career Technology Education Program offered by the Dover Area School District consists of ten (10) courses of study. (N.T. 157, 180, 494).

128. The CTE Programs offered by the Dover Area School District include Agriculture-General, Agriculture-Mechanical, Applied Horticulture-General, Engineering Technology, Computer Technology, Administrative Assistant, Accounting Technology, Marketing, Commercial Advertising Art and Diversified Occupation. (N.T. 494, 495).

129. The Northern York County School District is able to accommodate students entering its Career Technology Education Program who had different courses of study in other school districts. (N.T. 159-161).

Jared Wastler

130. Jared C. Wastler (“Mr. Wastler”) is the Principal of the Dover Area High School. (N.T. 169).

131. Mr. Wastler oversees the budget, staffing, student programs and educational programs as the chief administrator of the Dover High School building. (N.T. 170).

132. DOVER 000005 reflects the number of Washington Township students currently enrolled in each course offered at Dover High School. (N.T. 171; DOVER 000005-DOVER 000027).

133. There are approximately 80 Washington Township students enrolled at Dover High School. (N.T. 187).

134. Dover High School offers cyber courses through Edmentum, EdOptions Academy. (N.T. 188; DOVER 000006).

135. Dover Area School District's policy limits class size at grades 9 through 12 to 18 to 28 students. (N.T. 171).

136. Dover High School currently operates within the range of class sizes established by the District's policy. However, the school would not be able to offer its current course selection on an annual basis if the number of students fall below the acceptable range due to the loss of students. (N.T. 172).

137. Dover High School determines the classes it offers based upon factors which include the students' graduation requirements, the sequencing of core courses and space availability, particularly the Dover Area School District's Career Technology Education Program. Several courses have a set requirement on the grade levels at which the students are able to take the classes. (N.T. 172-173).

138. Several of Dover Area School District's four-year educational programs involve introductory courses in the ninth-grade year which form the foundation upon which subsequent courses are built. (N.T. 174).

139. Dover Area School District traditionally starts its Career Technology Education Program students in ninth grade as an introductory course. (N.T. 178).

140. Mr. Wastler opined that the foundational/sequencing approach used by the Dover Area School District enables students to change programs without being adversely impacted. (N.T. 174, 178).

141. Dover Area School District may not be able to offer advanced placement courses if student enrollment for the courses drop below the level proscribed by District policy. (N.T. 175, 195, 201-202).

142. A loss in student population may also result in Dover High School having to return to providing combination classes wherein two or three different level classes are placed in the same room which, according to Mr. Wastler, is not an “ideal educational environment”. (N.T. 175-176).

143. A change in a student’s ability to take a course needed within his/her program of study can have “a very adverse impact on their Career Completer Program.” (N.T. 179, 201).

144. Dover Area School District attempts to accommodate the needs of CTE students who have enrolled in a CTE Program in a different school district. (N.T. 190).

145. Mr. Wastler is familiar with three subdivisions in Dover Township where new residential construction is occurring. (N.T. 184-185).

146. The growth rate in Washington Township has been approximately 1 ½% during the prior 30-40 years. (N.T. 232).

147. The most students Dover High School has lost per year when Mr. Wastler has been Principal is 20. (N.T. 197).

148. Mr. Wastler opined that the loss of 250 students at the high school level would have a significant impact. (N.T. 197).

Christopher E. Cobb

149. Christopher E. Cobb (“Mr. Cobb”) is the Principal of the North Salem Elementary School within the Dover Area School District. (N.T. 468).

150. Mr. Cobb has been a school administrator for ten (10) years. (N.T. 468).

151. The North Salem Elementary School is comprised of grades K through 6. (N.T. 469).

152. The North Salem Elementary School currently has three teachers at each grade level. (N.T. 469).

153. All Washington Township elementary school-aged children enrolled in public school attend the North Salem Elementary School. (N.T. 470).

154. In 2015-2016, the North Salem Elementary School began teaching through a system of departmentalization in grades 3 through 6, wherein each of three teachers taught a designated subject. The departmentalization concept was, thereafter, used by the other elementary schools within the District. (N.T. 472-474, 481).

155. Transferring Washington Township school students to the Northern York County School District will probably require the North Salem Elementary School to reduce its teaching staff to two teachers per grade level due to the reduction in the number of students. (N.T. 474-475).

156. The loss of one teacher per grade level would preclude the North Salem Elementary School from departmentalizing its course structure. (N.T. 475).

157. The loss of one teacher per grade level would result in North Salem Elementary School reducing the number of its core teachers and services, such as the reading specialist and learning support teachers. (N.T. 476).

158. The loss of one teacher per grade level could result in North Salem Elementary School having to receive elementary school students from another elementary school within the District. (N.T. 478).

159. There have been times when encore teachers had to teach at more than one school based upon student populations. (N.T. 482-483).

160. The North Salem Elementary School has developed a system which facilitates cohesiveness between students of different grade levels. (N.T. 483-485).

Charles Benton

161. Charles Benton (“Mr. Benton”) is the Dover Area School District Director of Career Education and Academic Services, and is the High School’s Director of Career and Technical Education programs. (N.T. 487).

162. Mr. Benton also oversees grade K through 12 STEM initiatives and school-business relationships. (N.T. 487).

163. Mr. Benton is on the Dover Township Industrial Commercial Development Community as a voting member representative of the Dover Area School District. (N.T. 488).

164. Dover Area School District’s philosophy towards its STEM program is different from the philosophy of some other school districts regarding their STEM programs. (N.T. 490-491).

165. All of the Dover Area School District’s technology education (“CTE”) programs are part of the High School’s STEM Program. (N.T. 492).

166. Although all Dover Area High School students may take the courses offered within the School’s CTE Programs, the CTE Programs involve career paths which consist of particular sequences of courses which culminate with an end-of-program examination. (N.T. 495-496).

167. Students at Dover Area High School are able to switch CTE Program tracks. A student's inability to complete a desired CTE Program track reduces the student's employment prospects or ability to earn college credit. (N.T. 497-499).

168. The Northern York County School District does not offer a STEM program but, instead, has started Project Lead the Way which is "STEM oriented". (N.T. 491).

169. Dover Area School District students who attend the York County School of Technology follow that school's academic guidelines. (N.T. 501).

170. Cumberland-Perry Area Vocational Technical School is part of the consortium in which the Dover Area School District is a member. The Columbia-Perry Area Vocational Technical School's Program is a half-day program. (N.T. 502).

171. Because of higher graduation requirements at the Dover Area School District, York County School of Technology students who transfer to the Dover Area School District have a difficult time completing their technical subjects unless Dover High School has the subjects the students need. (N.T. 503, 507-508).

172. Northern York County School District offers agricultural-based courses which are similar to the agricultural-based STEM courses offered by the Dover Area School District. However, the CTE program courses offered by Dover Area School District are approved by the Commonwealth of Pennsylvania, are subject to State guidelines, and are validated by end-of-program examinations. (N.T. 506-507, 510-511).

Joe Sieber (Community Characteristics)

173. Joe Sieber ("Mr. Seiber") is a resident of Washington Township, and is a member of the Washington Township Independent School District, f/k/a the Washington Township Education Coalition. (N.T. 203).

174. Mr. Sieber has lived in Washington Township for approximately 20 years. (N.T. 246).

175. Mr. Sieber is a member of the Washington Township Zoning Hearing Board. (N.T. 243).

176. Washington Township has not updated its Comprehensive Plan since January 2008. (N.T. 204; WTISD 0358).

177. Mr. Sieber believes that most of the shopping centers around Washington Township are closer to the Northern York County School District than they are to Dover Area School District. (N.T. 206; WTISD 0143).

