



State of New Jersey

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DEPARTMENT OF LAW AND PUBLIC SAFETY
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May 23, 2017

Via Overnight Service and Email to Christina.Berdecia@oal.nj.gov

Hon. Susan M. Scarola, A.L.J.
Office of Administrative Law
9 Quakerbridge Plaza
Mercerville, NJ 08619

Re: Leonor Alcantara, individually and as Guardian ad Litem for E.A.; Leslie Johnson, individually and as Guardian ad Litem for D.J.; Juana Perez, individually and as Guardian ad Litem for Y.P.; Tatiana Escobar; and Ira Schulman individually and as Guardian ad Litem for A.S. v. David Hesse, Comm'r of the N.J. Dep't of Educ.; the N.J. State Bd. of Educ.; and the N.J. Dep't of Educ.
Agency Reference No.: 156-6/14
Docket No.: EDU 11069-2014S

Dear Judge Scarola:

Please accept this letter brief in lieu of a more formal brief on behalf of State Respondents, New Jersey Department of Education ("Department"), the Commissioner of Education ("Commissioner"), and The New Jersey State Board of Education, in opposition to the Petitioners' Motion for Emergent Relief in the above-referenced matter. The Motion should be denied.



Petitioners' Motion is premised on a potential budget deficit in the Lakewood School District ("Lakewood") of approximately \$10.6 million in the 2017-2018 school year. Lakewood Superintendent Laura A. Winters wrote to the Commissioner requesting an advance of State Aid to prevent the loss of numerous teachers, increase in class sizes, and other outcomes. Following the Superintendent's request, Petitioners filed this Motion, seeking emergent relief to prevent the same outcomes Superintendent Winters identified.

Subsequent to the instant Motion the Department granted the May 10, 2017, request of Superintendent Winters for an advance of State Aid to remedy a budget deficit and prevent a reduction-in-force ("RIF") of district teaching and administrative staff members. The advance also enables Lakewood to continue providing co-curricular activities to district school children, and purchase classroom and instructional supplies for the upcoming school year. The Department's advance of State Aid renders Petitioners' Motion moot. However, even if the Motion is not moot, Petitioners are still unable to satisfy the factors for emergent relief set forth in Crowe v. DeGoia, 90 N.J. 126 (1982).

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PROCEDURAL HISTORY AND COUNTERSTATEMENT OF FACTS

On June 24, 2014, Petitioners, a group of Lakewood students attending both district and private schools and their parents, filed a petition alleging that Lakewood is underfunded because the School Funding Reform Act of 2008, N.J.S.A. 18A:7F-43 to -63 ("SFRA") counts only public school students in its funding formula. On July 7, 2014, Petitioners amended their petition.

During the pendency of the matter, and prior to the completion of discovery, Petitioners filed a Motion for Summary Decision. On July 19, 2016, the Honorable Solomon A. Metzger,

A.L.J., denied the motion, and identified two of the issues necessary to be considered in a factual hearing: (1) whether bussing for private school students in Lakewood is required; and (2) "whether Lakewood overuses out-of-district placement for children with disabilities." See Order Denying Petitioners' Motion for Summary Decision at *2-3 (July 19, 2016) (Attached hereto as "Exhibit A" to the Stark Certification).

While Lakewood itself was ruled not to be a necessary party in this matter in 2015, on October 4, 2016, the district moved to participate in the case. On November 21, 2016, it was granted status as a "Participant" in the case.¹

At the May 8, 2017, public meeting of the Lakewood Board of Education, the members resolved that, "for reasons of economy" multiple tenured teachers would be subjected to a RIF. (Pet. Ex. 3). On May 10, 2017, Superintendent Winters wrote to the Commissioner requesting an advance of State Aid in the amount of \$10 million for the 2017-2018 school year in order to "avoid laying off 140 staff members, including 106 classroom teachers." See Correspondence from Laura A. Winters, Superintendent of Lakewood Public Schools to Kimberly Harrington, Acting Commissioner of Education, dated May 10, 2017

¹ Also granted "Participant" status is Paul L. Trachtenberg, Esq. in his individual capacity.

(Attached hereto as "Exhibit B" to the Stark Certification). On May 16, 2017, in response to Superintendent Winters' request, the Department announced it was providing a state-aid advance in the amount of \$8,522,678 that will allow Lakewood to reinstate 127 teaching staff positions; restore athletic programs and extracurricular activities such as band and orchestra; secure the provision of summer school programs; purchase new text books; and ensure that the District can meet the costs for one-to-one aides. See Press Release titled "Department of Education Announcement on the Lakewood School District Budget," dated May 16, 2017 (Attached hereto as "Exhibit C" to the Stark Certification).

Petitioners filed the instant motion for emergent relief on May 12, 2017. They argued that emergent relief is necessary to prevent irreparable harm caused by Lakewood's then-anticipated budget deficit. Specifically, Petitioners identified the possible loss of 119 teaching staff members, and the increase of the average class size in Lakewood schools to approximately 50 students per class as irreparable harm for which emergent relief was required to remedy.

Because the Department granted Superintendent Winters' request for an advance of State Aid to remedy the District's budget deficit, Petitioners' Motion is moot. The alleged

irreparable harm forming the basis for Petitioners' Motion no longer exists, therefore the Motion must be denied.

LEGAL ARGUMENT

I. PETITIONERS' MOTION FOR EMERGENT RELIEF SHOULD BE DISMISSED BECAUSE IT IS MOOT.

Petitioners' Motion for emergent relief has been rendered moot by the Department's decision to grant Superintendent Winters' request for an advance of Lakewood's future state aid. Controversies that have become moot prior to resolution will ordinarily be dismissed. Oxford v. New Jersey, 68 N.J. 301, 303-04 (1975); see also City of Hackensack v. Winner, 82 N.J. 1, 29 (1980) (applying the doctrine of mootness to administrative proceedings). A dispute is moot when a decision is sought on a matter, which, when rendered, cannot have any practical effect on the existing controversy. N.J. Div. of Youth & Family Servs. v. J.C., 423 N.J. Super. 259, 262-263 (App. Div. 2011) (citing N.J. Div. of Youth & Family Servs. v. A.P., 408 N.J. Super. 252, 261 (App. Div. 2009)).

Importantly, mootness is a threshold justiciability determination rooted in the notion that judicial power is to be exercised only when a party is actually threatened with harm. Jackson v. Dep't of Corr., 335 N.J. Super. 227, 231 (App.Div. 2000). A matter is technically moot when, like here, the issue presented has been resolved. DeVesa v. Dorsey, 134 N.J. 420,

428 (1993) (Pollock, J., concurring) (citing Oxford, supra, 68 N.J. at 303).

