

COMMONWEALTH OF PENNSYLVANIA

STATE BOARD OF EDUCATION

In re: Application of Washington Township Independent School District for Transfer from
Dover Area School District to Northern York County School District

**REPORT OF THE SPECIAL COMMITTEE ON THE WASHINGTON TOWNSHIP
INDEPENDENT SCHOOL DISTRICT**

September 16, 2015

INTRODUCTION

On November 12, 2014, the State Board of Education (State Board) received a copy of the decree of the Court of Common Pleas of York County creating the Washington Township Independent School District (WTISD) for the sole purpose of its transfer from the Dover Area School District (Dover) to the Northern York County School District (Northern York). The decree was issued by the court under Section 242.1 of the Public School Code of 1949 (Public School Code), *as amended*, 24 P.S. § 2-242.1, and transmitted to the State Board under Section 292.1 of the Public School Code, *as amended*, 24 P.S. § 2-292.1. Pursuant to Sections 292.1, 293.1, and 2603-B(d)(1) of the Public School Code, *as amended*, 24 P.S. §§ 2-292.1; 2-293.1; and 26-2603-B(d)(1), it is now the responsibility of the State Board to decide whether to approve or disapprove the creation and transfer of the WTISD.

By a resolution adopted on January 14, 2015, the Chairman of the State Board appointed a Special Committee (Committee) to conduct appropriate proceedings under the General Rules of Administrative Practice and Procedure (1 Pa. Code Part II) (GRAPP) and, upon completion of all appropriate proceedings, to recommend the proper action that the State Board should take to dispose of the application for transfer under Section 293.1 of the Public School Code. Pursuant

AS ADOPTED BY THE STATE BOARD OF EDUCATION ON SEPTEMBER 17, 2015

to that resolution, this Committee submits the following report containing its recommended findings of fact and conclusions of law.

BACKGROUND

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

On July 17, 2012, the Washington Township Education Coalition (WTEC) began the process by filing a petition with the York County Court of Common Pleas requesting a transfer from Dover to Northern York and listing its reasons for doing so. Washington Township is located in northwestern York County and is comprised of a total population of 2,673. The township is situated in the northwestern part of Dover and is contiguous to Northern York, which is situated to its north.

The petition filed by WTEC bore the signatures of 1,406 of Washington Township's 1,929 taxable inhabitants. The court reviewed the petition to determine whether it complied with the requirements of Section 242.1 of the Public School Code, *as amended*, 24 P.S. § 2-242.1. The court's role was limited to confirming that the petition was submitted by a majority of taxable inhabitants within the territory, that the petition properly described the territory, and that the petition set forth WTEC's reasons for seeking the transfer. On January 11, 2013, the court

AS ADOPTED BY THE STATE BOARD OF EDUCATION ON SEPTEMBER 17, 2015

concluded that WTEC's petition satisfied the requirements of 24 P.S. § 2-242.1 and referred the petition to the Secretary of Education.

The Secretary's review of WTEC's petition was limited by statute to a single issue: whether the proposed transfer had merit from an educational standpoint. *Id.* The Secretary considered the potential impact of the transfer on the quality of education of three groups of students: (1) the students within Washington Township; (2) the students remaining in Dover; and (3) the students in Northern York. To determine whether students in Washington Township would benefit from the transfer, the Secretary compared Dover's and Northern York's performances on the following educational metrics: SAT scores, proficiency in math and reading, graduation rates, dropout rates, truancy rates, and in-school arrest rates. The Secretary found that Northern York outperformed Dover on each of these metrics. Ultimately, the Secretary determined that the proposed transfer would have a positive educational impact on the students in Washington Township. The Secretary also found that the parties had not presented sufficient evidence to show that the transfer would have a negative impact on the students who would remain in Dover or the students in Northern York.¹ On August 7, 2014, the Secretary deemed the petition meritorious from an educational standpoint.