178. The red dots on WTISD 0293 represent 1,406 Washington Township residents who signed a 2012 petition to transfer Washington Township School District to the Northern York County School District. (N.T. 209-210; WTISD 0293).

179. There are four (4) separate postal zip codes in Washington Township. The least number of households are in the Dover zip code area. (N.T. 211; WTISD Exhibit 23).

180. Washington Township is in a different magisterial district than Dover Township. (N.T. 212; Exhibit 24).

181. A variety of ambulance services cover Washington Township. (N.T. 214).

182. Washington Township is part of the 92nd Legislative District, and it has a State Representative different from the State Representative for Dover Township, District 196. (N.T. 217; WTISD Exhibit 26).

183. The Pennsylvania State Police cover Washington Township. The Northern York Regional Police Department covers the remainder of the Dover Area School District municipalities, including Dover Borough. (N.T. 218, 245-246; WTISD 0418-0419).

184. The Carroll Township Police Department covers the Northern York County School District. (N.T. 246).
185. There are approximately 1,313 households, and approximately 2,600 people who reside in Washington Township. (N.T. 220).
186. 1,406 people, or approximately 74% of the taxable inhabitants of Washington Township signed the 2012 petition in favor of transferring to the Northern York County School District. (N.T. 220).
187. Washington Township has approximately ten (10) places of worship. (N.T. 221).
188. Ski Roundtop, Messiah College and Gifford Pinchot State Park are in the Northern York County School District. They offer Washington Township residents a variety of recreational activities. (N.T. 223, 225-227, 234).
189. Hunting can be conducted at many locations in Washington Township, and there are State Game Lands and open spaces in Washington Township. (N.T. 223).
190. A natatorium for swimming accessible to Washington Township residents is located within the Northern York County School District. (N.T. 224, 240-241).
191. The Dover Fire Company holds community events. The Dover Area Community Center and the Dover YMCA are located within the Dover Area School District. (N.T. 225).
192. The Dover Area School District has an aquatics facility. (N.T. 252).
193. Lehr Park is located within the Dover Area School District. (N.T. 252).
194. Various restaurants are located within the Dover Area School District. (N.T. 252).
195. The Dover Area School District has a Drive Their Tractors to School Day. (N.T. 253).

196. Venues exist for equestrian activities in Washington Township and in the Northern York County School District. (N.T. 229-230).
197. Washington Township residents attend the Wellsville Rodeo which is located within the Northern York County School District. (N.T. 230).
198. Washington Township residents attend the Farmers' Fair near Dillsburg, which is located within the Northern York County School District. (N.T. 221, 230-231).
199. Washington Township is part of the Northern Historic Society. (N.T. 233).
200. Residents of Washington Township can find recreational facilities in the Dover Area School District similar to those in the Northern York County School District. (N.T. 255, 257).
201. Washington Township was formerly part of Warrington Township located within the Northern York County School District. (N.T. 233).
202. Mr. Sieber does not consider himself to be a member of the Dover community, and opined that most residents of Washington Township consider themselves to be members of Washington Township more than they consider themselves to be members of the Northern York County School District. (N.T. 239).
203. Some residents of Washington Township are members of the Dillsburg Area Soccer Club located within the Northern York County School District. (N.T. 242).
204. Mr. Siebert's testimony regarding where people shop and recreate is based upon his personal experience as a resident of Washington Township, and is not based upon any studies or objective criteria. (N.T. 246-247).

Kathy Kennedy Meyer (Community Characteristics)

205. Kathy K. Meyer (“Ms. Meyer”) is a resident of Washington Township and is the Secretary for the Washington Township Educational Coalition. (N.T. 272).

206. Ms. Meyer believes the Dover Area School District “made a huge mistake” when it closed Kralltown Elementary School in Washington Township. (N.T. 272-273).

207. Ms. Meyer is employed in Harrisburg, Pennsylvania. (N.T. 274).

208. Ms. Meyer’s family attends church in Cumberland County, Pennsylvania. (N.T. 275-276).

209. Ms. Meyer has seen Washington Township residents patronize the Dill Tavern, and attend the Wellsville Fair and the Wellsville Firemen’s Carnival within the District. (N.T. 276-277).

210. Ms. Meyer shops in Hannover, Pennsylvania, and has seen Washington Township residents shop in Hannover, which is not located in the Northern York County School District. She also shops in Adams County, Camp Hill and Mechanicsburg, which are not located in Northern York County School District. (N.T. 276, 303-304, 307).

211. Ms. Meyer has seen Washington Township residents at Pinchot Park and Ski Roundtop, located in the Northern York County School District. However, she and her family primarily used the Harrisburg side of the Park. (N.T. 277-278, 306).

212. Ms. Meyer participated in her daughter’s Girl Scout activities in Washington Township, within the Dover Area School District, and in activities within the Northern York County School District. (N.T. 278-280).

213. Ms. Meyer has seen Washington Township residents visit restaurants located within the Northern York County School District, and in other restaurants outside the District.

However, her daughter worked at the Cracker Barrel restaurant located outside Northern York County School District. (N.T. 280, 305).

214. Ms. Meyer visited several new residential housing developments within the Dover Area School District prior to providing her April 24, 2018 testimony. Some of the developments she saw had existing homes and new construction underway in various stages, while others did not. (N.T. 282-294, 298).

215. Ms. Meyer does not know how long some of the new housing developments have been under development. (N.T. 300).

216. Some of the housing developments visited by Ms. Meyer were age restricted communities. (N.T. 298-299).

217. Ms. Meyer does not know anyone who lives in the communities she visited, or the identities of anyone who may be buying a house in one of the communities. (N.T. 310).

218. Ms. Meyer has no reason to believe that any children who may come to live in the developments she visited in the Dover Area School District will have the same interests as the children who currently reside in Washington Township. (N.T. 310).

219. Ms. Meyer did not view any websites or conduct similar visits to new housing developments in the Northern York County School District in preparation for her hearing testimony. (N.T. 295, 297-298).

Ralph McGregor (Community Characteristics)

220. Ralph McGregor (“Mr. McGregor”) was born and raised in Washington Township where he currently resides. (N.T. 317).

221. Mr. McGregor is an elected member of the Washington Township Board of Supervisors. He formerly served as President of the Kralltown Elementary School PTA and served on the Dover Area School District Board from 1976 through 1990. (N.T. 317).

222. Mr. McGregor formerly served as the Chairman of the Washington Township Independent School District. (N.T. 318).

223. Mr. McGregor testified that most residents living in the northern part of Washington Township attend activities and events in the Northern York County School District, while residents living in the southern portion of the Township gravitate towards East Berlin and Hanover which are not in the Northern York County School District. (N.T. 319-320, 328-329).

224. Mr. McGregor testified that Washington Township legal notices are published in the weekly newspaper, the Dillsburg Banner, based in the Northern York County School District. However, he receives a newsletter from the Bermudian School District. (N.T. 319, 333-334, 345).

225. Mr. McGregor testified that many Washington Township residents attend his church, and other churches in the Northern York County School District. (N.T. 320-321).

226. Mr. McGregor accompanied Ms. Meyer on her visits to several new residential housing developments within the Dover Area School District prior to his April 24, 2018 testimony. Some of the developments he saw had existing homes and new construction underway in various stages, while others did not. (N.T. 322-325).

