

Press Release

Ripley Central School District

May 13, 2015

In a decision received earlier this week, the Commissioner of Education upheld the validity of the 2013 public vote authorizing the Ripley Central School District to have its students in grades 7-12 attend school in the Chautauqua Lake District.

Under the New York Education Law, for a school district to send students to be educated in another district (often referred to as "tuitioning"), it must first receive approval from the eligible voters of the district. In a vote held on February 5, 2013, the Voters in Ripley approved a proposition authorizing the Board to have students in grades 7-12 attend school in another district. In accordance with the Education Law, the Board of Education then designated Chautauqua Lake as the district where its 7-12 students would attend school. In April 2013, Ripley and Chautauqua Lake entered into a contract for the education of those students beginning July 1, 2013. The students in those grades have attended Chautauqua Lake during the 2013-14 and 2014-15 school years, and by all accounts the program has been an overwhelming success in providing the Ripley students a range of courses and activities that could not be sustained in Ripley due to the diminished student population.

On July 5, 2013, however, two Ripley residents filed a petition with the Commissioner of Education seeking to block implementation of the tuitioning program due to alleged "election irregularities and occurrences of improper activities with respect to voting, which they claim affected the results of the February 5, 2013 vote."

The District examined all of the allegations raised in the petition and found none of them to have any basis in fact. In defending the validity of the action by the voters, the District submitted all of the information it had on those issues, including the fact that the petition was filed more than four months after the deadline established in the Commissioner's Regulations.

In his decision, the Commissioner reviewed the issues and found the untimely filing of the petition to be fatal to the claim of the two District residents. An appeal to the Commissioner must be initiated within 30 days of the making of the decision or the performance of the act complained of, unless good cause for the delay is found. In this case, the petition was not initiated until more than five months after the District vote, so it was well outside the time limitation set forth in the Regulations. The Commissioner examined the petitioners' claimed reason that the appeal could not have been filed earlier: that the persons who said they were affected by the election results did not come forth until June 5, 2013. In rejecting that claim, the Commissioner stated that "the fact that the affidavits were notarized between April 25, 2013 and May 13, 2013 belies petitioner's assertion that they were unable to obtain such information until June 5 and does not serve explain why petitioners failed to commence this appeal until July 5,

2013." Because there was no valid basis for the delay in filing the petition, the Commissioner determined that "the petition must be dismissed."

The District is extremely pleased that the decision in this case allows the tuitioning arrangement to continue to provide great educational benefits to our students, as well as significant cost savings to district residents through a continued reduction to the tax rate this year. While the tuitioning arrangement is reviewed each year to ensure that it is continuing to meet student needs, at this point the District fully expects it to continue indefinitely. Finally, in light of the Commissioner's ruling dismissing the appeal in its entirety, the District will be consulting with its attorneys to determine whether it is possible to recover from the petitioners the legal fees spent in defending this matter.

The decision of the Commissioner is available at the following web address:

<http://www.counsel.nysed.gov/Decisions/volume54/d16750>