Petitioners' Motion seeks a remedy to the possible loss of 119 teachers and the resulting ballooning of class sizes in Lakewood's schools. The Department's advance to Lakewood of approximately \$8.6 million in State Aid has remedied the potential condition upon which Petitioners based their Motion. Therefore, the Motion is moot and should be denied.

II. PETITIONERS' MOTION FOR EMERGENT RELIEF SHOULD BE DENIED BECAUSE THEY HAVE NOT ESTABLISHED THAT THEY ARE ENTITLED TO SUCH EXTRAORDINARY RELIEF IN THIS MATTER.

Petitioners request that the Commissioner provide the extraordinary measure of emergent relief in the form of fully funding the SFRA as it applies to Lakewood in order to prevent a RIF that would have laid-off approximately 119 teachers from Lakewood. However, because the Department has granted Lakewood's request for an advance of State Aid the basis for Petitioners' claim of irreparable harm is no longer present.

Emergent relief should only be granted to "prevent some threatening, irreparable mischief." Crowe, supra at 132. In Crowe, the Supreme Court held that a movant seeking emergent relief bears the burden of proving all of the following factors: (1) that they will suffer irreparable harm if the request is not

granted; (2) that the legal right underlying their claim is settled; (3) that they have a likelihood of prevailing on the merits of their underlying claim; and (4) that, when the equities and interests of the parties are balanced, the movant will suffer greater harm than the respondent if the requested relief is not granted. Id. at 132-135.

A. THERE IS NO IRREPARABLE HARM BECAUSE THE DEPARTMENT'S GRANT OF LAKEWOOD'S REQUEST FOR AN ADVANCE OF STATE AID PREVENTS THE HARM PETITIONERS ALLEGE.

Petitioners are not entitled to emergent relief because they do not face imminent irreparable harm. See Johnson v. Guhl, 91 F.Supp.2d 754, 776 (D.N.J. 2000); Subcarrier Comm'ns, Inc. v. Day, 299 N.J. Super. 634, 638 (App. Div. 1997) (movant must establish "substantial, immediate and irreparable harm"). An injunction must not be used simply to eliminate a possibility of a future injury. Continental Group, Inc. v. Amaco Chem. Corp., 614 F.2d 351, 359 (D.N.J. 1980). Here there is no imminent, irreparable harm where the Department has provided an advance of State Aid of approximately \$8.6 million to prevent the very circumstances that Petitioners allege.

In her May 10, 2017 letter to the Commissioner, Lakewood's Superintendent requested an advance of State Aid "to maintain a thorough and efficient budget and avoid the layoff of 140 staff members, including 106 classroom teachers." (Resp.

Ex. B). She further acknowledged that the District has been working collaboratively with the Department to identify millions of dollars in budgetary reductions that were not necessary for provision of a thorough and efficient education. Ibid. That request was granted on May 16, 2017, when the Department informed Lakewood that it would receive an advance of State Aid for the 2017-2018 school year.

Finally, a question remains as to whether Petitioners face the risk of imminent, irreparable harm when the 2017-2018 Lakewood budget has not yet been finalized, and therefore is not certain. See, e.g., (Pet. Ex. 3, E18-19) (identifying only 39 teachers to be RIF'd). Petitioners' speculation of future harm based on a budget that has not yet been finalized, and will not come to fruition, does not satisfy the threshold of irreparable harm required by Crowe. As there is no risk of imminent irreparable harm, the Motion for Emergent Relief should be denied.

B. PETITIONER HAS NO REASONABLE LIKELIHOOD
OF ESTABLISHING THE REMAINING CROWE
FACTORS.

Even if Petitioners were able to demonstrate any possibility of imminent, irreparable harm, they are still unlikely to satisfy the remaining Crowe factors. While it is certainly true that Lakewood public school students are entitled

to a thorough and efficient education, the funding Lakewood receives is sufficient for Lakewood to provide a constitutional education.

Similarly, Petitioners have not demonstrated that they are likely to succeed on the merits of their underlying claim. The substance of Petitioners' claim has been advanced by Lakewood in the past, and on multiple occasions Lakewood has been found to have contributed to its complained financial hardship through mismanagement. See, e.g., Bacon v. N.J. Dep't of Educ., Init. Dec., (Sept. 23, 2002), adopted in pertinent part, State Board, (Jan. 4, 2006); Lakewood Needs Assessment (Attached hereto as "Exhibit D" to the Stark Certification). With the exception of a single out-of-context statement by one of the Department-appointed fiscal monitors, Petitioners have put forward no evidence in the course of discovery in this matter which would tend to indicate a possibility of proving they are being denied a thorough and efficient education. Petitioners are unlikely to be able to prevail on their claim that Lakewood receives constitutionally inadequate funding.

Finally, the balance of equities tips in favor of denying Petitioners' motion. As the Department's advance of State Aid to the district has alleviated the potential RIF Petitioners described, they face no imminent, irreparable harm.

Conversely, granting Petitioners' motion would negatively impact the State. Allegations of a constitutional deprivation of a thorough and efficient education are especially fact sensitive. See Abbott v. Burke, 149 N.J. 145, 199 (1997) (Abbott IV). For example, in Bacon, the State Board ultimately concluded that Lakewood had not demonstrated a constitutional violation only after extensive fact-finding at the OAL. Bacon, supra, at 609. Here, Petitioners are asking the Commissioner to Order extraordinary relief without the benefit of a factual hearing.

Further, granting Petitioners' Motion and ordering that the SFRA be fully funded with respect to Lakewood in response to a potential RIF would incentivize other districts in the state to take similar action in an effort to gain additional State funding.

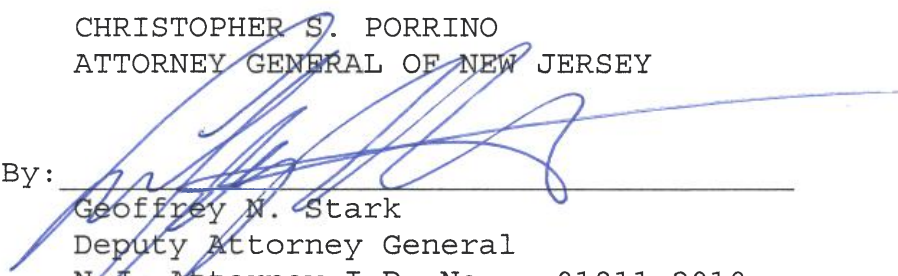
CONCLUSION

Because the State Aid advance rendered Petitioners' motion moot, and removed the possibility of Petitioners experiencing imminent irreparable harm, the Motion for Emergent Relief should be denied.

