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Via Email to [Christina.Berdecia@oal.nj.gov](mailto:Christina.Berdecia@oal.nj.gov)

Honorable Susan M. Scarola, A.L.J.  
Office of Administrative Law  
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Trenton, New Jersey 08625-0049

Re: Leonor Alcantara, et al., v. David Hespe,  
Commissioner of Education, et al.  
OAL Dkt. No.: EDU 11069-2014S

Dear Judge Scarola:

Please accept this letter on behalf of State Respondents, and in response to the letter filed by Mr. Inzelbuch on September 27, 2018. The numerous requests set forth therein should be denied, and will be briefly discussed in turn below.

First, Lakewood asks for clarification of Your Honor's August 20, 2018, Order requiring that State Respondents submit to the Court a list of school districts in which a State Monitor had been appointed and a list of districts that had received any advance State Aid payments under N.J.S.A. 18A:7A-56(a). That list was sent to the Court and to the parties and participants by separate cover on October 2, 2018. This request is moot.

Second, Lakewood again seeks reconsideration of the Court's denial of its request to join this case as a party. The Court has denied this same request on at least two prior occasions. State Respondents will continue to rely on the arguments they have advanced on the previous occasions that Lakewood raised this issue. The Court should continue to deny this request and not revisit the



question again.

Third, Lakewood moves for summary decision based upon documents it included in its submission. As Your Honor has already recognized, the hearing in this matter is ongoing. Petitioners initially rested their case, but it has since been re-opened to allow for them to present additional evidence. State Respondents have had no opportunity to present evidence in this matter. This request for summary decision should be denied, if it is considered at all, because Lakewood lacks status in this case enabling it to file motions. See N.J.A.C. 1:1-16.6(c). Further, as the hearing is ongoing, it is procedurally untimely. See N.J.A.C. 1:1-12.5(a).

Additionally, as previously argued in State Respondents' August 10, 2018, correspondence, Lakewood is not entitled to submit evidence, witnesses, or testimony to the court. Without regard to the OAL rules, Lakewood simply presents additional written testimony that it believes entitles Petitioners to summary decision. That testimony is not subject to cross-examination, nor is it presented in a manner permitting the court to evaluate its veracity. Lakewood merely advances factual claims and asserts that it is entitled to an Order of its choosing. Nowhere in the OAL rules is such a procedure endorsed. The Court should deny Lakewood's request for summary decision.

Fourth, Lakewood asks for an emergent Order related to an advance on State Aid for the current school year. This request is speculative, and is beyond the scope of the matter being heard. It should be denied.

Fifth, Lakewood requests a finding as to the adequacy and appropriateness of various funding measures, and an Order that the Department take certain steps to propose a new formula. This relief goes to the heart of Petitioners' claims, and such an Order is premature, as Petitioners' case has been re-opened, and State Respondents have yet to put on their case. This request should be denied, as should Lakewood's nebulous sixth request for any other relief the court should deem appropriate. The question of relief should be examined only if Petitioners prevail on their claims.

Finally, as has been discussed at length in these proceedings, per Lakewood's expressed desire when initially seeking participant status in this case, it is not a party to this matter. Its participation is limited. See N.J.A.C. 1:1-16.6. Nevertheless, Lakewood repeatedly attempts to revisit its status, and continues to blatantly disregard the OAL rules by attempting

to improperly submit evidence to the court outside of the hearing and file meritless, unrelated motions, which ultimately detract from the court's ability to consider the actual case before it. See N.J.A.C. 1:1-16.6(b) ("In deciding whether to permit participation, the judge shall consider whether the participant's interest is likely to add constructively to the case without causing undue delay or confusion.").

If this matter is to be completed, Lakewood's attempts to stretch the proceedings beyond Petitioners' case, and its circumvention of the OAL rules must cease. Lakewood's requests should be denied.

Respectfully submitted,

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By: 

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