227. Mr. McGregor described Washington Township as being more similar to communities in the Northern York County School District than it is to communities in the Dover Area School District in that Washington Township preserves open space and limits development. (N.T. 325-326).

228. The Dover Area School District encompasses Dover Township, Dover Borough and Washington Township. (N.T. 336; WTISD 0406).

John Peters (Community Characteristics)

229. John Peters (“Mr. Peters”) is a resident of Washington Township who resides in the southern end of the Township, on the border between Washington Township and Dover Township. (N.T. 342; WTISD 0406).

230. The Dover Area School District intends to build a new high school to address what Mr. Peters believes is overcrowding at the school. (N.T. 342-343).

231. Fire coverage for Washington Township comes from Wellsville in the Northern York County School District, and from East Berlin which is not in the Northern York County School District. (N.T. 344, 348).

232. Mr. Peters attends events at the Northern Historical Society which includes Washington Township. He does not see many Washington Township residents at the Historical Society very often. (N.T. 345, 347).

233. Dover Area School District does not publish in the Dillsburg Banner newspaper to which he subscribes. Instead, the District publishes in the York newspaper, The Daily Local. (N.T. 346, 349).

234. Mr. Peters conducts very little activity in the Dover Area School District, other than attend School Board meetings and hearings. (N.T. 346).

235. A Washington Township resident is currently a member of the Dover Area School District Board of Directors. (N.T. 348).

Rachel Mailey (Community Characteristics)

236. Rachel Mailey (“Ms. Mailey”) resides within the Dover Area School District. (N.T. 515).
237. Ms. Mailey has five (5) children who are students within the Dover Area School District. (N.T. 515).
238. Ms. Mailey had been active with the PTO, has volunteered for many school activities, and is a current member of the Dover Area School District’s Board of Directors. (N.T. 515-516).
239. Two Washington Township parents are currently officers with the PTO. Many other Washington Township parents are involved with the PTO. (N.T. 525, 530).
240. Ms. Mailey was involved with the Dover Area School District’s approval of lacrosse as a regular in-season sport. (N.T. 518).
241. Ms. Mailey identifies most with the Dover community, in part, because it offers multiple sporting, musical and theater opportunities for children and adults. (N.T. 518-523; KIDS 000001-000013).
242. Ms. Mailey regularly sees Washington Township parents at her children’s sporting and musical events. Some of the parents volunteer at the activities. (N.T. 526).
243. Ms. Mailey and her family primarily shop and patronize restaurants within the Dover area, and their family physician practices in the Dover area. (N.T. 518-519).
244. Ms. Mailey’s sons and daughter work in Dover. (N.T. 519).
245. Ms. Mailey’s children have developed peer-to-peer relationships and have been provided scholarship opportunities as a result of their involvement in the sporting, musical and theater opportunities available in Dover Area School District. (N.T. 523).

Sandra Sweitzer (Community Involvement)

246. Sandra Sweitzer (“Ms. Sweitzer”) is a farmer who resides in the Dover Area School District. (N.T. 536).

247. Ms. Sweitzer has two children who attend Dover Area School District schools, and a child who graduated from Dover Area High School. (N.T. 537).

248. Ms. Sweitzer primarily identifies with the Dover and York community. Her family does its banking in Dover, and her family’s physician practices in Dover. (N.T. 538).

249. Ms. Sweitzer’s family attends church in Washington Township. (N.T. 538).

250. Ms. Sweitzer’s children are/will be third generation Dover Area High alumni. Her father was the President of the Dover Area High School Future Farmers of America (“FFA”). Her daughter later served as its President, and her other daughter is currently President of the chapter. (N.T. 538-539).

251. 33% of Washington Township school students are members of its FFA chapter, and a Dover FFA alumni association is currently being formed. (N.T. 539-540).

252. Ms. Sweitzer’s family participates in various FFA activities. (N.T. 539).

253. Dover Area School District holds a “Drive Your Tractor to School Day”, one time per year, which is a cultural event for participating students. (N.T. 551-552).

254. Washington Township has a long farming legacy. (N.T. 541).

255. Ms. Sweitzer attributes her daughter’s ability to win scholarships to the long-lasting relationships she has formed with her teachers in the Dover Area School District. (N.T. 542-544).

256. The Dover Area School District regularly sponsors two students to attend the Future Leaders of York program. (N.T. 544-545).

257. The Northern York Area School District has a FFA program. (N.T. 547).

Heather Dengler (Community Characteristics)

258. Heather Dengler (“Ms. Dengler”) resides in the Dover Area School District and has two students within the District. (N.T. 554).

259. Ms. Dengler primarily identifies with Dover, York and Hanover. She grew up in the Dover area. (N.T. 554).

260. Ms. Dengler primarily shops, banks and obtains professional services such as banking, medical and orthodontic care in the Dover area. (N.T. 555, 559).

261. Four generations of Ms. Dengler’s family have resided in Washington Township. (N.T. 555).

262. Ms. Sweitzer’s oldest daughter is the captain of the High School’s Color Guard, is a member of the National Honor Society, and participates in the school’s Quiz Bowl and theatre productions. Both her children are trying out for the Color Guard and sing in the choir. Ms. Sweitzer’s youngest daughter is on her school’s cross-country team. (N.T. 556-557).

263. A Washington Township parent started a mentoring program at North Salem Elementary School in the Dover Area School District. Ms. Sweitzer’s parents participated in the program as mentors. (N.T. 557-558).

264. Some mentors in the mentoring program do not have children in Dover Area School District schools. (N.T. 558).

265. Ms. Dengler’s family has a membership at the YMCA in Hanover, outside the Dover Area School District. However, her husband started a program at the YMCA in Dover where he taught with the Young Tigers Taekwondo Program. (N.T. 560, 564).

266. Ms. Dengler's family uses the East Berlin and Dover libraries. East Berlin is not in the Dover Area School District. (N.T. 561, 564).

267. Ms. Dengler fears that her daughter will lose the peer and teacher relationships she has formed if she is required to attend Northern York County Area High School. (N.T. 563).

CONCLUSIONS OF LAW

1. The Board is not precluded from approving the transfer of Washington Township into the Northern York County School District by 24 P.S. §2-293(a) based upon the student population of each school district.
2. The evidentiary record establishes by a preponderance of the evidence that the Dover Area School District and the Northern York County School District will be able to provide comprehensive programs of education to their students following the transfer of Washington Township to the Northern York County School District.
3. The evidentiary record establishes by a preponderance of the evidence that the transportation of Washington Township students will be enhanced by the transfer of Washington Township into the Northern York County School District.
4. The evidentiary record does not establish by a preponderance of the evidence that the transfer of Washington Township to the Northern York County School District will make educational programs and opportunities available which meet the varying needs, aptitudes, abilities and interests of individuals residing in both school districts.
5. The evidentiary record does not establish by a preponderance of the evidence that the geographic area will reflect the characteristics of the community as a result of the transfer of Washington Township to the Northern York County School District.
6. The preponderance of the evidentiary record does not weigh in favor of transferring Washington Township to the Northern York County School District based upon the use of existing buildings to maximum extent practical, and the avoidance of unnecessary new construction.

7. The preponderance of the evidentiary record does not weigh in favor of transferring Washington Township to the Northern York County School District based upon pupil population changes.
8. Approval of the transfer of Washington Township to the Northern York County School District would be contrary to the standards adopted by the Board. 24 P.S. §2-291; *Hoots v. Commonwealth of Pennsylvania*, 672 F.2d 1107, 1111 n.3 (3rd Cir. 1982).