Respectfully submitted,

CHRISTOPHER S. PORRINO
ATTORNEY GENERAL OF NEW JERSEY

By: _____


Geoffrey N. Stark
Deputy Attorney General
N.J. Attorney I.D. No.: 01811-2010

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Deputy Attorney General
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LEONOR ALCANTARA, individually:	:	STATE OF NEW JERSEY
and as Guardian ad Litem for	:	OFFICE OF ADMINISTRATIVE LAW
E.A.; LESLIE JOHNSON,	:	OAL DOCKET NO. EDE 11069-2014S
individually and as Guardian	:	
ad Litem for D.J.; JUANA	:	AGENCY REF. NO. 156-6/14
PEREZ, individually and as	:	
Guardian ad Litem for Y.P.;	:	
TATIANA ESCOBAR; and IRA	:	CIVIL ACTION
SCHULMAN individually and as	:	
Guardian ad Litem for A.S.,	:	
	:	
Petitioners,	:	
	:	
v.	:	
	:	
DAVID HESPE, COMMISSIONER OF	:	
THE NEW JERSEY DEPARTMENT OF	:	
EDUCATION; THE NEW JERSEY	:	CERTIFICATION OF
STATE BOARD OF EDUCATION; and	:	GEOFFREY N. STARK
THE NEW JERSEY DEPARTMENT OF	:	
EDUCATION,	:	
	:	
Respondents.	:	

I, GEOFFREY N. STARK, Deputy Attorney General, hereby certifies

1. I am the Deputy Attorney General assigned to represent State Respondents, the Commissioner of the New Jersey Department of Education ("Commissioner"), the New Jersey State Board of Education ("State Board") and New Jersey Department of Education ("Department" or "NJDOE") in the above-mentioned matter. I make this certification in support of Respondents' opposition to Petitioners' Motion for Emergent Relief. I am fully aware of the facts of this matter.

2. Exhibit A is a true and accurate copy of the Order denying Petitioners' Motion for Summary Decision, issued by the Hon. Solomon A. Metzger, A.L.J. t/a, dated July 19, 2016.

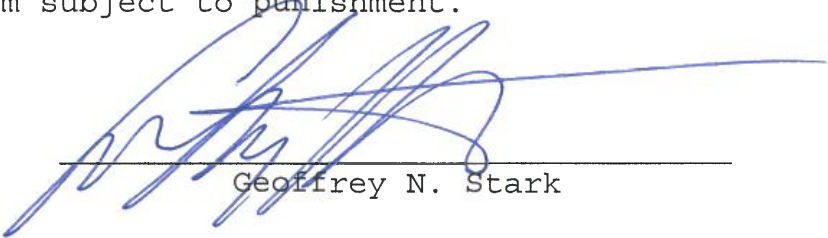
3. Exhibit B is a true and accurate copy of Correspondence sent from Laura A. Winters, Superintendent of Lakewood Public Schools to Kimberly Harrington, Acting Commissioner of Education, dated May 10, 2017.

4. Exhibit C is a true and accurate copy a press release by the Department of Education titled "Department of Education Announcement on the Lakewood School District Budget," issued on May 16, 2017, and retrieved from the Department's website on May 23, 2017. The release is available at:

<http://www.nj.gov/education/news/2017/0517aid.htm>

5. Exhibit D is a true and accurate copy of Commissioner of Education Lakewood School District Needs Assessment, dated September 14, 2009.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



Geoffrey N. Stark

Dated: May 23, 2017

Exhibit A



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER

OAL DKT. NO. EDU 11069-14

AGENCY DKT. NO. 156-6/14

**LEONOR ALCANTARA, individually
and as guardian ad litem for E.A.,
JUANA PEREZ, individually and as
guardian ad litem for Y.P., TATIANA
ESCOBAR, HENRY MORO AND IRA
SCHULMAN, individually and as
guardian ad litem for A.S.,**

Petitioners,

v.

**DAVID HESPE, COMMISSIONER OF
EDUCATION, NEW JERSEY STATE
BOARD OF EDUCATION AND NEW
JERSEY DEPARTMENT OF EDUCATION,**

Respondents.

Arthur Lang, Esq., for petitioners

Geoffrey N. Stark, and Jennifer Hoff, Deputies Attorney General, for
respondents (Christopher S. Porrino, Acting Attorney General of New
Jersey, attorney)

Paul L. Tractenberg, Esq., Professor of Law, Rutgers University School of Law,
participant

BEFORE **SOLOMON A. METZGER**, ALJ t/a:

This matter arises out of a complaint filed before the Commissioner of Education alleging that the School Funding Reform Act (SFRA), N.J.S.A. 18A:7F-43 to- 63, as applied to the Lakewood School District violates the “thorough & efficient” clause of the New Jersey Constitution. The matter was transmitted to the Office of Administrative Law as a contested case pursuant to N.J.S.A. 52:14F-1 to -15. Petitioners have now filed a motion for summary decision, pursuant to N.J.A.C. 1:1-12.5; Brill v Guardian Life Ins. Co. of Amer., 142 N.J. 520 (1995)

Certain basic facts are undisputed. Lakewood is home to some 31,000 students, only 6,000 of which are enrolled in the public schools. The large majority of public school students are from low income households. Some 25,000 students attend private school and the District provides their bussing. The funding formula does not adjust for this circumstance. Lakewood also has considerable special education costs. Together a substantial portion of the budget is dedicated to these purposes leaving a shortfall for in-district programming. Test scores, class size, enrollments in post-secondary education, teacher salaries and other metrics all reflect this condition. To make matters worse the private school population continues to expand in relation to public school enrollments, intensifying the anomaly with each passing year.

The Department argues that the motion is premature in the midst of discovery, citing, Velentzas v. Colgate-Palmolive Co., 109 N.J. 189 (1988); Jackson v. Muhlenberg Hospital, 53 N.J. 138 (1969). Judge Kennedy, who most recently presided in the matter, established September 2016 as the end date for discovery and this motion, filed in February 2016, has interrupted the process. Petitioners counter that deficits mount, inequities grow and the data presented to date self-evidently entitles them to relief. Moreover, the Department has installed monitors in Lakewood and generates much of the information that petitioners have collected. Surely, it has enough insight into the facts to join issue on the motion. I do not agree. The record is produced here and must serve as the foundation for all that follows. It cannot account for what the Department knows in the ether. Further, petitioners’ initial motion papers posit that bussing for private school students in Lakewood is required; the Department responds by

presenting a prior history in which it has concluded otherwise. The Department also suspects that Lakewood overuses out-of-district placement for children with disabilities. These points require explication. There is no question that Lakewood's demographics pose singular problems for the public school budget, but petitioners assert a constitutional level of deprivation and this must be sorted carefully.

