

**COMMONWEALTH OF PENNSYLVANIA**  
**STATE BOARD OF EDUCATION**

*In re:* Application of the Porter Township Initiative Independent School District for Transfer from the East Stroudsburg Area School District to the Wallenpaupack Area School District

**RESOLUTION**

**WHEREAS**, pursuant to section 242.1(a) of the Public School Code of 1949 (School Code), *as amended*, 24 P.S. § 2-242.1(a), the taxable inhabitants of the now-constituted Porter Township Initiative (Porter Township), constituting the Township of Porter, Pike County, and the East Stroudsburg Area School District (East Stroudsburg), presented their petition to the Court of Common Pleas of Pike County (docketed as No. 1895-2009-Civil), asking that the territory be established as an independent school district for the sole purpose of transfer to the Wallenpaupack Area School District (Wallenpaupack), an adjacent school district contiguous to Porter Township; and

**WHEREAS**, the Secretary of Education, pursuant to section 242.1(a) of the School Code, passed approvingly, from an educational standpoint, upon the merits of the petition for the creation and transfer of the independent school district; and

**WHEREAS**, by decree entered August 3, 2011, pursuant to section 242.1(a) of the School Code, the Court of Common Pleas of Pike County (1) established Porter Township for the sole purpose of its transfer from East Stroudsburg to Wallenpaupack; and (2) determined the amount of the indebtedness and obligations of East Stroudsburg that Wallenpaupack must assume and pay and the schedule for remitting payment; and

**WHEREAS**, on appeal by East Stroudsburg, the Commonwealth Court of Pennsylvania on April 30, 2012, affirmed the order of the Court of Common Pleas, *see Porter Twp. Initiative v. E. Stroudsburg Area Sch. Dist.*, No. 1679 C.D. 2011, 2012 Pa. Commw. LEXIS 131, and denied reargument on June 28, 2012, *see* 2012 Pa. Commw. LEXIS 188; and

**WHEREAS**, consistent with section 292.1 of the School Code, *as amended*, 24 P.S. § 2-292.1, legal counsel for Porter Township on June 29, 2012, submitted to the State Board a copy of the court decree creating Porter Township, along with the opinion of the Commonwealth Court affirming the decree; and

**WHEREAS**, under section 293.1 of the School Code, *as amended*, 24 P.S. § 2-293.1, the State Board is obligated, upon receipt of a court decree creating an independent district for transfer purposes, to place the item on its agenda and either to approve or disapprove the creation and transfer; and

**WHEREAS**, there are no statutory or regulatory procedures, other than the General Rules of Administrative Practice and Procedure (1 Pa. Code Part II), that govern the manner in or procedure by which the State Board is to carry out its duties under section 293.1 of the School Code; and

**WHEREAS**, on previous occasions when presented with applications of an independent school district for transfer, the State Board has designated a panel of its members to conduct proceedings and to prepare a report for consideration by the State Board, as approved by the Commonwealth Court of Pennsylvania in *Independent School District v. State Board of Education*, 53 Pa. Commw. 38, 417 A.2d 269 (1980); and

**WHEREAS**, the State Board, having discretion to supplement the General Rules of Administrative Practice and Procedure in carrying out its obligations under section 293.1 of the School Code finds it desirable and appropriate that a committee of the State Board be created for the purpose of conducting proceedings under 1 Pa. Code Part II, and preparing a report to the State Board;

**NOW, THEREFORE, IT IS HEREBY RESOLVED** as follows:

1. The chairperson of the State Board will designate a committee of three (3) members to conduct such proceedings as might be appropriate under the General Rules of Administrative Practice and Procedure, to take any action (except final action) that may or must be taken under the rules by the agency or agency head, and to report to the State Board in accordance with this Resolution. All details of these matters, including the designation of a presiding officer, if appropriate, shall be left to the discretion of the committee.

2. Upon completion of all appropriate proceedings, the committee shall report promptly to the State Board, recommending the proper disposition of the application for transfer.

3. Upon receipt of the report of the committee, the matter shall be placed upon the agenda for action at the next available meeting of the State Board, and the participants shall be so notified.

Given under my hand and our seal  
this 12<sup>th</sup> day of July, 2012

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Larry Wittig  
Chairperson

Attest:

John H. Jewett  
Acting Executive Director