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August 10, 2018

Via Email to Christina.Berdecia@oal.nj.gov

Honorable Susan M. Scarola, A.L.J.
Office of Administrative Law
Quakerbridge Plaza, Bldg. 9
P.O. Box 049
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:

As Your Honor is aware, this office represents State Respondents in the above-referenced matter. On August 3, 2018, Participant, the Lakewood Township Board of Education ("Lakewood") submitted a letter regarding the oral argument on State Respondents' Motion to Dismiss scheduled for August 20, 2018. Lakewood's letter includes two exhibits: 1) a Certification signed jointly by Laura A. Winters, Superintendent of Schools and Robert S. Finger, Interim Business Administrator; and 2) a spreadsheet listing former Lakewood staff. Lakewood's submission should not be considered, as it inappropriately attempts to put new evidence in the record. See N.J.A.C. 1:1-16.6.

As a participant, Lakewood is not entitled to file motions in the case. See *ibid.* While it may participate in the oral argument on State Respondents' Motion to Dismiss, nothing in the Administrative Procedure Act permits a participant to offer witnesses, question witnesses, or otherwise develop or offer evidence into the record in the case. Ibid. As such, any attempt by Lakewood to utilize the scheduled oral argument to present new written evidence is improper, especially by witnesses who



testified in Petitioners' now-rested case-in-chief. It would be inconsistent with both Lakewood's role as a participant in the case, see ibid., and with the procedural posture of this hearing.

Further, Lakewood's submission indicates counsel's intent to present argument as to Lakewood's needs on August 20, 2018. However, that date is scheduled for oral argument on State Respondents' Motion to Dismiss. It is not an opportunity to present new evidence, as Lakewood intends.

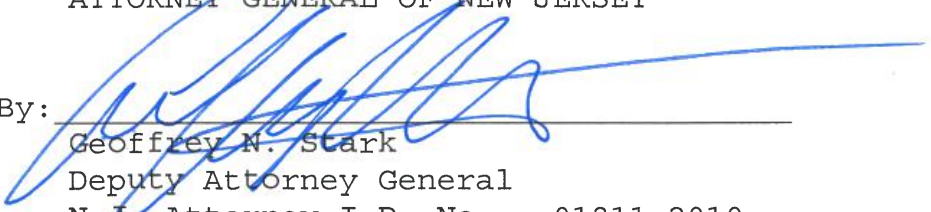
For these reasons, State Respondents submit that the record should not be expanded to include the exhibits Lakewood filed with its August 3, 2018, letter, and that the August 20, 2018, oral argument should be confined to consideration of State Respondents' Motion to Dismiss.

Thank you for your consideration.

Respectfully submitted,

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: _____


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