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November 28, 2016

Via New Jersey Lawyer's Service and
Via Facsimile

Honorable Sarah G. Crowley, A.L.J.
Office of Administrative Law
9 Quakerbridge Plaza
P. O. Box 49
Trenton, NJ 08625-0049

Re: Upper Freehold Regional Board of Ed v. Red Bank Regional Bd
of Ed, et al
OAL Docket No.: EDU-06068-2016
Agency Ref No: #108/4-16
Our File No: 0953.18654-S

Dear Judge Crowley:

This office represents the defendant, Red Bank Regional Board of Education with regard to the above-referenced matter wherein motions for dispositive relief are returnable before Your Honor on October 4, 2016. In that regard, please allow us to file this Response to the recently received response of petitioner to the Brief filed by Millstone Township in this regard.

Both Briefs have made reference to the case of The Board of Education of Asbury Park v. The Board of Education of Red Bank Regional School District, 97 N.J.A.R. 2d(educ.) 464(N.J.Adm) (1997). In that case the petitioner, Asbury Park who had an action against the respondent, Red Bank Regional seeking, inter alia, that Red Bank Regional cease receiving pupils from Interlaken and Deal and directing that certain respondents forward to Asbury Park its lost tuition. Asbury Park was the receiving school in a send-receive agreement with certain other sending districts. Parents of students in those sending districts had opted to send their

children to Red Bank Regional's Performing Arts Program. Asbury Park argued that the program created by Red Bank Regional was a illegal and, in the alternative, students could not attend Red Bank's program as a comparable and sufficient program was offered by Asbury Park through the partnership with Brookdale Community College. The Court evaluated whether Red Bank was legally registered to operate vocational programs and whether Asbury Park's alternate program was sufficient. Ultimately, the Court determined that Red Bank's program operated properly under N.J.S.A. 18A:54-52-7 because its course of studies were approved by the Commissioner of Education. Further, Red Bank provided two experts to refute Asbury Park's argument that the two programs were comparable. Most importantly however, the Court found that although school instruction is compelled, parents have choices. . . "they have a constitutional right to choose the type and character of education they believe is best suited for their children, being public or private, secular or sectarian". Id. at 5 citing Pierce v. the Society of Sisters, 268 U.S. 510 (1925).

In addition, while recognizing that Red Bank Regional is not a vocational school but is instead a comprehensive high school offering specific vocational programs, it has appropriately registered with the Commissioner of Education pursuant to N.J.S.A. 18 A:4-6. According to the most recent Career and Technical Education Programs and programs of study as of May 2016, located at <http://www.nj.gov/education/cte/pubecoc.htm>, Red Bank Regional is approved by the commissioner for its programs in Animation, Interactive Technology, Video Graphics and Special Effects; Commercial Photography; Drama and Dramatics, Theater Arts, General; Music Technology; Dance, General; Finance, General; Food Preparation/Professional Cooking/Kitchen Assistance; Child Care Provider/Assistant; Computer Sciences, Networking

and Telecommunications; Computer Programing/Programer, General; Information Technology; and Engineering Technology, General. Each approval took place prior to 2014. Upper Freehold has only received approval for its programs in Computer Software and Medial Applications, other; Plant Service, General; and Animal Sciences, General. Thus due to the lack of approvals, the programs by their nature are different and validate Millstone Students attending Red Bank Regional's Programs.

Respectfully Submitted,



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