Petitioners' reply brief filed on April 26, 2016, offers a letter from the Lakewood business administrator dated April 8, 2016, informing parents that non-mandatory public and private school bussing will cease beginning in the 2016-17 school year owing to fiscal constraints. That is a meaningful development and together with other exhibits attached to this brief reflect evolving facts that may narrow the dispute. Petitioners argue that funding remains woefully inadequate even with elimination of courtesy bussing, as mandatory bussing and special education burdens continue to overwhelm the budget. That may be so, but a shifting factual landscape does not argue for summary resolution.

Based on the foregoing, petitioners' motion for summary decision is **DENIED**.

This order may be reviewed by the **COMMISSIONER OF EDUCATION** either upon interlocutory review pursuant to N.J.A.C. 1:1-14.10 or at the end of the contested case, pursuant to N.J.A.C. 1:1-18.6.



July 19, 2016

DATE

SOLOMON A. METZGER, ALJ t/a

mph

Exhibit B



Lakewood Board of Education

200 Ramsey Avenue, Lakewood, NJ 08701

Main Office: (732) 364-2400 Fax: (732) 905-3687

Laura A. Winters, Superintendent of Schools

Regina Robinson, Interim Business Administrator

May 10, 2017

Kimberley Harrington
Acting Commissioner of Education
New Jersey Department of Education
PO Box 500
Trenton, NJ 08625

Dear Commissioner Harrington:

The Lakewood School District is a high poverty district in Ocean County with a high concentration of "at risk students." The district will have an estimated deficit of \$10,600,000 for the fiscal year ending June 30, 2017. The district has been in a budgetary deficit position since June 30, 2014, at which time the deficit amounted to approximately \$6,000,000 and has grown to the current deficit amount.

The district has incurred significant transportation and special education costs due to the unique circumstances of Lakewood. While Lakewood Public Schools has a resident student enrollment of about 6,000 students, the township also educates some 30,000 students and growing, in over 100 nonpublic schools. Legally the Lakewood public school district is responsible for the mandated student transportation and any special education needs of some 36,000 Lakewood resident students. The state's funding formula recognizes the public school district as a 6,000 student district and has never recognized the anomalies of Lakewood and the additional cost associated with 30,000 nonpublic students. That coupled with flat state funding the past 8 years, has created a situation where the Lakewood Public School District simply cannot provide the constitutionally required thorough and efficient education and its other State mandated services without additional state assistance over and above the regular state aid allocation.

For the original 2017-18 budget, the district found itself with a \$14.7 million revenue shortfall. After working collaboratively with the State Department of Education and Ocean County Executive Superintendent's Office, we were able to identify some \$3.5 million in budgetary reductions that were not considered necessary for T&E. At the same time, it was discussed that there would be an increase for one to one paraprofessionals in private schools for the handicapped, K-5 science textbooks were required for next year and that the district would be allowed to defer \$2 million in repayments to the state for prior advance state aid payments and audit adjustments. However, the district needs an additional \$10 million to maintain a thorough and efficient budget and avoid the layoff of 140 staff members, including 106 classroom teachers.



Lakewood Board of Education

200 Ramsey Avenue, Lakewood, NJ 08701

Main Office: (732) 364-2400 Fax: (732) 905-3687

Laura A. Winters, Superintendent of Schools

Regina Robinson, Interim Business Administrator

The reduction of 106 classroom teachers would result in average class sizes of 50, far in excess of the legally required class sizes for districts with concentrations of "at-risk students" of 40% or more [N.J.A.C. 6A:13-3.1]

Additionally, the deficit and revenue shortfall will result in a severe cash flow crisis. Currently the district is relying on a cash surplus in fund 20 for payroll, benefits and to pay bills in fund 11. This surplus will dry up as fund 20 vendors are paid and unexpended funds are returned to the state for state funded non-public school programs.

Accordingly, I am requesting a \$10,000,000 advance state aid payment for the 2017-18 school year pursuant to the provisions of N.J.S.A. 18A:7A-56a. I am requesting that the additional advance payments of state aid not be disbursed prior to July 1, 2017 so that it may be recognized as revenue in 2017-18 and balance that budget. No part of the advanced state aid payment will be used for non-mandated (courtesy) transportation. Courtesy busing was eliminated from the district's 2016-17 school year budget and not included in the 2017-18 school year budget. Also, there are no plans to restore it in subsequent budget years.

Pursuant to the provisions of N.J.S.A. 18A:7A-56b, I request the maximum 10-year repayment term, subject to the undesignated general fund balance provision of N.J.S.A. 18A:7A-56c. Additionally, I request that the first repayment installment be due in the 2018-19 school year, as any earlier repayment would create significant financial distress in the 2017-18 school year.

Your consideration of this request is greatly appreciated. Its approval will ensure that the students of Lakewood receive a thorough and efficient education.

Respectfully,

Laura A. Winters
Superintendent of Lakewood Public Schools

- c. Glenn Forney, Director of State Monitors
- Judith DeStefano-Anen, interim Executive County Superintendent
- Michael Azzara, State Monitor
- David Shafter, State Monitor
- Barry Iann, Board President
- Marc Zitomer, Board Attorney
- Regina Robinson, interim School Business Administrator/Board Secretary

Exhibit C



STATE OF NEW JERSEY
DEPARTMENT OF EDUCATION

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Department of Education Announcement on the Lakewood School District Budget

For Immediate Release

Contact: David Saenz

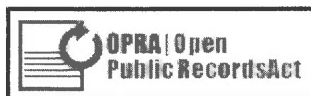
Date: May 16, 2017

609-292-1126

Trenton, NJ – The New Jersey Department of Education will provide a state-aid advance in the amount of \$8,522,678 to the Lakewood School District to ensure a thorough and efficient education for the public school students of Lakewood.

The state-aid advance will allow the Lakewood School District to:

- Reinstate 127 teaching staff positions including 106 classroom teachers, 14 basic skills teachers and 7 literacy and math coaches;
- Restore boys and girls athletics programs for the fall, winter and spring seasons (soccer, track and baseball), as well as extra-curricular activities such as band and orchestra;
- Secure the provision of summer school programming, critical for some students to meet graduation requirements;
- Purchase new K-5 science text books, needed to meet the New Jersey Student Learning Standards; and
- Ensure the district can meet the costs for one-to-one aides who are essential to meet the needs of students with disabilities.



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NJ Department of Education, PO Box 500, Trenton, NJ 08625-0500, (877)900-6960

Exhibit D

Lakewood Needs Assessment

This needs assessment for the Lakewood School District is based on the New Jersey Department of Education's (Department) monitoring of the district that took place in January - May 2007 pursuant to the New Jersey Quality Single Accountability Continuum (NJQSAC) system, N.J.S.A. 18A:7A-3 et seq., with a subsequent follow-up review conducted by the Executive County Superintendent in February 2009, a School District Assessment Survey completed by the district in July 2008, and a site visit performed by a team of Department personnel¹ on October 17, 2008. A summary of the Department's observations, conclusions and recommendations is set forth below.

