



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW
9 Quakerbridge Plaza
PO BOX 049
Trenton, New Jersey 08625-0049
(609) 689-4051

Susan M. Scarola
Administrative Law Judge (Ret., on recall)

July 29, 2019

Arthur Lang, Esq.
918 East Kennedy Blvd.
Lakewood, NJ 08701

Jennifer Hoff, DAG
Division of Law
P.O. Box 112
Trenton, NJ 08625-0112

Geoffrey N. Stark, DAG
Division of Law
P.O. Box 112
Trenton, NJ 08625-0112

Michael I. Inzelbuch, Esq.
1340 West County Line Road
Lakewood, NJ 08701

Paul L. Tractenberg, Esq.
123 Washington Street
Newark, NJ 07102

RE: Leonor Alcantara, Individually and as Guardian ad Litem for E.A. et al
v. David Hespe, Commissioner of Education, New Jersey State Board
of Education and New Jersey Department of Education
OAL DKT. NO. EDU 11069-14
AGENCY DKT. NO. 156-6/14

Dear Parties and Participants:

Now that testimony has concluded, a post-hearing briefing schedule must be set.

The issue presented in this matter is whether the children who attend school in the Lakewood Public School District (LPSD) are receiving a constitutionally-required thorough and efficient education (T&E) and, if not, whether the reason for such deprivation is that LPSD receives insufficient funding under the School Funding Reform Act (SFRA), N.J.S.A. 18A:7F-43 to -70, to deliver T&E to its students.

Under the New Jersey Constitution, “[t]he Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the State between the ages of five and eighteen years.” N.J. Const. art. VIII, § 4, ¶ 1. In Abbott ex rel. Abbott v. Burke, 199 N.J. 140 (2009), the Supreme Court held that, through the SFRA, which was enacted in 2008, “[t]he legislative and executive branches have enacted a funding formula that is designed to achieve a thorough and efficient education for every child, regardless of where he or she lives” because the “SFRA is designed to provide school districts in this state . . . with adequate resources to provide the necessary educational programs consistent with state standards.” Id. at 175, 147. However, the Court cautioned that the “SFRA will remain constitutional only if the State is firmly committed to ensuring that the formula provides those resources necessary for the delivery of State education standards across the State.” Id. at 170.

The state standards by which T&E is measured are known as the New Jersey Student Learning Standards (NJSLs), which are designed to prepare students for college, career, and life. N.J.S.A. 18A:7F-46; N.J.A.C. 6A:8-1.1 to -5.3. The NJSLs specify expectations in nine academic areas (English; math; arts; health and PE; science; world languages; technology; 21st century life and careers). N.J.A.C. 6A:8-1.1. School districts are required to “align their curriculum and instructional methodologies to assist all students in achieving the NJSLs and to prepare all students for college and career” and “[p]rogress toward meeting the NJSLs shall be measured by the Statewide assessment system at grades three through 12[.]” N.J.A.C. 6A:8-1.2(c) and (d).

Petitioners, who include parents of children who attend LPSD’s schools, allege that the SFRA’s funding formula is unconstitutional as applied to LPSD’s nearly 6,000 public-school students, such that LPSD does not receive sufficient funding under the SFRA to provide its public-school students with T&E because the SFRA does not take into account the extraordinary costs that Lakewood incurs to provide mandatory transportation to a large number of non-public

school students, who total more than 30,000, and to provide special education services.

Respondents, which include the Department of Education and its Commissioner, contend that LPSD's students are, in fact, receiving T&E, as measured by the NJSLs, and that respondents have, over the years, taken extraordinary actions, including the appointment of State monitors in LPSD and the provision of advance State aid payments to LPSD, to ensure that LPSD's students receive T&E.

Much of this case is based on numbers and statistics: the SFRA funding formula, LPSD's revenues and expenditures, demographics, test scores, graduation rates, and more. Many of these numbers are not in dispute and are a matter of public record. As such, as part of your post-hearing briefs, please jointly stipulate, to the maximum extent possible, to the following information (with citations and relevant documents attached) regarding LPSD for each school year at issue in this matter (2014-2015 through 2018-2019):

School Funding Reform Act

- (1) Adequacy Budget (include calculation)
 - 2014-15
 - 2015-16
 - 2016-17
 - 2017-18
 - 2018-19
- (2) Local Fair Share (include calculation)
- (3) Local Tax Levy (General Fund School Levy and Total School Levy)
- (4) Equalization Aid
- (5) Transportation Aid (include calculation)
- (6) Special Education Categorical Aid (include calculation)
- (7) Total Aid

Note: Where relevant for a particular category above, include the amount in Governor's Budget Message/revised amount in Appropriations Act/amount if SFRA fully funded.

Other State and Federal Revenue Sources

- (1) Title I
- (2) IDEA Part B
- (3) Chapter 192 (Auxiliary Services)
- (4) Chapter 193 (Remedial Services)

Expenditures

- (1) Total tuition costs for private school special education placements (include number of private placements)
- (2) Total transportation costs (include breakdown showing amount spent on mandatory busing for public school students/mandatory busing for private school students/special education busing/courtesy busing/hazardous busing)
- (3) Actual costs amount per public-school pupil
- (4) Total classroom instruction costs per public-school pupil

Assessments and Accountability

- (1) PARCC results (include state averages)
- (2) Any other Statewide assessment results (include state averages)
- (3) QSAC placement results in areas of instruction and program, fiscal management, governance, operations, and personnel (include state averages)
- (4) Any other relevant accountability results, including CAFR's from 2014-2018.

Public School Demographics

- (1) Percentage of public-school pupils who are at-risk (include state average)
- (2) Percentage of public-school pupils who are LEP (include state average)
- (3) Percentage of public-school pupils who are both at-risk and LEP (include state average)
- (4) Graduation rate (include state average)
- (5) Dropout rate (include state average)
- (6) Teacher-student ratio (include state average)
- (7) Percentage of public-school pupils enrolled in AP/IB courses (include state average)
- (8) Percentage of graduates enrolled in college (include state average)

We can discuss this matter further during our conference call scheduled for Wednesday, July 31, 2019.

Very truly yours,



Susan M. Scarola,
Administrative Law Judge (Ret., on recall)