Upon receipt of the Secretary's decision, the Court of Common Pleas of York County issued a decree dated November 10, 2014, creating the Washington Township Independent School District and transmitting the matter to the State Board. The State Board then published public notice of its receipt of the application for transfer and informed the public of the opportunity to submit written petitions to intervene, notices of intervention or protest, and

¹ The Secretary did note that "[t]he students remaining in Dover Area SD may realize a reduction in [their] agricultural and career-based instructional program offerings with the transfer" but ultimately found that the parties had not presented the information "necessary to anticipate how possible reductions in enrollment might lead to the curtailment of program offerings to the detriment of those students remaining in Dover Area SD."

AS ADOPTED BY THE STATE BOARD OF EDUCATION ON SEPTEMBER 17, 2015

written requests for a public hearing on the application. On December 11, 2014, Dover submitted a protest to the application and requested a public hearing on the matter.

GRAPP permits intervention in administrative proceedings by any party claiming an interest that may be directly affected by the proceeding and that is not adequately represented by existing parties. 1 Pa. Code § 35.28.² Throughout December 2014, the State Board received petitions to intervene from Northern York; Dover Area Education Association (DAEA), a labor organization representing the professional staff of the Dover Area School District; and Keep Us in Dover Schools (KIDS), an unincorporated association comprised of members of the Dover community. *See* 1 Pa. Code §§ 35.29–31 (setting forth requirements for the form, contents, and timing of intervention petitions). DAEA and KIDS aligned with Dover in opposition to the transfer, while Northern York remained neutral. Pursuant to Section 35.31(b) of GRAPP, the Committee granted Northern York’s petition and authorized the limited participation of DAEA and KIDS. 1 Pa. Code § 35.31(b). In a series of pre-hearing conference calls, the Committee and all parties developed the timeline and requirements for pre-hearing submissions, including the stipulated pre-hearing record; the structure of the hearing; and the list of issues that would be considered. On May 13, 2015, the Committee met to formally adopt the pre-hearing record related to the application of WTISD. The pre-hearing record approved by the Committee consisted of the documents stipulated to by the parties to the proceedings and the Secretary’s findings of fact and determination of educational merit on the petition.

After appropriate public notice, a hearing was held on June 3–4, 2015, in the Fourth Floor Jury Room at the York County Judicial Center, 45 North George Street, York, PA, 17401. The

² The standard for intervention in administrative proceedings is easier to meet than the showing of a “direct, immediate, and substantial” harm that is required for intervention in a court of law. *See Bensalem Racing Ass’n, Inc. v. Pa. State Harness Racing Com’n*, 19 A.3d 549, 556 (Pa. Commw. Ct. 2011). Within these wide limits, the State Board has “considerable discretion to grant or deny a petition to intervene” *Id.* at 554.

AS ADOPTED BY THE STATE BOARD OF EDUCATION ON SEPTEMBER 17, 2015

hearing proceeded under the General Rules of Administrative Practice and Procedure (1 Pa. Code Part II). The parties had the opportunity to stipulate to portions of the record before the hearing and to introduce other evidence during the hearing. WTISD presented evidence in favor of the transfer; Dover, DAEA, and KIDS presented evidence against the transfer; and Northern York presented a brief statement regarding its capacity to accommodate the students of Washington Township. Each party was given the opportunity to call witnesses and experts for direct examination, conduct cross and redirect examinations, submit documentary evidence, including expert reports, and present opening and closing statements to the Committee.

After the conclusion of the evidentiary portion of the proceedings, members of the community provided public comment. Additional public comment was submitted to the Committee in writing in advance of the hearing. The Committee carefully considered all comments presented both verbally and in writing. These comments reflected a great deal of pride in and commitment to the community of Washington Township and its students. The Committee is appreciative of the deep level of civic engagement displayed by members of the Washington Township community and recognizes the very personal manner in which this decision affects individuals in the community. The Committee remained fully dedicated to deciding this matter deliberatively and with careful consideration of the evidentiary record.

STANDARD OF REVIEW

The role of the Secretary of Education is to pass upon the petition from an educational standpoint as a pre-condition to the court's creation of an independent district and the State Board's action approving or disapproving the creation and transfer of the independent district. As an intermediate step in the process, the Secretary's evaluation is limited to the question of educational merit. The State Board, however, makes the final determination, and there is no

AS ADOPTED BY THE STATE BOARD OF EDUCATION ON SEPTEMBER 17, 2015

limit on the range of matters it may consider. In the words of the Pennsylvania Commonwealth Court, “the power reposed in the [Secretary] under Section 242 was obviously less than the authority given to the State [Board] of Education.” *In re Petition for Formation of Indep. Sch. Dist.*, 17 A.3d 977, 988 (Pa. Commw. Ct. 2011).