Background

Lakewood, located in Ocean County, educates children in preschool through grade 12. The district has a total of six buildings: four K-6 elementary schools, a middle school for grades 7-8, and a high school for grades 9-12. The total K-12 enrollment of the district, pursuant to the 2008 Application for State School Aid (ASSA) is 5,422.5 and 76.89% of the students in the district are considered to be "at-risk" (defined as being at or below 185% of the federal poverty guidelines). Total K-12 district enrollment has increased by 4.92% since 2000. According to the district, for the 2007-2008 school year, there are approximately 18,700 students in the nonpublic schools – approximately three times the number of public school students. The district is not classified in a District Factor Group.² A detailed description of the enrollment, district wealth measures and state aid calculations for the 2008-09 and 2009-10 school years are contained in the attached District State Aid Profiles.

QSAC Monitoring

In January-May 2007, the Department monitored Lakewood pursuant to NJQSAC. Under NJQSAC, districts are evaluated, using an assessment tool known as the "District Performance Review" (DPR), in the five key areas of school district performance: Instruction and Program, Fiscal Management, Operations, Personnel and Governance. Districts that satisfy 80% of the indicators in any area are considered to be high performing in that area. Lakewood scored over 80% in the areas of Operations (100%) and Personnel (81%). Lakewood satisfied 60% of the indicators in Instruction and Program, 51% in Fiscal Management and 66% in Governance. In August 2007, the Commissioner issued the full QSAC report to the district and directed the district to develop an improvement plan in the areas of Instruction and Program, Fiscal management and Governance. Subsequently, in February 2009, the Executive County Superintendent in Ocean conducted a review of Lakewood. Based on the results of that review and the findings of this needs assessment, the Commissioner is issuing an updated placement of

¹ The DOE site visit team consisted of Willa Spicer, Deputy Commissioner, Gerald Vernotica, Assistant Commissioner, Donna Arons, Special Assistant to the Commissioner, Joan Saylor, Director, Bruce Greenfield Ocean Executive County Superintendent and Michael Foster, Ocean Executive County Business Administrator.

² School districts in which more than half of the school-aged population is enrolled in nonpublic schools were not classified in the DFG designations based on the 2000 decennial census. For purposes of determining whether the district is required to provide universal or targeted preschool pursuant to the School Funding Reform Act (SFRA), Lakewood is not considered to be a DFG A, B, or CD and is, therefore, a targeted district.

the district on the QSAC continuum as described herein. The NJQSAC review decision is attached.

With respect to Instruction and Program, the initial NJQSAC monitoring revealed that Lakewood had a curriculum that is aligned with the most recent version of the New Jersey Core Content Curriculum Standards (NJCCCS) and it was being fully implemented at all grade levels. However, the district's curriculum was not being articulated horizontally and vertically (QSAC DPR I&P indicator B5). Lakewood satisfied all of the indicators in Section C of the I&P DPR that measures whether the district employs instructional strategies and processes that support the achievement of the NJCCCS. Specifically, during the monitoring, Lakewood demonstrated that it implemented a supervisory process that ensures that all areas of the curriculum are taught in every district classroom and that teachers received meaningful feedback, that it required and verified that lesson plans are aligned with the curriculum and reviewed monthly by supervisors, that supervisory practices focused on classroom instruction and that teachers and supervisors analyzed student work to determine if instruction is aligned with the curriculum (indicator C1). Finally, the district did not satisfy indicators which relate to the district's success in meeting the annual measurable achievement objective for the percentage of students attaining English proficiency (D1d), and the district's implementation of a Special Education Improvement Plan (D2a and 2b).

In the area of Fiscal Management, the initial NJQSAC monitoring in 2007 revealed that Lakewood did not satisfy a number of indicators dealing with financial and budgetary controls. Specifically, monthly board reports were not completed in a timely and accurate manner, (indicator B1); requirements for fixed assets were not met (B3e); budget status reports were not reviewed, position control rosters were not maintained, transfers were not made prior to obligation of funds, requirements regarding purchase orders were not met, fixed assets were not appropriately handled (B4); and the School Register Summary was not timely or accurate (B8f). In addition, Lakewood failed to satisfy important indicators with respect to its annual audit for the prior year (2005-2006). The monitoring revealed that the district did not receive an unqualified opinion on the annual audit with no repeat audit findings of a substantive nature or material weaknesses in the findings (C2) and that the district ended the year with line-item over-expenditures (C3). In the area of restricted revenues, the monitoring revealed deficiencies in Lakewood's expenditure of federal and state grant funds (D1).

Finally, in the area of Governance, the initial monitoring found that Lakewood satisfied 66% of the indicators. Specifically, Lakewood did not satisfy indicator A2, which requires that the board comply with all requirements concerning curriculum and instruction and professional development, or A4, which requires that the board direct the superintendent to take appropriate action concerning professional development and curriculum. The monitors also found that the school board did not annually review and update policies, procedures and by-laws, as required by indicators D1-D4. Finally, the district was not in compliance with indicator F6, which requires that the school board annually undertake a self-evaluation process which reflects that highest priority is given to student achievement, nor with F7, which requires that the self-evaluation process include a professional development improvement plan for members of the board.

Pursuant to N.J.S.A.18A:7A-14, Lakewood developed an improvement plan to address each area of non-compliance. Subsequently, the Department conducted a review of the district's progress in the areas where performance deficiencies had been found: Instruction and Program, Fiscal Management and Governance. This review included an evaluation by the Executive County Superintendent as well as the observations and conclusions reached by the Department team conducting the instant needs assessment of the district. Based on this review, Department staff recommended, and the Commissioner adopted, changes to Lakewood's NJQSAC scores and placement on the performance continuum as described herein.

In the area of Instruction and Program, the score increased from 60% to 74%. Among other things, the district demonstrated that its curriculum is now horizontally and vertically articulated (B5), that the district has met the annual measurable achievement objective for the percentage of students attaining English proficiency (D1d), the district's Special Education Improvement Plan is approved by the Office of Special Education Programs and the district implements all required activities in the plan in a satisfactory manner (D2a and 2b). The Department notes that this demonstrates that NJQSAC, as part of the overall remedial statutory scheme, can result in improvements in instruction.