DISCUSSION

Issues Considered

By letter dated September 14, 2017, the Board directed the undersigned Presiding Officer to “take into account the proposed transfer’s impact upon [Northern York County School District and Dover Area School District] with respect to the factors set forth in the Public School Code of 1949”, and the standards articulated in the Board’s May 11, 2017 correspondence which identified the Board’s reasons for its initial disapproval of the transfer. The Board went on to instruct the Presiding Officer that pursuant to the January 20, 2017 Order of the Pennsylvania Commonwealth Court, the hearing in this matter was to address the issues the Board addressed as part of its initial determination and, in particular, the factors set forth at 24 P.S. §2-291, and in *Hoots v. Commonwealth of Pennsylvania*, 672 F.2d 1107, 1111 n.3 (3rd Cir. 1982). The Pennsylvania School Code at 24 P.S. §2-291 provides as follows:

§2-291. Standards for organization of administrative units

The State Board of Education, within ninety (90) days of the effective date of this amending act, shall adopt standards for approval of administrative units, **taking into consideration the following factors: topography, pupil population, community characteristics, transportation of pupils, use of existing school buildings, existing administrative units, potential population changes and the capability of providing a comprehensive program of education.**

24 P.S. §2-291 (emphasis added).

The standards identified by the Board for consideration are as follows: 1) Whether the transfer makes available educational programs and educational opportunities to meet the varying needs, aptitudes, abilities and interests of individuals residing in the district; 2) Whether the geographic area (as defined by the re-structured district) has developed the characteristics of a community; 3) Whether the transfer utilizes existing buildings to the maximum extent practical avoiding unnecessary new construction where possible; 4) Whether pupil population changes are supported by reliable studies of area development and demonstrate the desirability of the transfer; and 5) Whether the transfer demonstrates a capability of providing a comprehensive program of education. See, September 14, 2017 Board correspondence. Importantly, the factors set forth by the Public School Code at 24 P.S. §2-291, and those articulated by the Board are not mutually exclusive. Instead, the two frameworks clearly have overlapping aspects and, therefore, must be considered in conjunction with one another, where possible. This Proposed Report is being rendered in accordance with the directives concerning the factors to be considered, as set forth in the Board’s September 14, 2017 correspondence.

Burden of Proof

The Board directed through its September 14, 2017 correspondence that “the hearing officer must determine whether, upon a preponderance of the evidence, the applicant has demonstrated that the foregoing enumerated factors weigh in favor of the transfer.” *Id.* A preponderance of the evidence is generally understood to mean that evidence demonstrating a fact is more likely to be true than not to be true or, if the burden were viewed as a balance scale, the evidence in support of a party’s case must weigh slightly more than opposing evidence. *Selling Hosiery, Inc. v. Margulies*, 70 A.2d 854, 856 (Pa. 1949). As the applicant, WTISD has the burden of proving that the enumerated factors set forth above weigh in favor of the transfer with

evidence that is substantial and legally credible, not by mere "suspicion" or by only a "scintilla" of evidence. *Lansberry v. Pennsylvania Public Utility Commission*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).

The Dover Area School District, KIDS, the Dover Area Education Association, and the PSEA/NEA oppose the transfer of Washington Township to the Northern York County School District. The Northern York County School District refrains from taking a position on the potential transfer but, instead, “remains prepared to adapt to the challenge of accepting the students of Washington [Township] if the State Board of Education ultimately chooses to transfer Washington [Township] from [the] Dover [Area School District] to [the] Northern [York County School District]”. See, Northern York County School District Post-Hearing Brief. However, the Northern York County School District requests that it be provided no less than two (2) years to facilitate the transition if the Board requires the transfer. *Id.*²

WTISD presented expert testimony from Robert A. Schoch at the hearing. WTISD additionally presented testimony from Washington Township residents, Joe Sieber, Ralph McGregor, John Peters, and the Secretary of the Washington Township Educational Coalition, Kathy Kennedy Meyer. WTISD also moved WTISD Exhibits 1, 3, 4, 5, 9,10, 1, 13, 16 and 22-33 into evidence without objection.

The Dover Area School District presented testimony from Dover Area High School Principal, Jared C. Wastler, Dover Area School District Superintendent, Tracy L. Krum, Dover Area School District Business Manager, Jennifer Benko, North Salem Elementary School Principal, Christopher E. Cobb, and Dover Area School District Director of Career Education

²The Northern York County School District additionally requests that the Department of Education expedite the PlanCon approval process for the Northern Middle School, and that the Dover Area School District and Northern York County School District prepare and submit a joint plan of transition should the Board approve the transfer.

and Academic Services, Charles Benton. Dover Area School District additionally moved Exhibit Binder A into evidence at pages Dover 000001-Dover 000027, Dover 000039-Dover 000041, Dover 000043-Dover 000124, and Dover 000160-000401 without objection. (N.T. 610-611, 616-618, 647-648).

Northern York County School District presented testimony from the District's Superintendent of Schools, Eric C. Eshbach, Ph.D. The Dover Area Education Association presented expert testimony from Carla Claycomb, Ph.D. and moved into evidence Dover Area Education Association Exhibits DAEA-1 (Carla Claycomb, Ph.D. Curriculum Vitae) and Dr. Claycomb's expert report at DAEA-2 (N.T. 622-623). Keep Us In Dover Schools presented testimony from Dover Area School District residents Rachel Mailey, Sandra Sweitzer, and Heather Dengler. KIDS additionally moved Exhibit Binder B, at pages KIDS 000001-000013 into evidence without objection. (N.T. 649).

Evidentiary Objections

WTISD objected to the admission of Dover 000125-Dover 000159 on the ground that the documents purportedly relate to the issue of academic merit rather than whether the Dover Area School District and the Northern York County School District will offer comprehensive programs of education (N.T. 647-648). The Presiding Officer deferred ruling on the admissibility of Dover 000125-Dover 000159, pending the issuance of the Proposed Report. (N.T. 647-648). WTISD also objected to language on pages 4-10 of Dr. Claycomb's expert report, and to the Tables and Exhibits within the report at pages 12-24 on the ground that those portions of her report purportedly relate to the issue of academic merit rather than whether Dover Area School District and Northern York County School District will offer comprehensive programs of education (N.T. 654-654, 657-658, 661-662). The Presiding Officer admitted the portions of Dr.

Claycomb's report at pages 4-5, and at Section IV, pages 7-10, over WTISD's objections. (N.T. 657, 662). The Presiding Officer also overruled WTISD's objection to the admission of Table 1, page 12. However, the Presiding Officer deferred ruling on the objections to Section III of Dr. Claycomb's report at pages 5-7, and to Tables 2 and 3 and the Exhibits within the report at pages 16-24, pending issuance of the Proposed Report. (N.T. 658-659, 664).

The Dover Area Education Association objected to portions of the March 2018 expert report of Robert A. Schoch (WTISD Exhibit 21) which, it contends, pertain to the issue of academic merit rather than whether Dover Area School District and Northern York County School District will offer comprehensive programs of education. (N.T. 668-669). The Presiding Officer deferred ruling on the objection pending the issuance of the Proposed Report. (N.T. 672).

