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VIA EMAIL

September 27, 2017

Honorable Susan M. Scarola, ALJ
Office of Administrative Law
Quakerbridge Plaza, Building 9
Mercerville, NJ 08625-0049

Re: Leonor Alcantara et. al. v. David Hespe et. al.
OAL Docket No: EDU 11069-2014 S
Agency Ref. No. 156-6/14

Dear Judge Scarola:

As the other participant in the above-captioned case before you, I write in response to the September 26, 2017 letter by Michael I. Inzelbuch, counsel to participant Lakewood Board of Education. By the way, in copying me on his letter, Mr. Inzelbuch mischaracterized my role in the case (I am a participant and not a counsel for the petitioners) and he misspelled my name. He also misspelled my email address so I received a copy of his letter indirectly, not directly.

As I believe your honor knows, the Lakewood Board and I joined the case as participants at different times and in somewhat different ways. I sought to participate in January 2015, months after the petition was filed, because I believed that my long experience and considerable expertise in New Jersey education law and especially school funding could assist the parties and the Office of Administrative Law in adjudicating the dispute. The state respondents formally opposed my participation, however. After reviewing the papers submitted and considering the matter, Judge John S. Kennedy, ALJ, approved my participation on March 11, 2015 and accorded me the right to participate "in all levels of the case including oral argument, filing statements or briefs and the right to file exceptions to the initial decision with the agency head." I have fully availed myself of those opportunities thus far and hope that by doing so I have assisted the parties and the tribunal.

The Lakewood Board wound up as a participant by a different process. The state respondents had moved in the spring of 2015 to dismiss the petitioners' case for failure to name the Lakewood Board as a party, arguing that the Board was indispensable to the adjudication of this matter. After briefs were submitted and oral argument was held, Judge Kennedy denied the

state respondents' motion in July 2015 and the matter proceeded without the Lakewood Board as a party.

Substantially more than a year later, on October 4, 2016, the Lakewood Board sought to participate by a motion to Judge Solomon A. Metzger, ALJ. Although neither party objected, the petitioners sought to assure that the Lakewood Board's participation would facilitate, not delay or confuse, the adjudication of the case. The brief of the Lakewood Board offered assurance that its participation would "contribute constructive input to the litigation." On that basis and mindful of the petitioners' concerns, Judge Metzger ordered the Lakewood Board's participation on November 21, 2016.

This is the context for trying to understand and evaluate Mr. Inzelbuch's puzzling letter. As counsel for a participant in the case, he seems to be requesting two "in-person conferences," (1) one at the time of the conference call already scheduled on November 20 at 3:30 pm among your honor, the lawyers for the parties and me in my capacity as a participant, and (2) one "*as soon as possible prior* to November 20, 2017," perhaps on October 18, 2017, a date his letter seems to suggest has been cleared with your chambers. It is unclear what purpose would be served by either in-person conference and whether Mr. Inzelbuch intends for one or both to be *ex parte* with your honor. In any event, both seem unusual requests to be made by counsel for a participant committed to contribute constructively to the adjudication of this matter.

The other requests and comments in Mr. Inzelbuch's letter raise further questions about the constructiveness of the Lakewood Board's participation. I have just seen the September 27, 2017 letter to you from Arthur Lang, counsel to the petitioners, responding in detail to Mr. Inzelbuch's claim that his client the Lakewood Board has not been "made fully aware of what has transpired to date" so I will not address that point.

I do want to address another point Mr. Inzelbuch made in the same paragraph of his letter, however—that the Lakewood Board "*is most directly affected by the outcome of this significant matter.*" This assertion is reminiscent of the failed argument state respondents made two and one-half years ago in their motion to dismiss the petition in this case. In my view, those most directly affected by the outcome of this case clearly are the students attending the Lakewood public schools whose constitutional rights hang in the balance. Of course, one would hope and expect that the Lakewood Board would zealously enforce those rights on behalf of the district's public school students, but it is the students, not the Board, who will be most directly affected by the outcome of this matter. Indeed, since the petitioners seek additional state funding for the Lakewood public schools, one would think that the Lakewood Board would be fully supportive of the petitioners' case and not seek to complicate or delay it in any way.

Respectfully submitted,

Paul L. Tractenberg, Participant

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