With regard to Fiscal Management, the reviewers determined that Lakewood complied with the indicators relating to financial and budgetary controls (Section B) and that it has improved with respect to its management and oversight of federal grants (D1a and D1b). However, regarding its annual audit, reviewers found that the 2007-2008 CAFR had repeat audit findings of a substantive nature and material weaknesses in the findings (C2b and C2c). In addition, based on the site visit and review of other pertinent data, Department staff determined that Lakewood did not satisfy indicators A1a-A1d which require that the district's budgeting process and its allocation of resources are aligned with the district's instructional priorities and student needs, indicator A2a, which requires that budget objectives and budgeted costs address the priority problems that have been identified as impacting student subgroup performance as measured under the federal NCLB, and indicator A2b, which requires that budget objectives and budgeted costs address CAPA reports, special education and other programmatic reports, and assessed needs, as applicable. Based on the review, the district's score in Fiscal Management increased from 51% to 74%.

Finally, in the area of Governance, the reviewers found that the district satisfied the requirements of indicators A2 and A4 in that the board complies with the requirements of N.J.A.C. 6A:8 and the board directs the superintendent to take appropriate action concerning professional development, purchase of materials and curriculum development. However, the Department staff found that the district does not satisfy indicator A1, which requires that the school board have a clearly articulated district mission statement incorporating the expectation that all students achieve the NJCCCS at all grade levels. The reviewers reached this conclusion based on the observation that while the district may have, on paper, an appropriate mission statement that emphasizes student achievement, the district undermines that goal by its actions in redirecting resources away from instructional programs and into other, nonessential areas, such as courtesy busing. Similarly, the district does not satisfy indicators H1, H3, and H4, which relate to whether the school board adopts a budget that sets student achievement as its highest priority and allocates sufficient resources to address instructional and operational needs. The

review found that the district does now satisfy the indicators in Section D, relating to the board's annual review and update of policies, procedures and by-laws, but it remains non-compliant with indicators F6 and F7, which deal with its self-evaluation process. Based on these changes, the district's score in Governance remains the same at 66%.

Pursuant to N.J.S.A. 18A:7A-14, the district is required continue to implement its improvement plan, with Department assistance, in the areas of identified deficiencies.

District Assessment Survey

In July 2008, Lakewood completed a comprehensive assessment survey designed by the Department to assist the district in identifying areas of unmet need. Lakewood described its needs as primarily stemming from several areas: the demographics of its student population including a large number of students with insufficient language skills and minimal background experiences; large class sizes; and the substantial amount of resources dedicated to courtesy busing and special education needs. The district also noted, based on its analysis of student achievement data that teacher turnover and high student mobility contribute to the district's difficulties in improving student achievement.

As indicated above, 76.9% of Lakewood's student population is considered at-risk, meaning that they are at or below 185% of the federal poverty guidelines. According to the district, this large percentage of economically disadvantaged students and students with limited English proficiency has presented a number of challenges. In order to address these needs, the district is increasing the number of ESL classrooms, providing differentiated and small group instruction for all students and using leveled instructional materials in the classroom. It also uses instructional coaches in language arts and mathematics at all grade levels. However, despite these efforts, the district indicated that it still needed additional classroom space, more bilingual and ESL teachers and teacher incentives to receive credit for advanced degrees. The Department notes that the special needs of at-risk and Limited English Proficient students were specifically addressed during the process of developing the School Funding Reform Act (SFRA) and, therefore, are incorporated into the SFRA's determination of additional weights for such students in determining funding for the district.

Another proven method of assisting low-income and limited English proficient students is by providing them with a quality preschool education, and for that reason, the SFRA mandated a large expansion of State-funded preschool programs. Lakewood reported in its survey response that it currently runs a half-day preschool program for 3-year-olds and half- and full-day programs for 4-year-olds. Lakewood is a targeted (not universal) district pursuant to SFRA. In order to implement the expansion required by the SFRA to take place over five years, the district plans to add more classroom space, employ a master teacher and more preschool teachers, use the Creative Curriculum and provide professional development.

Lakewood stated in the survey that it has a curriculum that is fully aligned with the NJCCCS and that the district's textbooks, instructional materials and technology are aligned to the curriculum. It stated that all of its teachers are Highly Qualified as required by the *No Child Left Behind Act of 2001*. Furthermore, the district reported that it had fully implemented a visual

arts curriculum and a music curriculum in all grade levels and school buildings. However, the district indicated that not all of its schools have rooms dedicated to visual art, performing art and music. The district reported that it has a library and/or media center in each school with age appropriate books and other reading materials. It also stated that it has fully implemented a world language curriculum in every grade and that world languages are taught in person.

The district offers gifted and talented services in grades 3-12, and stated that it would like to expand that program. It offers Advanced Placement (AP) courses in a variety of subjects, and stated that no students are precluded from taking AP courses because of space or staff. Lakewood stated that it has an alternative education program, and indicated that there were no unmet needs with respect to that program.

According to the survey, the district's special education classification rate is 14.4%,³ which is equivalent to the state average classification rate of 14.69% upon which the SFRA's census-based special education funding is calculated. The district also reported that approximately 3% of those students are placed out-of-district, however, this does not appear consistent with other data provided to the Department. The district does not have a backlog in conducting required activities for students referred to the child study team or students with IEPs and all IEPs for students with disabilities are implemented as written.

With respect to facilities, Lakewood stated that it currently has adequate space to deliver the NJCCCS and has adequate labs. Several elementary schools have a combined cafeteria/auditorium. The district cited no health and safety issues in the district's buildings. Lakewood uses some trailers for preschool and regular education classrooms and indicated that it needed a new building to house an expanding preschool program.

Regarding technology, the district indicated that it lacks equipment, connectivity and technical support necessary to provide e-learning opportunities for all students, due to lack of financial resources. The district is exploring the possibility of a lease purchase agreement that would make computers available in every classroom. Connectivity and technical support are only available in computer rooms.

In addition to the staffing shortages already cited, Lakewood stated in its survey response that it has identified the following staffing needs: grants manager to maintain program and fiscal integrity of the grants program and to attract funding to the district, technology coordinator to provide integrated technology and training for staff, a vice principal at the high school who can lead curriculum and instructional initiatives and security personnel who are trained in gang awareness, to provide adequate coverage throughout the district.

Site Visit

On October 17, 2008, members of a team of Department personnel traveled to the Lakewood School District and met with the district's superintendent, and various other

³ There appears to be a typographical error in the survey, as it states a special education rate of "4.4%," which is belied by the numbers of special education students listed in the survey, which computes to a classification rate of 14.4%.

administrators. During the course of the meeting, the team from the district discussed Lakewood's goals and its strategies to achieve those goals, as well as the challenges still facing the district.