There is no dispute among the parties that the evidence to be considered in this matter is not to involve the issue of academic merit previously addressed by the Deputy Secretary of Education in her July 1, 2014, Pre-Adjudication Determination and Order (DOVER 000354-000400). Although a colorable argument can be made that reports and expert opinions subject to the objections touch upon the academic merit of the Dover Area School District and Northern York County School District, the record shows that such evidence also pertains to issues identified by the Board for consideration in this matter. Therefore, upon consideration of the foregoing objections and the arguments made in support thereof, this Hearing Officer overrules each of the parties' objections to the extent the portions of the expert reports/testimony pertain to the subject area(s) for which they were proffered, and will not be considered as evidence of academic merit.

A. 24 P.S. §2-293 4,000 Student Minimum

The Dover Area Education Association asserts that the proposed transfer of Washington Township students to the Northern York County School District is statutorily prohibited because the transfer would result in the Dover Area School District having fewer than 4,000 students in contravention of 24 P.S. §2-293(a). See, DAEA Post-Hearing Brief, pp. 6-7. That provision provides as follows:

§2-293. Approval of plans

(a) When any plan of organization of administrative units for a county is found to conform to the standards for approval of administrative units adopted by the State Board of Education, the Department of Public Instruction¹ shall cause such plan to be placed upon the agenda of the Council of Basic Education. The Council of Basic Education shall review all plans placed upon its agenda, and approve such plans as it deems wise in the best interests of the educational system of the Commonwealth. **Except as hereinafter provided, no plan of organization of administrative units shall be approved in which any proposed school district contains a pupil population of less than four thousand (4,000), unless when factors of topography, pupil population, community characteristics, transportation of pupils, use of existing school buildings, existing administrative units, potential population changes and the capability of providing a comprehensive program of education are considered** by the Council of Basic Education as requiring the approval of a plan of organization of administrative units in which one or more proposed school districts contains a pupil population of less than four thousand (4,000).

24 P.S. §2-293(a) (emphasis added).

As correctly noted by the WTISD, the Board did not identify the anticipated student population of the Dover Area School District under 24 P.S. §2-293(a) as a basis for its disapproval of the transfer at its March 9, 2017 meeting. Nor did the Board reference the student threshold of that Section in its September 13, 2017 Order when it identified the issues to be addressed at the hearing in response to the Presiding Officer's August 2, 2017 Order Certifying Questions to Agency Head. Further, the plain language of the statute does not establish the

4,000 student threshold as an absolute bar to the proposed transfer but, instead, expressly permits other factors to be examined through the language “unless when factors of topography, pupil population, community characteristics, transportation of pupils, use of existing school buildings, existing administrative units, potential population changes and the capability of providing a comprehensive program of education are considered”. DAEA tacitly concedes this point by acknowledging that the Board is to analyze the foregoing factors as part of WTISD’s transfer request.³ See, DAEA Post-Hearing Brief, p. 6.

Although the court in *Hoots* recognized that Acts 299 and 150 stipulate that no school district should have a student population of fewer than 4,000 students, as a general rule, it did not establish a smaller student population as an absolute bar to the establishment of a school district but, instead, went on to articulate the standards currently under consideration. For that reason, the Board’s directive set forth by its September 13, 2017 Order is consistent with *Hoots* and the plain language of 24 P.S. §2-293(a), including its recitation of the same factors to be considered at 24 P.S. §2-291. Accordingly, the Presiding Officer does not find that the proposed transfer is barred solely by the anticipated population of the Dover Area School District falling below 4,000 students, notwithstanding the language of 24 P.S. §2-293(a).

B. Comprehensive Programs of Education

The WTISD asserts that the *Hoots* standard requiring that the Dover Area School District and the Northern York County School District provide comprehensive programs of education

³The DAEA’s contention that the transfer must be denied unless the “various factors *require* creating such a unit” is more restrictive than the Commonwealth Court’s interpretation of the School Code. Instead, the Commonwealth Court observed that the Board must determine “whether the assignment of the newly-created independent school district to the receiving district would violate the adopted Board standards or express statutory standards that govern the organization of school districts. If allowing the assignment would not violate these standards, then the Board should approve the amendment “and direct the Council ... to make the necessary changes [to] the county plan.”...If approval of the application would be contrary to these standards, then the Board should deny the application. *WTISD v. Pennsylvania State Board of Education*, 153 A.3d at 1887-1188.

after the transfer is “essentially the same” as the standard requiring that each District’s post-transfer educational programs and educational opportunities meet the varying needs, aptitudes, abilities and interests of individuals residing in the district. See, WTISD Post-Hearing Brief, p. 8. WTISD does not clearly identify its rationale for conflating the two requirements but, instead, seemingly argues that post-transfer educational programs and opportunities will be available in both Districts which satisfy the varying needs, aptitudes, abilities and interests of individuals residing within the Districts based upon the Districts’ ability to provide comprehensive programs of education following the transfer. *Id.* at pp. 8, 10-11. By contrast, the Dover Area School District asserts that the requirement for educational programs and opportunities to satisfy the varying needs, aptitudes, abilities and interests of individuals in both Districts is separate and distinct from the requirement that both Districts be able to provide comprehensive programs of education.

As a threshold matter, the Presiding Officer does not find that the first standard articulated in *Hoots* pertaining to available educational programs and opportunities is synonymous with the fifth *Hoots* standard which addresses the requirement for comprehensive programs of education. Instead, the Board and the *Hoots* court have recognized the independent nature of each factor. Although there may be some overlap between the first *Hoots* standard and the fifth *Hoots* standard in terms of factors for consideration, the fifth *Hoots* standard expressly requires a separate analysis of both School Districts’ ability “to educate and train each child within his capacity to the extent demanded by the immediate requirements of his growth and his relationship to the strengthening of this Commonwealth and nation”, including but not limited to, examining the “wealth per pupil, qualifications of professional staff, enrollment and diversification of curriculum.” *Hoots*, 672 F.2d at 1111 n.3.

With this distinction in mind, the parties agree that the Dover Area School District and the Northern York County School District currently provide comprehensive programs of education. At issue then is whether the Districts will continue to provide comprehensive programs of education after the proposed transfer. Northern York County School District Superintendent, Dr. Eshbach, testified that notwithstanding his District's inability to provide every program currently offered by the Dover Area School District, he anticipates his District being able to provide a comprehensive educational program to its students if provided sufficient time to prepare for the transfer. Dover Area School District Superintendent, Tracy L. Krum was similarly hopeful that her District would continue to provide a comprehensive program of education to its students after the transfer.

WTISD presented expert testimony from Robert A. Schoch whose hearing testimony and March 2018 expert report addressed aspects of a comprehensive program of education identified at 24 P.S. §2-291, and the standards articulated by the Board through its September 14, 2017 correspondence. Mr. Schoch's March 2018 expert report additionally contained updated information related to school district enrollment planning, and the impact the WTISD transfer would have on Dover Area School District's enrollment.

Mr. Schoch opined that the Dover Area School District and the Northern York County School District will continue to have access to educational services from a variety of third parties after the proposed transfer. Mr. Schoch also testified that, although the Dover Area School District estimates it will experience a net loss of approximately \$2.3 million in annual revenue (3% of its budget) if the Washington Township transfer occurs, the loss of the Washington Township students by the Dover Area School District, including its resulting revenue loss, will be offset by the District's growth within ten (10) years of the transfer. Mr. Schoch also opined

that the Dover Area School District's student population is expected to increase by approximately 3,000 students as a result of new residential construction over the next ten (10) to twenty (20) years based, in part, upon the York County Planning Commission's population projections.

