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EDUCATION

In lengthy case on Lakewood schools, N.J. education chief requests another report

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Students board a bus at the end of the school day in Lakewood May 2019 (Patti Sapone | NJ Advance Media for NJ.com)
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By [Tina Kelley | NJ Advance Media for NJ.com](#)

Responding to an appellate court order to decide if Lakewood public schools are funded fairly, the head of New Jersey's education department has instead called for an "expedited comprehensive study" of the district.

Angelica Allen-McMillan, the state's acting education commissioner, on Friday said the department would expedite its examination of Lakewood's operations. She called "outdated" the 2014-19 data amassed in a longstanding lawsuit filed on behalf of Lakewood's 5,500 mostly Hispanic, Black, and economically disadvantaged public school students.

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In her statement, she said because “there have been unprecedented changes in the field of education as a byproduct of the COVID-19 pandemic, an updated record is required in order to make an appropriately informed decision about the [state school funding formula] and its application to Lakewood.”

The move came as part of the nine-year-old case questioning the constitutionality of the school funding formula as it applies to the Ocean County district, which has a 9:1 ratio of private to public school students. Most students attend private yeshivas, and the district must pay for their bus and special education services, even though the students aren’t counted in the per-pupil state aid awarded to the district.

In her Friday statement, Allen-McMillan noted that the district has had to borrow more than \$160 million from the state since 2015, in part to cover required costs for the district’s private school students.

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The plaintiffs' lawyers contend that the funding formula from the School Funding Reform Act of 2008 (SFRA) shortchanges the district by failing to account for the costs of services for Lakewood's 45,000 yeshiva students.

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On Monday, they said they plan to ask the court to decide on the constitutional question of fair funding, removing any need for the comprehensive study, which they call "a frolic and a detour."

In July 2021, Allen-McMillan determined that Lakewood public school students were receiving an adequate education.

But a three-judge panel of the state Appellate Division in March overturned her decision and directed Allen-McMillan to decide whether the school funding formula serves the district fairly.

In its ruling, the court said, “The Commissioner owed appellants a thorough review of their substantive argument: the funding structure of the SFRA was unconstitutional as applied to Lakewood’s unique demographic situation.” Previously, the plaintiffs have asked the court to address the constitutional aspects of the case.

“The acting commissioner’s input on a constitutional issue is, at most, advisory and is entitled to no significant deference by a court, which has the power and duty to resolve legal/constitutional issues,” Paul Tractenberg, another lawyer for students, said. “In an ideal world, were the State’s MO not just to kick the can down the road for as long and as far as possible, the acting commissioner should be formulating recommendations for legislative changes to SFRA or other allied statutes.”

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Earlier this month, lawyers for the public school students requested Allen-McMillan give herself a deadline for responding to the court’s request, as she was taking about a month longer than the usual 45 days commissioners usually have to respond in such matters.

One of the public school students' lawyers, Arthur Lang, questioned the need for the report, noting that the department has had monitors in Lakewood for a decade.

"They wear you out for 10 years to produce a record," he said of the department, "and then, when you finally win based on the record, they say that the record is too old."

Following the comprehensive review, the district and lawyers for the students would go over the report and its recommendations before Allen-McMillan issues her decision on the funding formula's effects on Lakewood, according to her statement.

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She did not say when the department would finish the review.

The case, *Alcantara v. Hespe*, began in 2014 on behalf of Leonor Alcantara and other Lakewood public school parents, who asked then-Commissioner David Hespe to declare that the formula deprived students of their right to a thorough and efficient education under the New Jersey Constitution.

Lawyers for the students ultimately want the New Jersey Supreme Court to rule on the constitutionality of the 2008 formula.

Tractenberg, the founder of the Education Law Center, has been disappointed with the pace of responses, especially as nearby districts like Jackson, Brick, and Toms River have experienced funding challenges related to private school students.

"The more attention the case gets because of the state's extraordinary unwillingness to resolve it, the more districts are likely to realize they have other kinds of issues that undermine the effectiveness of the school funding law for them," he said.

Noting that the students' constitutional rights have been violated, he said, "The state can try to delay and obfuscate, but ultimately it has no place to hide from that reality. It can either meet its clear constitutional obligation, or it can be lawless."

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