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VIA EMAIL

January 7, 2019

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:

This is the third recent letter I am submitting to your Honor in my capacity as a participant in the above-captioned case to assist your Honor in the fair, effective and timely disposition of this matter. All three letters, this one and the ones dated October 3 and December 21, 2018, make essentially the same point—that orderly disposition of this matter, assuming your Honor does not grant the State respondents’ latest motion to dismiss, requires that the petitioners and participants be apprised of the respondents’ theory of the case and, more particularly, what the State will seek to establish through the witnesses it insists on having testify.

As my earlier letters stressed, the respondents’ argument presumably is either that: (1) the School Funding Reform Act of 2008 (“SFRA”) provides enough funding to enable the Lakewood School District (“LSD”) to assure its approximately 6,000 public school students, most of them low-income students of color, with the constitutionally required thorough and efficient education (T&E); or (2) SFRA funds, augmented by annual additional state aid advances, do so.

If the first is the State’s position, that is in flat opposition to the Commissioner’s annual certifications to the state treasurer for each of the last four years to the effect that LSD’s SFRA funding does not enable the district to provide its students with T&E and that, therefore, advance state aid is required.

If the second is the State's position, in my judgment, it fails as a matter of law because the *Abbott* opinions make clear that the funding necessary for T&E must be assured by SFRA and be certain, predictable and reliable. For the reasons detailed in my December 21, 2018 letter to your Honor, annual advance state aid payments cannot satisfy those constitutional standards.

Accordingly, in my judgment, in either case, the State's witnesses have nothing to add that would be relevant to your Honor's disposition of this matter. Of course, if the State has a different theory of the case that could make its witnesses' testimony relevant and helpful, it should advise your Honor, the petitioners and the participants as soon as possible.

With that as the context, I would appreciate your Honor's clarification as to how this matter will proceed. I assume that the next step will be your Honor's decision regarding the respondents' latest motion to dismiss. What happens thereafter is what I am confused about.

Respectfully submitted,

Paul L. Tractenberg, Participant

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