Notably, Mr. Schoch did not analyze the budgets of the Northern York County School District or the Dover Area School District as part of his review. However, he opined that a loss of approximately 3% of revenue was "not unusual", and that the Dover Area School District's high student expenditures and "high tax rates" suggest that it could find ways to save money and reduce expenses. Mr. Schoch opined that the Transfer of Washington Township students to Northern York County School District would provide Dover Area School District relief from having to accommodate the anticipated 250-300 students at all grade levels who would enroll with the Northern York County School District.

In addition to considering projected revenues and enrollments, Mr. Schoch considered the list of academic and extracurricular programs currently offered by the Dover Area School District and the Northern York County School District. Based upon his belief that the loss of 250 students would be offset by future revenue growth, Mr. Schoch assumed Dover Area School District could continue to offer all of its existing programs after the transfer. Mr. Schoch conceded that Dover Area School District would have to reduce its staffing levels and make other budgetary adjustments if the transfer was implemented over the course of a single year. However, he ultimately concluded that the transfer of Washington Township students from the Dover Area School District to the Northern York County School District would not violate the standards of 24 P.S. §2-291 or the *Hoots* standards adopted by the Board. Based on the foregoing, he opined that the transfer of the Washington Township students to Northern York

County School District will not prevent the Dover Area School District from offering a comprehensive program of education because of the Dover Area School District's potential to grow in accordance with municipal and county plans.

The DAEA offered the expert testimony of Carla Claycomb, Ph.D. to support its opposition of the transfer. Dr. Claycomb's analysis of whether the Dover Area School District and the Northern York County School District will offer comprehensive programs of education involved examining the direct and indirect components of their programs, such as special education and vocational education. Dr. Claycomb also examined whether the Districts have a curriculum aligned with State standards across grade levels, and whether the Districts have comprehensive early learning and extracurricular programs, have an effective professional development for staff that tie into the curriculum and standards, and have relationships with outside organizations like intermediate units and vocational-technical schools.

Dr. Claycomb's analysis regarding the likely impact of Washington Township's proposed transfer focused upon education research which addressed the impact of a shift in schooling on the likelihood of students' success in a program, and the risk presented to students from such a change. Dr. Claycomb opined that staffing levels and class size in Dover Area School District and the Northern York County School District will shift should the transfer occur. Specifically, Dover Area School District would have to furlough staff, and Northern York County School District would have to hire staff. Dr. Claycomb opined that staffing levels and class size are related in that they contribute to the efficiency of a program of education.

Dr. Claycomb, therefore, concluded that staff furloughs will significantly disrupt the learning/professional communities in which the teachers had been working, will change student community groups/peer groups, and will result in larger class sizes in the Northern York County

School District which, in turn, is likely to change teaching behaviors and adversely affect student learning. Dr. Claycomb also opined that unnecessary or large shifts due to student population changes which disrupt staffing pattern and class size can have a deleterious effect on the ability to provide a comprehensive program of education for students and teachers.

Based on the foregoing, Dr. Claycomb testified that although a comprehensive program of education can survive change, the simultaneous imposition of multiple risk factors causes risk to the effective functioning of the system. For that reason, she believes the transfer of Washington Township students to the Northern York County School District would “impair the comprehensive program of education offered by the Northern York Area School District.” Although Dr. Claycomb’s observations regarding the potential loss by Washington Township students of program opportunities and options are supported by several Dover Area School District witnesses, neither the witnesses, nor Dr. Claycomb went so far as to opine that the transfer will necessarily preclude either School District from providing a comprehensive program of education. Instead, Dr. Claycomb testified only that she would like to return to both School Districts in approximately two years to evaluate the actual effect of the transfer, if any, upon the Districts.

On their face, Dr. Claycomb’s expert report and hearing testimony present various potential degradations to both Districts’ ability to provide comprehensive programs of education to their students. However, such challenges and/or the anticipated differences in programs do not equate to the actual inability by either District to provide comprehensive programs of education should a transfer occur. For that reason, the totality of the record demonstrates by a preponderance of the evidence, however slight, that the Dover Area School District and the

Northern York County School District will continue to be able to provide comprehensive programs of education to their students after the transfer.

C. **Ability of transfer to make educational programs and opportunities available which meet the varying needs, aptitudes, abilities and interests of individuals residing in both Districts?**

The WTISD bears the burden of proving that educational programs and opportunities will be available which satisfy the varying needs, aptitudes, abilities and interests of individuals residing in the Dover Area School District and the Northern York County School District after the transfer. WTISD fails to make any substantive arguments for why the transfer will satisfy the varying needs, aptitudes, abilities and interests of individuals residing within both Districts after the transfer. Instead, WTISD essentially argues that because both Districts will be able to offer comprehensive programs of education, both Districts implicitly satisfy this standard. For the reasons stated above however, the anticipated ability to provide comprehensive programs of education is not the equivalent of establishing that the transfer will satisfy the varying needs, aptitudes, abilities and interests of individuals within the Districts.

The Dover Area School District contends that WTISD has failed to meet its burden of establishing that the transfer will make available educational programs and opportunities which satisfy the needs, aptitudes, abilities and interests of individuals in both Districts. Although not expressly stated, the underpinnings of the Dover Area School District's assertions rest upon the notion that because the programs of instruction within the District are developed and/or approved by the publicly elected Board of School Directors, they necessary reflect the needs, aptitudes, abilities and interests of the residents within the District. The Dover Area School District, therefore, contends that because the transfer will result in Dover Area School District students losing educational and program opportunities they would otherwise continue to have absent the

transfer, the transfer will not promote the needs, aptitudes, abilities and interests of the residents within the District.

The record demonstrates that the Dover Area School District provides programs of education different from those offered by the Northern York County School District, including the provision of full-day kindergarten. When addressing the anticipated reduction in student population resulting from the transfer, Dover Area High School Principal, Jared Wastler, testified that the classes offered by the High School are based upon factors which include the students' graduation requirements, the sequencing of core courses and space availability, particularly the Dover Area School District's Career Technology Education Program. Moreover, several courses have set requirements on the grade levels at which the students are able to take the classes. Several of Dover Area School District's four-year educational programs traditionally start their Career Technology Education Program students in ninth grade as an introductory course which forms the foundation upon which subsequent courses are offered. The record also shows that the transfer would result in Dover Area School District students having reduced educational and extracurricular opportunities. In particular, Mr. Waster testified that the High School would not be able to offer its current course selection on an annual basis if the number of students fall below the acceptable range due to the loss of students. He additionally established that a loss in student population may also result in Dover High School having to return to providing combination classes wherein two or three different level classes are taught in the same room.

North Salem Elementary School Principal, Christopher E. Cobb, testified that the transfer will probably require the North Salem Elementary School to reduce its teaching staff to two teachers per grade level due to the reduction in the number of students. Mr. Cobb established

that the loss of one teacher per grade level would preclude the North Salem Elementary School from departmentalizing its course structure, and would result in North Salem Elementary School reducing the number of its encore teachers and services, such as the reading specialist and learning support teachers.

Dover Area School District Director of Career Education and Academic Services, Charles Benton, testified that Dover Area School District's philosophy towards its STEM program is different from the philosophy of the Northern York County School District which is only STEM oriented. As an example, the agricultural-based CTE program courses offered by Dover Area School District are different from the STEM courses offered by the Northern York County School District in that they are approved by the Commonwealth of Pennsylvania, are subject to State guidelines and are validated by end-of-program examinations. Further, the Dover Area School District provides full-day education at the York County School of Technology, while the Northern York County School District offers half-day technical programs. The Dover Area School District Superintendent also highlighted the technology initiatives of the Dover Area School District, including the provision of iPads to students, which are not being provided by the Northern York County School District.