Section 293.1 of the Public School Code provides as follows:

§ 293.1. Independent districts

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

24 P.S. § 2-293.1.

When making its decision, the State Board is not bound by the Secretary’s determination. *See, e.g.*, Pa. State Bd. of Educ., Docket No. ISD 2012-1, Report and Recommendation of the Special Committee on the Porter Township Initiative 5 (2013) [hereinafter Porter Township].³ The State Board is free to consider a range of matters beyond educational merit. *See Indep. Sch. Dist. v. Commonwealth, State Board of Education*, 417 A.2d 269, 271, 273 (Pa. Commw. Ct. 1980) (upholding the State Board’s disapproval of a transfer based on the distance children traveled to school and the projected loss of subsidies and tax base to the transferor district). Such matters may include, but are not limited to: geography, transportation, teacher assignments, facilities, and financial impact of the transfer. Porter Township at 5. The State Board is also free to base its decision on as much or as little of the evidentiary record as it deems relevant. *Id.*

³ The State Board is not bound by its reports from previous considerations of school district transfer petitions. However, to the extent that they discuss broadly applicable principles, prior reports can provide persuasive guidance.

AS ADOPTED BY THE STATE BOARD OF EDUCATION ON SEPTEMBER 17, 2015

“Judgments as to the credibility and weight of the evidence are for the Board.” *Indep. Sch. Dist.*, 417 A.2d at 273. The State Board alone has the final word.

ANALYSIS OF THE RECORD

Following the conclusion of its public hearing on the application for transfer, the Committee deliberated upon all evidence presented at the hearing and the findings of fact and conclusions of law made by the Secretary of Education that were included as part of the Committee’s pre-hearing record. In this part of its report, the Committee analyzes portions of that record that the Committee identified as being most pertinent and persuasive to its conclusions. This discussion does not include all of the information made available to the State Board through various written submissions and oral testimony. That record is available for review by all members of the State Board. The Committee has endeavored to capture those portions of the record that the Committee believes are most relevant and important to the State Board’s decision in this matter.

I. Comparing Educational Programs

In the following analysis of Dover’s and Northern York’s educational programs, this Committee adheres to the policy adopted by the State Board in its disposition of the application of the Woodward Township Independent School District for transfer:

Where educational programs are in general parity, . . . the committee believes that transfer of an independent school district should be disfavored; and the petition for transfer should be denied absent other compelling or unusual reasons for transfer. The committee believes that the burden of proof and persuasion must always rest with the petitioners who wish to change school districts. Unless there are other compelling or unusual reasons to transfer that transcend the quality of educational programs, the State Board should not approve a transfer between two educationally comparable school districts.

AS ADOPTED BY THE STATE BOARD OF EDUCATION ON SEPTEMBER 17, 2015

Pa. State Bd. of Ed., Docket No. ISD-01-01, Report of the Committee: Application of the Woodward Twp. Ind. Sch. Dist. to Transfer from the Williamsport Area Sch. Dist. to the Jersey Shore Area Sch. Dist. 3–4 (2002) [hereinafter Woodward Township] (footnote omitted).⁴ This policy aims to avoid the abrupt disruption of students’ educational programs that accompanies any transfer and instead “creat[e] reasonable expectations among school officials, employees, students[,] and residents that school district boundaries will remain constant absent compelling reasons to change them.” *Id.*

A. Standardized Test Scores

The Secretary found that the transfer of WTISD was meritorious from an educational standpoint based, in part, on Northern York’s higher scores on the SAT and higher percentage of students proficient or advanced on state assessments. During the course of consideration of the application submitted by WTISD, significant changes were made to the measures the Commonwealth uses to measure school performance. The Commonwealth has moved away from a system of accountability that assessed school performance based on the percentage of students scoring proficient or advanced on state assessments for districts, schools, and subgroups of students identified by race, poverty, and special education needs. The new measure for school performance places equal weight on indicators of academic achievement and indicators of academic growth. This shift in how school effectiveness is measured by the Commonwealth warrants that the Committee place more emphasis on indicators of academic growth than the