The district received a total of \$26,697,096 in state aid for FY 2008-09. This amounted to a 20.5% increase in state aid under the SFRA, or an additional \$4,547,166. With this increase in aid the district increased funding for its out-of-district students, which includes transportation and out-of-district tuition. In addition, the district reported that it had increased costs for related services for its nonpublic students which it contends were incurred due to the sustained growth of its nonpublic student population. Although the public school enrollment is stable, the nonpublic population increases by close to 1,000 students each year, according to the district. The Department notes that the district also received substantial aid from the State for nonpublic students.

The district dedicates a relatively large portion of its budget to transportation. Much of the transportation costs for non-public students are due to courtesy busing. The district is aware that the high cost of transportation, due to increased numbers of nonpublic students, staggered start times and its courtesy busing policy, is a significant financial drain.

Another large budget expenditure for Lakewood is for out-of-district special education placements, which includes transportation for those students. The district reported that it is working on a number of strategies to reduce out-of-district placements. In 2008-2009, it brought more students with related services needs and behavioral disabilities in-district. Lakewood has 30 self-contained classrooms in the district, which is a decrease in number as the district strives for more inclusion of children with disabilities in the regular education classrooms using additional teaching staff. The district has also retained the services of two consultants to provide professional development to teachers on Intervention and Referral Services. In addition, the district is working with county and community groups to provide behavioral health and other support services to the children in the district.

Regarding the district's regular education system, Lakewood has analyzed its students' performance on the State assessments and is focusing its efforts and resources on those areas of needed improvement. In the 2008 State assessments, fourth graders had a proficiency rate of 71% in language arts, with no improvement from the previous year, and a math proficiency rate of 76%, a decline from the previous year of 81% proficient. The proficiency rate in language arts of eighth graders improved from 38% in 2007 to 50% in 2008, while math proficiency remained the same at around 33%. The math proficiency rate for eleventh graders increased from 39% in 2007 to 48% in 2008 while language arts proficiency remained nearly constant at around 60%. As of 2008, both the Lakewood High School and the Lakewood Middle School were in year 6 of "Schools in Need of Improvement" (SINI) status⁴, Clifton Avenue Grade School was in year 2 of SINI, Clarke Elementary School was in "hold" status of year 4 SINI and Spruce Street Elementary School was in hold status of year 2 SINI.

⁴ The Lakewood High School is not a Title I school, so it is not subject to remedial measures under federal law for its failure to make Adequate Yearly Progress (AYP).

Lakewood employs a number of strategies in an effort to improve student performance. Class sizes in the district generally range from 18 to 21 in grades K-6 and from 17 to 19 in grades 7-12. The Department notes that the staffing ratios identified as part of the development of the SFRA are 18:1 in elementary school and 20:1 in middle and high school.

The district has also made strides in improving curriculum and instruction. Every school building has both reading and math literacy coaches. The Department notes that instructional coaches are among the resources that were included in developing the adequacy budget under the SFRA. The district is also using *Learnia*, which is a formative assessment system provided at no cost by the Department, that provides educators with periodic information throughout the school year on the progress of students toward acquiring the skills and knowledge that will be assessed on the NJ ASK state assessment.

Because of the number of years that the middle school has been in SINI status, Lakewood was required to develop a restructuring plan for the school in 2007-2008 and to implement that plan in 2008-2009. The district chose to implement a major restructuring of the school's governance that involved appointing a new principal and two assistant principals who assumed oversight of student performance and progress. In addition, the school is implementing a revised schedule that includes 80 minute instructional blocks for language arts and mathematics. The middle school is also implementing the Paul Lawrence program for mathematics. In addition to the regular Title I funding received by the district for its struggling students, Lakewood also receives Title I SIA Part A funds (\$120,914 in 2007-2008 and \$130,549 in 2008-2009) for use in its Title I SINI schools. Moreover, in 2008-2009, the district also received \$100,000 in Title I Part G funds to be used exclusively for the middle school to support school improvement efforts. The district used the funds to partner with Rutgers University to provide coaching and leadership training to staff. The district also held a summer four week intensive literacy and math enrichment camp for students.

The district also has a plan to increase student achievement and graduation at the high school. The district is implementing a comprehensive secondary restructuring plan. Beginning with the 2009-10 school year, the high school will begin a career academy structure, with the implementation of a media and arts technology academy. Three additional academies will be added: business and entrepreneurship, health occupations and criminal justice. Students will select an academy at the end of their freshman year. Guidance and career services will be provided to all students to ensure a seamless transition from high school to college.

As discussed above, another successful strategy for improving student performance is to provide a high quality preschool program as required by the SFRA. Lakewood is classified as a targeted district for preschool with 582 at-risk children eligible for the program in 2009-2010. The district plans to serve 15 3-year-olds and 135 4-year-olds. Most of the children are served in private provider settings. Lakewood is making plans to expand preschool as required, but believes that finding classroom space will be a challenge.

According to the district, due to fiscal constraints, the district reduced staff and did not replace a Title I teacher and assistant superintendent for human resources in school years 2007-08 and 2008-09. The district reduced the number of custodians in 2007-08, replaced a few in

2008-09 and has not increased the number of custodians, currently at 41.5, for 2009-10. Lakewood received a federal readiness and emergency management grant in the amount of \$228,000, which enabled the district to hire a security director. The Department notes that the SFRA provides categorical funding to support security personnel. District administrators also reaffirmed the need for additional staff and increased professional development. The district indicated that it would need approximately \$600,000 to upgrade its technology infrastructure and replace hardware. The district is attempting to establish an educational foundation to help fund technology and other needs.

Facilities

The district stated that it needs additional elementary school classrooms in order to adequately accommodate all of its students. In particular, the Oak Street School and Clarke School are overcrowded, and according to the Department's Office of School Facilities, the district would be eligible for more than 200,000 square feet of new construction. Lakewood is currently using a total of 16 temporary classroom units (TCUs): two at Oak Street School for the bilingual program and 14 at the Clarke School. The district's long range facilities plan does not include any plans for addressing these needs.

In July 2008, funding for school construction projects were made available through amendments to the Educational Facilities Construction and Financing Act, P.L. 2008, c. 39 (EFCFA). The grants were awarded in fixed annual allocations based on a prioritization process that considers critical need in accordance with project categories outlined in the law. Lakewood has not applied in either the first or second rounds for State grant funding under this opportunity. At the site visit, it indicated that its construction plans are in the conceptual phase, but that once finalized, the district intends to apply for funding through EFCFA.