As indicated above, Dr. Claycomb opined that Dover Area High School Students who transfer to the Northern York County School District could potentially lose access to programs of study in which they currently participate, including the District's geo-spatial information program, career and technical education program, drop-out re-engagement program, agricultural educational program, and specific pathway programs. Dover Area School District estimates that it will experience a net loss of approximately \$2.3 million in annual revenue (3% of its budget) if the Washington Township transfer occurs. Dr. Claycomb testified that the anticipated lost

revenue to the Dover Area School District may result in loss of programs that are currently of value to the local community.

WTISD's attempts to counter the foregoing evidence by asserting that the Dover Area School District will eventually adapt to the changes in student population and lost revenue, and will overcome the "temporary concerns" created by the transfer. Despite arguing that academic merit is not a factor for consideration in this matter, WTISD also argues, in part, that "[g]iven that Northern is academically superior in every area measured, it is simply not credible to argue that the transfer is going to have a negative impact of Washington Township Students." See, WTISD Post-Hearing Brief, p. 12. WTISD's argument bears little weight in that the breadth of the first *Hoots* standard extends beyond the confines of the effect the transfer will have on students' academic experience. Instead, *Hoots* requires an examination of the needs, aptitudes, abilities and interests of all those residing within the Dover Area School District. For that reason, the potential ability by the Dover Area School District to adjust its student population in the years after the merger cannot negate the disruption the transfer will have on the District's existing programs and opportunities which, in turn, reflect the fabric, character and priorities of the residents of the Dover Area School District. Accordingly, the evidentiary record addressing the educational programs and opportunities available which meet the varying needs, aptitudes, abilities and interests of individuals residing in the Dover Area School District fails to support the transfer by a preponderance of the evidence.

D. Geographic area (as defined by the re-structured district) having developed the characteristics of the community

WTISD presented testimony from several witnesses who attested to their connection and/or affiliation with municipalities within the Northern York County School District in an effort to establish that the geographic area surrounding Washington Township has developed the

characteristics of the Northern York County community. Those witnesses identified various recreational facilities and activities, shopping venues, restaurants, cultural activities and historical connections to the Northern York County area. KIDS also presented testimony from multiple witnesses who similarly addressed nearly identical aspects of the Washington Township community to establish their connection and/or affiliation with the Dover Area School District.

The evidentiary record on this issue almost exclusively took the form of anecdotal evidence comprising of the witness' personal preferences rather than the presentation of empirical or statistical evidence. Based upon the testimony provided, each party is found to have presented evidence of equal weight regarding whether the residents of Washington Township more closely identify with the character of the current Dover Area School District boundaries, or with the anticipated character of the community resulting from the transfer. Because WTISD bears the burden of proving by a preponderance of the evidence that Washington Township has developed the character of the community to be formed by the transfer, and because the record fails to clearly establish through substantial evidence that the residents of Washington Township more closely affiliate themselves with the character of the post-transfer community, WTISD has not sufficiently satisfied its burden on this issue in support of the transfer.

E. Consideration of Existing Building Use to the Maximum Extent Practical, and Avoidance of Unnecessary New Construction

WTISD addresses this standard in its Post-Hearing Brief by asserting that the proposed transfer is anticipated to have a beneficial impact on the Dover Area School District by relieving some of the overcrowding experienced by the District. WTISD additionally asserts that “Northern will not need any additional new construction...”. See, WTISD Post-Hearing Brief, p.

9. Although the record supports the argument that a reduction in student population and the construction of its new High School may alleviate current overcrowding within the Dover Area

School District, the record equally shows that the existing infrastructure within the Northern York County School District is inadequate to accommodate the additional students anticipated by the transfer.

Superintendent of Schools, Dr. Eshbach, opined that the transfer of 250-300 students from the Dover Area School District to the Northern York County School District would be “significant”. Dr. Eric Eshbach’s Statement to the Pennsylvania State Board of Education, revised March 7, 2018, stated, in part, “To accommodate this anticipated increase in enrollment [approximately 300 students], new classrooms and shared-use space must be added to the existing facilities at the Wellsville Elementary School and the Northern Middle School” in the Northern York County School District. The record shows that the elementary schools within the Northern York County School District are at 80% capacity. However, the addition of students from Washington Township would increase the capacity of the District’s middle school to 93%. Dr. Eshbach qualified the remarks in his report to a small degree at the hearing by testifying that although the addition of students to Wellsville Elementary School will not require additions to the school, it would nevertheless require using current spaces in different capacities and would have an impact on the Northern York County School District’s educational program.

The record also shows that the Northern York County Policy Manual limits its middle school class size to 28-35 students. For that reason, Northern York County School District anticipates the need to rapidly renovate its middle school to properly accommodate the additional students it would receive through the transfer of Washington Township students into the District. Dr. Eshbach established that the addition of students through the transfer of Washington Township students would cause class size to exceed that range, absent renovations. He also anticipates the need for Northern York County School District to expand its middle school

cafeteria and add or expand some classrooms and common spaces should the transfer occur because the current middle school does not have space to add another teaching team to the building. Dr. Eshbach also testified that, in terms of funding, Northern York County School District would probably require the suspension of some of the PlanCon rules established by the Commonwealth in order to renovate its middle school in a timely manner. Based on the foregoing evidence, the record fails to establish that the transfer would utilize existing buildings to the maximum extent practical so as to support the proposed transfer.

F. Desirability of the Transfer Based Upon Pupil Population Changes

WTISD advocates for the transfer of Washington Township students, in part, due to anticipated growth within the Dover Area School District which, it contends, will place an enormous strain on the District's resources. In support of that argument, WTISD relies primarily upon the testimony of its expert, Mr. Schoch, and upon observations made by several witnesses from within the community who drove through what was described at the hearing as new residential communities within the Dover Area School District. Mr. Schoch opined that the Dover Area School District's student population is expected to increase by approximately 3,000 students due to new construction of residential communities over the next ten (10) to twenty (20) years. Accordingly, WTISD argues that the transfer of approximately 250 students from the Dover Area School District to the Northern York County School District will alleviate some of the District's overpopulation and, therefore, supports the transfer. See, WTISD Post-Hearing Brief, pp. 9-10.

In contrast, Dover Area School District opposes the transfer on economic grounds by challenging Mr. Schoch's contention that the Dover Area School District will be able to recover the revenue loss from the transfer through a combination of residential growth within the District

and cost containment. Like their arguments that the transfer will degrade the Districts' abilities to provide comprehensive programs of education, Dover Area School District and the DAEA argue that the revenue loss from the change in student population due to the transfer will, in turn, result in sufficient diminished educational opportunities for Dover Area students to justify the denial of the transfer. See, Dover Area School District Post-Hearing Brief, pp. 16-18; DAEA Post-Hearing Brief, p. 12-14. The District also asserts that Mr. Schoch failed to present sufficient evidence that the change in student population from the transfer will benefit the Northern York County School District. See, Dover Area School District Post-Hearing Brief, pp. 16-18.