⁴ In *In re Petition for Formation of Indep. Sch. Dist.*, the Commonwealth Court held that the Secretary of Education had overstepped his statutory authority when he read 24 P.S. § 242.1(a) to require a compelling reason to transfer when the transferor and transferee districts are in “general parity.” *In re Petition*, 17 A.3d at 985. The Court held that this policy was a deviation from Section 242.1(a), which requires the Secretary to consider only educational merit. *Id.* at 986. However, the Court found that the State Board is not subject to such statutory restrictions, *see id.* at 988, and thus, the Court’s holding does not apply to the State Board.

AS ADOPTED BY THE STATE BOARD OF EDUCATION ON SEPTEMBER 17, 2015

Secretary did, with the caution that, as this system of measurement is new, limited data are available.

In a comparison of the most recent School Performance Profile (SPP) results for schools that potentially would be affected by the transfer, data show that Dover performs slightly better at the high school level, Northern York performs better at the middle school level, and achievement at the elementary level is relatively on par across both districts.

SPP building level academic scores for North Salem Elementary (Dover), Northern Elementary (Northern York) and Wellsville Elementary (Northern York) in 2012-13 were 80, 79 and 83, respectively. Dover 4116.⁵ For 2013-14, the SPP building level academic scores for North Salem, Northern, and Wellsville were 83, 80 and 86, respectively. *Id.* The same measure found Dover's Intermediate School at a building level academic score of 71 in 2012-13 and 70 in 2013-14, compared to Northern York's Middle School at 86 in 2012-13 and 76 in 2013-14. *Id.* (The evidence also showed that the grade level configurations for the districts' middle level schools are different.) At the high school level, Dover fared slightly better than Northern York with a building level academic score of 77 in 2012-13 and 74 in 2013-14, compared to Northern York's scores of 75 in 2012-13 and 73 in 2013-14. *Id.*

Additional evidence discussed by Bobbie Strausbaugh, an Assistant High School Principal in Dover, showed that, as it pertains to expected academic growth, "there are more occurrences of high-level growth in Dover" than in Northern York. Transcript of Hearing 304, June 3-4, 2015 [hereinafter Transcript]. Evidence presented to the Committee also noted that

⁵ Each party to the proceeding submitted a binder of exhibits organized via the Bates numbering system. This report refers to these exhibits by their Bates numbers and the name of the party that submitted them. Each exhibit referenced in this report was either stipulated to by all parties before the hearing or submitted by a party during the hearing.

AS ADOPTED BY THE STATE BOARD OF EDUCATION ON SEPTEMBER 17, 2015

Dover's North Salem Elementary School is recognized as a Title I School: Reward (High Achievement) by the Commonwealth based on its math and reading proficiency levels for all students and other factors. Transcript 245.

Further, while WTISD points to a differential favoring Northern York in SAT scores, DAEA presented evidence that calls into question whether SAT scores are an appropriate metric for such a comparison. Transcript 115, 131–32, 335. A 2014 Total Group Profile Report prepared by the College Board, the company that administers the SAT, states: “Not all students in a high school, school district or state take the SAT. Since the population of test-takers is self-selected, using aggregate SAT scores to compare or evaluate teachers, schools, districts, states or other educational units is not valid, and the College Board strongly discourages such uses.” DAEA 7026. Given this warning from the College Board, this Committee hesitates to base a comparison of Dover's and Northern York's educational programs on the SAT scores that they generate.