School Funding Reform Act

The Lakewood School District received a 20.5% (\$4,547,166) increase in State aid pursuant to the SFRA in FY08-09, and will receive no increase in State aid in FY 09-10. Under the formula, the district's "adequacy budget" is calculated by multiplying the district's K-12 enrollment by the base amount of \$9,649⁵. The district's enrollment of middle school (grades 6-8) and high school (grades 9-12) students are then multiplied by an additional weight of 1.04 and 1.17, respectively. The district's adequacy budget also includes an additional weight of .57 for each at-risk child, which amounted to a total of \$18,878,565 in FY 08-09 and \$20,907,592 in FY 09-10. There are additional weights for children with limited English proficiency and for at-risk children with limited English proficiency. The district's State equalization aid is then calculated by determining the difference between its adequacy budget and the district's local fair share. For FY08-09, the district's local fair share was \$58,845,080, which is based on its aggregate property wealth and aggregate income – for comparison, per pupil property wealth of \$1,349,764 and per pupil income of \$164,227. For FY09-10, the district's local fair share is \$61,956,724, with a per pupil property wealth of \$1,521,290 and a per pupil income of \$194,962. In both years, the

⁵ This amount increased to \$9,971 for FY 2010.

district's tax levy exceeded its local fair share.⁶ In FY08-09, the district's adequacy budget exceeded its prior year spending. For FY09-10, the district's prior year spending exceeded its adequacy budget.

The funding formula under SFRA also provides for categorical security aid as well as aid for transportation and special education. Pursuant to N.J.S.A. 18A:7F-46, every three years the Commissioner will re-evaluate and recommend to the Governor and Legislature any appropriate changes to the funding elements of the SFRA (such as the State average classification rate of general special education students and the additional weights for at-risk and limited English proficient students). For the intervening years, the cost factors in the SFRA are updated according to the Consumer Price Index.

The SFRA also dramatically increases access to preschool education, requiring districts to offer preschool programs to eligible students within five years. Although a targeted district, given the very high percentage of at-risk public school students, once preschool is fully implemented in Lakewood it will result in a large majority of kindergarten students entering school better prepared for learning, having benefited from preschool.

In addition to these State funds, Lakewood will be receiving federal funds to support students with special needs (at-risk and special education) through the Title I and IDEA, as well as additional funds through those programs pursuant to the American Recovery and Reinvestment Act of 2009 (ARRA).

Conclusions and Recommendations

The Department agrees with the district's assessment that it faces a number of challenges given its relatively high at-risk population. The problems are exacerbated by Lakewood's decision to direct a large proportion of resources to providing courtesy busing to its public and nonpublic students.

The Department notes that it is impossible to make a true assessment of Lakewood's financial needs without analyzing the district's choice to expend a large amount of funds on non-mandated courtesy busing for both its public and nonpublic students. Courtesy busing is busing of children that live less than two miles from the elementary school or less than two and one-half miles from the middle or high schools. N.J.S.A. 18A:39-1 et seq. It is important to note that even if a district provides courtesy busing to its public students, it is not required to provide courtesy busing to its nonpublic students. According to the Department's records, in 2008-2009, the district expended over \$5 million on courtesy busing, with almost \$4 million of that dedicated to courtesy busing for nonpublic students. This is not a new issue. In the decision by the Commissioner of Education in *Bacon et. al v. New Jersey Department of Education* on February 10, 2003 and the State Board decision of January 4, 2006, the Department found that expenditures for non-remote busing were not an effective use of funds by Lakewood. The Department reaffirms now that it is unacceptable for the district to allege critical unmet needs for its public school students while it spends such a substantial sum of money to provide a non-

⁶ The district's 07-08 tax levy was \$64,722,523 compared with its 08-09 local fair share of \$58,845,080 and its 08-09 tax levy was \$69,597,133 compared with its local fair share of \$61,956,724.

mandated courtesy service to its nonpublic students. Lakewood must revise its priorities so that its resources are better directed to the needs of the students it is responsible for educating.

Regarding its instructional programs, Lakewood is aware of needed improvements, particularly regarding bilingual education, and middle school reading. During the course of the 2008-2009 school year, the district provided "Sheltered Instruction Observation Protocol" (SIOP) to 19 teachers to improve instruction for English Language Learners. In addition, Title I funds were used to expand the district's ESL summer programs by enrolling additional children in bilingual kindergarten. With respect to middle school language arts, the district has implemented an extended literacy block of ninety minutes which is focused on balanced literacy and "reader's workshop." It is also making use of benchmark assessments and data to drive instruction, differentiated instruction, offering students leveled reading materials, incorporating curriculum mapping, focusing on content standards, and making use of common planning time to plan lessons and instructional strategies. The district will be receiving a substantial increase in funding this year through ARRA, targeted to serve students that are struggling academically. It is imperative that Lakewood invest these funds carefully to obtain maximum long-term gains in student proficiency.

During the site visit, district administrators discussed their plans and progress in including special education students in the general education classrooms and using differentiated instruction. As noted, Lakewood has a very high out-of-district placement rate, and the district is using various strategies to educate more children in-district. The Department can assist in this endeavor, as the Office of Special Education Programs (OSEP) offers professional development opportunities in differentiated instruction for the special education population through its Learning Resource Center (LRC) in the Southern Region. The Commissioner directs OSEP to coordinate such training with Lakewood. In addition, the Department also offers training to districts on developing and improving Intervention and Referral Services. The Commissioner directs the Department's Office of Educational Support Services to coordinate training on this topic. Finally, the Department has made arrangements with the Mid-Atlantic Regional Educational Lab (REL) to work with Lakewood and other districts to meet their needs for staff development in the various content areas as well as with special needs children who require particular attention and strategies in order to succeed. The leadership of the REL will contact the district shortly, if it has not already done so, to make arrangements to provide this assistance.

As noted above, the NJQSAC review demonstrated that Lakewood has a great deal of room for improvement, most notably in the areas of Fiscal Management and Governance. The Commissioner directs the Ocean County office to provide technical assistance to the district, particularly in the budget development process, to ensure that the instructional needs of the district's students are given highest priority.

With respect to its facilities, the district projects the need for new elementary classrooms in order to meet the needs of its expanding student population and to eliminate the TCUs. In addition, Lakewood stated that there is a need for a building to house the district's expanding preschool program. As previously noted, the district did not apply for the first or second rounds of ROD grant money; Lakewood should finalize its construction plans and submit an application during the next round of ROD funding.

In sum, the Lakewood School District, while facing significant challenges, could do significantly more with the funds currently available to it. The district must find ways to ensure that its resources are directed to meet the instructional needs of its students. In particular, the district's long-standing policy of providing courtesy busing must be given serious reconsideration. In addition, the district should continue to develop strategies to educate more of its special education students in-district. There are many areas in which Lakewood needs to improve in terms of student performance, but the district also has significant resources to address those needs. The Department will assist the district, as described above, to ensure that the educational needs of the district's students take precedence.