In its September 14, 2017 correspondence, the Board described this factor as "Whether pupil population changes are supported by reliable studies of area development and demonstrate the desirability of the transfer". The Court in *Hoots* described this factor somewhat differently as permitting consideration of pupil population changes "in the planning of administrative units where the changes are supported by reliable studies of area development showing past pupil population trends and future projections based on recognized statistical methods." *Hoots*, 672 F.2d at 1111 n.3. None of the parties have cited to any legal authority, and the Presiding Officer is not aware of any such authority which specifically addresses this factor in detail.

In *Hoots v. Commonwealth of Pennsylvania*, 359 F.Supp. 807, 809 (W.D. Pa. 1973) and its progeny however, this factor was addressed in the context of a class action lawsuit which contested plans of reorganization and consolidation of school districts which the plaintiffs contended were racially segregated. *Id.* at 809. Unlike this case where the transfer of approximately 250-300 Washington Township students is the salient issue, the courts' consideration of this factor in the *Hoots* cases primarily focused upon whether greater

demographic shifts favored consolidation, as reflected by past pupil population trends and future population projections. For that reason, the Presiding Officer interprets the factor articulated by the Board as calling for a determination of whether greater student population trends in each school district, as shown through reliable studies of area development, support the transfer. Because the arguments advanced by the Dover Area School District and the DAEA on this issue pertain to the ability by the Dover District to continue to provide a comprehensive education to its students after the transfer, and/or the ability of both Districts to provide qualified professional staffs and diversified curricula, they are not materially relevant to this factor but, instead, are more particularly suited to other factors already discussed herein.

WTISD presented evidence of student population trends, to some degree, primarily through Mr. Schoch. Mr. Schoch opined that the Dover Area School District's student population is expected to increase by approximately 3,000 students due to new construction over the next ten (10) to twenty (20) years. However, he was unaware of whether Dover Township or Dover Borough has begun the development of new residential properties or whether there are any housing development plans within Washington Township. For that reason, WTISD's evidence regarding current, and/or new development consisted, in large part, of testimony and general observations of lay witnesses who had merely driven through various residential communities in the area. WTISD also relies upon the growth projections over the next 10 to 30 years reflected by the new Dover Township High School's increased capacity of approximately 200 students. (N.T. 112-113; WTISD 0001).

Mr. Schoch did not speak with any members of the Northern York County School District or the Dover Area School District as part of his review. Accordingly, Mr. Schoch's analysis regarding Dover Area School District's growth potential was admittedly based upon his

review of a Joint Comprehensive Plan / Growth Management Plan for Dover Borough/Dover Township Region developed approximately ten years ago, in January 2008 (N.T. 78; WTISD 0358, 0382). Mr. Schoch conceded that although the Comprehensive Plan set forth 20-year growth projections using 2006 statistics, the projections within the plan have not come to fruition in the 10 years since the Plan's creation. (N.T. 79-80). Notably, he has not conducted a similar analysis of residential growth or building capacity in the Northern York County School District. (N.T. 81-82). For that reason, the record on this issue comprises mostly of speculative student population growth estimates from residential housing units, without knowing how many students per house, if any, will exist, or if and when the developments will achieve build-out.

Although he had conducted an analysis of the Dover Area School District's population projections based, in part, upon the York County Planning Commission's population projections, Mr. Schoch admitted to not having conducted a similar analysis for the Northern York County School District. (N.T. 92-93). Nor has he made similar projections for the Northern York County School District. Upon consideration of the foregoing, the Presiding Officer finds that the growth projections offered by the WTISD on the basis of possible residential development and the capacity increase of the High School of 200 students over the next 10 to 30 years are too speculative to constitute a preponderance of the evidence that the transfer is desirable based upon anticipated pupil population changes, as shown through reliable studies of area development and future projections.

G. Pupil Transportation

Dover Area School District asserts that the record fails to show that the transfer will improve the transportation of students to and from school, as addressed at 24 P.S. §2-291.⁴ The

⁴WTISD does not address this issue in its Post-Hearing Briefs. Such an omission however, does not negate the evidence of record on this issue.

record shows that approximately 253 (approximately 7%) of Dover Area School District students currently live in Washington Township. Mr. Schoch demonstrated that, based upon the geographic center of Washington Township, the Northern York County School District's school buildings are closer to Washington Township School District students and schools in the Northern York County School District, in terms of driving distances on public roads, than the school buildings in the Dover Area School District. Mr. Schoch opined that the shorter distance between the Dover Area School District students and the Northern York County School District school buildings will ultimately reduce the travel times experienced by Washington Township students if the transfer occurs.

Dover Area School District aptly notes that Mr. Schoch's opinion regarding anticipated travel times does not consider the bus routes which would actually be used by students residing in the southern part of Washington Township should they be required to attend schools in the Northern York County School District. Instead, Mr. Schoch's analysis is based upon distances calculated from the geographic center of Washington Township. The record also shows that the Superintendent of Schools for the Northern York County School District Washington Township, Dr. Eshbach, testified that elementary school students transferring to the Northern York County School District would attend one of two elementary schools based upon their geographic location.

Notwithstanding these factors, it is reasonable to believe the Northern York County School District will consider student population, grade levels and building capacities when it formulates bus routes for its students should a transfer occur. Moreover, Dover Area School District has not presented any credible testimony to refute Mr. Schoch's conclusions. Based

upon the totality of the evidence, a preponderance of the evidence shows that the transfer will result in reduced student travel times which, in turn, favors the transfer.

Conclusion

Based upon the foregoing Findings of Fact, Conclusions of Law, and Discussion set forth above, the record establishes by a preponderance of the evidence that the Dover Area School District and the Northern York County School District will be able to provide their students with comprehensive programs of education following the transfer of Washington Township to the Northern York County School District. The record also establishes that the transportation of Washington Township students to schools within the Northern York County School District will be enhanced by the transfer.

However, the record does not establish by a preponderance of the evidence that the transfer of Washington Township into the Northern York County School District will make educational programs and opportunities available which meet the varying needs, aptitudes, abilities and interests of individuals residing in both School Districts. Nor does the record establish that the geographic area will reflect the characteristics of the community should the transfer occur. The preponderance of the evidentiary record also fails to weigh in favor of the transfer based upon the use of existing buildings to maximum extent practical, the avoidance of unnecessary new construction, or based upon pupil population changes. For these reasons, it is determined that the preponderance of the evidence fails to demonstrate that the factors enumerated by the Board, considered in their entirety, weigh in favor of the proposed transfer. 24 P.S. §2-291; *Hoots v. Commonwealth of Pennsylvania*, 672 F.2d 1107, 1111 n.3 (3rd Cir. 1982).

The following proposed order shall be issued:

**COMMONWEALTH OF PENNSYLVANIA
BEFORE THE STATE BOARD OF EDUCATION**

In Re:

Washington Township Independent School District	:	
Application for Assignment to the Northern	:	Docket No. 2017-01
York County School District	:	

ORDER

AND NOW, this 10th day of **January 2019**, upon consideration of the Findings of Fact, Conclusions of Law and Discussion in the proposed report of Presiding Officer Marc Moyer and the exceptions and objections filed thereto, which should include, without limitation, Section 293 of the Public School Code on numerosity, which was a requirement discussed by the Pennsylvania State Education Association in its exception and is an issue that the Board recognizes is not satisfied by either district, upon the adoption of the proposed report by the State Board of Education, and upon the affirmative vote of a majority vote of the members of the State Board of Education, it is hereby **ORDERED** that the Washington Township Independent School District's application for assignment to the Northern York County School District is **DENIED**.

By Order:



**Karen Farmer White
Chair**