B. Curriculum and Other Educational Matters

Upon review of the testimony and evidence presented at the hearing, the Committee concludes that neither Dover nor Northern York is demonstrably better than the other in terms of courses and activities for its students. Both districts offer a variety of coursework, including comparable offerings in foreign languages and Advanced Placement course opportunities. Dover 4104, 4106. Northern York offers more honors courses than Dover (19 vs. 15), while Dover offers more courses in Technology Education than Northern York (31 vs. 17). *Id.* at 4105–06. Both districts offer comparable opportunities for students to pursue postsecondary level coursework while in high school and also hold multiple articulation agreements to provide

AS ADOPTED BY THE STATE BOARD OF EDUCATION ON SEPTEMBER 17, 2015

streamlined pathways to higher education for students enrolled in certain technical programs. *Id.* at 4106–07.

Related to Career and Technical Education (CTE), Israela Franklin, who WTISD offered as an expert witness, stated that, in her professional opinion, half-day vocational programs are more advantageous than full-day vocational programs. Transcript 117–118, 128–129. Northern York currently offers half-day vocational programs in its own buildings. In his testimony, Kenneth Cherry, Superintendent of Dover, noted that Dover offers CTE in both formats, with students having access to nine approved CTE programs offered in Dover’s high school as well as the opportunity to attend a full-day program at York County School of Technology. *Id.* at 275.

Dover also presented evidence that demonstrated general parity in recent four-year graduation rates. In 2013, the graduation rate for Dover was 91.56 percent compared to Northern York’s graduation rate of 92.31 percent. Dover 4122. In 2014, Dover’s graduation rate was 90.38 percent compared to Northern York’s graduation rate of 91.63 percent. *Id.* While the data show Northern York outperforming Dover on this indicator, the Committee does not find the delta between these rates to be of a level of significance to support a transfer. Additional evidence comparing drop-out rates between the two districts over time found that, over a seven-year period, Dover had a 1.10 percent dropout rate while Northern York had a 1.11 percent dropout rate. *Id.*

Thus, throughout the record and the evidence presented, this Committee does not observe that one district’s educational program is superior for the vast majority of the district’s students. Consistent with the State Board’s findings in Woodward Township, this Committee finds that

when educational programs are in general parity, the transfer of an independent school district should be disfavored.

II. Financial Impact on Dover

In its prior decisions approving or disapproving transfer petitions, the State Board has regularly considered the impact of the proposed transfer on the students who would remain in the transferor district. *See, e.g.*, Pa. State Bd. of Educ., Report of the Special Committee: Application of the Riegelsville Indep. Sch. Dist. for Transfer from the Easton Area Sch. Dist. to the Palisades Sch. Dist. 7 (2012) (citing the State Board’s satisfaction that “the transfer would not harm [the transferor district] and its remaining students” as a reason to approve the transfer). An expectation that a transfer would wreak serious financial harm upon the transferor district is a valid reason to deny a transfer petition. *See* Porter Township at 9, 24 (State Board denying transfer based in part on transferor district’s demonstration of financial harm that would befall it if transfer were approved); *Ind. Sch. Dist.*, 417 A.2d at 271, 273 (Commonwealth Court affirming State Board’s denial based in part on “serious loss in tax base and income to [transferor district]” that would result from transfer).

Both WTISD and Dover presented evidence that demonstrates that the transfer would have a negative financial impact on Dover. Belinda Wallen, Dover’s Business Manager, testified that, based on updated information from April 2015, Dover would experience a net loss of \$2.8 million in local revenue (determined by reducing a projected \$4.1 million loss by \$1.2 million to account for anticipated expenditure reductions due to eliminating professional staff and reducing bus runs). Transcript 214–229. Robert Schoch, an expert witness offered by the petitioners, presented evidence that Dover would experience a net loss of \$1.098 million in local revenue (based on the transfer of an estimated 300 students and revenue projections that do not take into

AS ADOPTED BY THE STATE BOARD OF EDUCATION ON SEPTEMBER 17, 2015

account reductions in homestead/farmstead calculations or state payments for social security and pensions included in Dover's calculation). *Id.* at 51; WTISD 3032.

Mr. Schoch offered scenarios in which Dover might overcome a projected loss in revenue by estimating cost savings through a proration of current costs based on the reduction in enrollment and by using the transfer "as an opportunity to evaluate all functions and attempt to match" Northern York's cost structure. WTISD 3029–3031. However, Ms. Wallen testified that Dover does not calculate revenue on a per pupil basis and suggested that estimating expenditure reductions based on a prorated student count is not sound "because you cannot unilaterally address each and every account across the district to prorate cost reduction measures." Transcript 220–21. Ms. Wallen further stated that a district would need to renegotiate every contract it holds under a prorated savings approach. *Id.* at 221–22.

Regardless of the difference in calculations, both parties acknowledged a loss in revenue to Dover as a result of the transfer. In order to compensate for this loss, Dover would have to raise taxes, furlough staff, or, most likely, both. *Id.* at 227. While WTISD offered considerations for Dover to address the revenue gap, these considerations are speculative, as the power to act on such measures lies with the local board of school directors.

III. Property Taxes and the Closing of Kralltown Elementary

When deciding whether to approve or disapprove transfer petitions in the past, the State Board has considered the factors that motivated the filing of the petition. *See, e.g.*, Woodward Township at 7. Of course, it is impossible to ascertain the true motivations of a petition's signers with any degree of certainty. However, where the State Board has been able to form a general

impression of a petition's major motivating factors, that impression has held considerable weight in its decision.

A. Property Taxes

The State Board disfavors petitions that it believes are motivated largely by lower property taxes in the transferee district. In 2013, the State Board denied Porter Township's transfer petition in part because it determined that a desire for lower taxes was a strong motivating factor in pursuing the transfer. Porter Township at 9 ("Reducing property taxes appears to be as much a motivating factor for the transfer as any of the educational factors espoused by PTI."). The State Board formed this impression of the impetus for the petition by looking at the process by which advocates for the petition gathered signatures. *Id.* at 8–9. The State Board took particular note of the fact that "in its petition to residents[,] PTI listed the 47% decrease in property taxes as the number one reason to support the transfer." *Id.* Here, WTISD asserts that taxes are not a major motivating factor behind this petition. Transcript 139. However, the forms circulated by WTEC to solicit signatures for this petition emphasized Northern York's lower taxes at least as much as any educational factors. Dover 4046–48. Therefore, to the extent that witnesses for WTISD testified that Northern York's lower taxes were not a major motivating factor for the citizens who signed this petition, *see* Transcript 139, 172, 178–79, this Committee finds such testimony to be not credible.

B. The Closing of Kralltown Elementary School

Where an unpopular policy decision by the transferor district is a strong motivating factor behind a transfer petition, the State Board has exercised caution. While unpopular decisions like the closing of an elementary school can often provoke powerful emotional responses, their negative effects are usually temporary and the decisions themselves reversible. The transfer of

AS ADOPTED BY THE STATE BOARD OF EDUCATION ON SEPTEMBER 17, 2015

territory from one school district to another, however, is practically permanent. In Woodward Township, the State Board noted that the petition was filed amid “a firestorm of protest” against the imminent closure of the local elementary school. Woodward Township at 7. The State Board stressed that despite the initial reaction of the residents of Woodward Township, the instability caused by the closure had largely settled within two years. *Id.* at 8. If the transfer in that case were approved, the State Board expected “a much more substantial and abrupt displacement of students – from *both* elementary and secondary grades . . . [that] would generate a great deal of harmful instability.” *Id.* at 12 (emphasis in original).

Here, as it did in Woodward Township, the State Board should exercise the appropriate degree of caution, as the closing of Kralltown Elementary in Dover appears to be a strong motivating factor behind this transfer petition. Representatives of WTISD described the closing of Kralltown as the tipping point in their dissatisfaction with the district. Transcript 399. In testimony presented to the Committee, it was noted that parents of younger students signed the petition to transfer more frequently than parents of older students and that the closing of Kralltown was in opposition to a township planning commission plan that included a vision for a community school. *Id.* at 137, 157.

IV. Northern York’s Capacity to Accommodate the Students of Washington Township

As stated above, Northern York took a neutral stance on the application for transfer. An impact analysis prepared by Northern York for its School Board of Directors shows that Northern York would not experience budgetary concerns due to a transfer because it projects that revenue from the gain of Washington Township could exceed the cost of its increased

AS ADOPTED BY THE STATE BOARD OF EDUCATION ON SEPTEMBER 17, 2015

enrollment. WTISD 3421–3422. However, Northern York did express concern about administrative, staffing, and facility issues related to the timing of a potential transfer.

The order issued by President Judge Stephen Linebaugh⁶ establishing the WTISD set forth a July 1, 2015 effective date for the transfer, if approved by the State Board. Transcript 202. Northern York stated that these concerns “make it both impossible and impractical for the proposed transfer to be effective for the 2015-16 school year” and requested that the transfer take effect on July 1, 2017 instead in order to afford Northern York “sufficient time to prepare, renovate and expand existing facilities to accommodated [sic] the increase in enrollment.” *Id.* at 206–207. Northern York further stated that “[i]f sufficient time is not provided, additional funding and waivers from the current Plan Con process would need to be made to enable earlier renovations and expansions of existing facilities prior to the effective date of transfer.” *Id.* at 207.

While Northern York did not address whether it would be prepared for a transfer taking effect on July 1, 2016 in testimony presented to the Committee, a financial impact analysis presented by the district in December 2014 states that a transfer taking effect in 2015-2016 “is really not feasible, in that we cannot accommodate or be ready for a full transition” and that “even 16-17 constrains us in terms of how quickly we can move forward with building projects.” WTISD 3423.

Section 226 of the Public School Code provides that “[i]f the boundary lines of any school district are changed, by reason of the changing of the boundary lines of any city, incorporated town, borough, township, or independent school district, then, in any such case, the

⁶ The Committee thanks President Judge Linebaugh for logistical coordination permitting use of York County Courthouse facilities for purposes of its hearing.

AS ADOPTED BY THE STATE BOARD OF EDUCATION ON SEPTEMBER 17, 2015

change, so far as it relates to school districts or school affairs, *shall* take effect at the beginning of the first school year after . . . such change in boundary lines [is] permanently effected.” 24 P.S. § 2-226 (emphasis added). This provision of the School Code constrains the State Board’s authority to establish an effective date for a transfer based on the identified needs of the receiving district. In testimony presented to the Committee, Northern York did not make clear the implications of a transfer if it were it to take place prior to the July 1, 2017 effective date suggested by the district and did not address whether the district could effectuate a smooth transition prior to that suggested date.⁷

CONCLUSION

After careful consideration of the record, the Committee unanimously recommends that the State Board **disapprove** the application for the creation of WTISD and its transfer from Dover to Northern York. A proposed order is attached hereto.

⁷ As an additional observation, the State Board observed in Woodward Township:

It is true that a majority of the taxpayers of Woodward Township, based on the names appearing on the petition that was circulated in 1999, desire transfer; but a substantial minority (including many parents of public school students) are strongly opposed. Just as the WASD’s treatment of the Woodward Township Elementary School over several years obviously caused significant instability among the families of elementary school students until the school was closed last year, a transfer of the entire township to the JSASD would cause a much more substantial and abrupt displacement of students – from *both* elementary and secondary grades. In the judgment of the committee, this top-to-bottom, immediate displacement of all (or nearly all) students of Woodward Township would itself generate a great deal of harmful instability.

Woodward Township at 12. The Committee notes that any transfer has the potential to create instability and disruption. The Committee is of the opinion that the State Board should ensure that there is a compelling reason in place prior to approving a potentially disruptive event.

COMMONWEALTH OF PENNSYLVANIA
STATE BOARD OF EDUCATION

In re: Application of the Washington Township Independent School District for Transfer from the Dover Area School District to the Northern York County School District

ORDER

AND NOW, this ___ day of September, 2015, upon the affirmative vote of a majority of the members of the State Board of Education, it is hereby ORDERED, pursuant to Section 293.1 of the Public School Code of 1949, *as amended*, 24 P.S. § 2-293.1, that the creation of the Washington Township Independent School District and its transfer from the Dover Area School District to the Northern York County School District is hereby DISAPPROVED. The report of the Special Committee of the State Board of Education dated September 16, 2015, is ACCEPTED and the recommendation contained therein is ADOPTED.

Given under my hand and
seal this ___ day
of September, 2015

Larry Wittig
Chairperson

Attest: _____
Karen Molchanow
Executive Director