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January 24, 2025

Via Electronic Filing

Joseph H. Orlando, Clerk,
Superior Court of New Jersey, Appellate Division
Richard J. Hughes Justice Complex
25 Market Street, P.O. Box 006
Trenton, NJ 08625

Re: Leonor Alcantara, et al. v. New Jersey Dept. of Educ., et al.
Docket No. A-2493-23

Civil Action: On Appeal from a Final Decision of the Commissioner
of Education

Letter Brief on Behalf of Respondents, Kevin Dehmer, Acting
Commissioner of Education, and the New Jersey Department of
Education, in Response to the Board's Motion to Intervene

Dear Mr. Orlando:

Please accept this letter brief on behalf of Respondents, Kevin Dehmer,
Acting Commissioner of Education, and the New Jersey Department of
Education, in response to the Lakewood Township Board of Education's motion
to intervene. For the reasons below, the Board's motion should be denied.



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PROCEDURAL HISTORY AND COUNTERSTATEMENT OF FACTS¹**A. Appellants' July 7, 2014 Petition of Appeal.**

On July 7, 2014, a group of parents whose children are Lakewood School District students (collectively “Appellants”) filed a petition of appeal with the Commissioner claiming that the School Funding Reform Act of 2008 (SFRA), N.J.S.A. 18A:7F-43 to -71, was unconstitutional as applied to Lakewood because the district was allegedly not receiving sufficient funding to provide its students a thorough and efficient education (T&E). (Ra2; Ra127-28);² see N.J. Const. art. VIII, § 4, ¶ 1. The petition alleged that the SFRA did not take into account extraordinary costs the district incurred to provide transportation and special education services to a large number of students who attend non-public schools. (Ra17-18; Ra127-28). The matter was transmitted to the Office of Administrative Law (OAL) as a contested case on September 4, 2014. (Ra18).

The Department filed a motion to dismiss the petition in lieu of an answer on September 2, 2014, arguing, in part, that the petition must be denied because

¹ The procedural history and counterstatement of facts are closely related in this matter and have been combined to avoid repetition and for the court's convenience.

² “Ra” refers to the Department's appendix filed May 2, 2024; “RIa” refers to the Department's motion response appendix; “Ib” refers to the Board's brief; and “Ia” refers to the Board's appendix.

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Appellants failed to join the Board as a necessary party. (Ra3; RIa2). The Board contested its inclusion. (Ra3; RIa2). The Department's motion to dismiss was denied on July 24, 2015. (Ra3; RIa1). In denying the Department's motion, the Administrative Law Judge (ALJ) held that the Board was "not a necessary party to this litigation." (RIa5).

Appellants amended their petition on September 4, 2018, to clarify the relief they were seeking. (Ra20). The amended petition sought a determination that: (1) the SFRA as applied to Lakewood does not provide sufficient funding to enable the district to provide T&E as mandated in our State Constitution, N.J. Const. art. VIII, § 4, ¶ 1; (2) reliance upon discretionary State aid payments pursuant to N.J.S.A. 18A:7A-56 does not provide T&E funding that is certain and predictable; (3) the constitutional imperative regarding T&E requires sufficient funding that is not discretionary; and (4) the matter should be referred to the Legislature for remediation. Ibid.

B. The ALJ's March 1, 2021 Initial Decision.

On February 19, 2016, Appellants filed a motion for summary decision. (Ra4). The Department opposed the motion and again sought to join the Board as a necessary party. Ibid. The Board "voted to not participate in the action." Ibid. Appellants' motion for summary decision was denied on July 19, 2016. Ibid.

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On October 4, 2016, despite its earlier efforts to remain out of the case, the Board filed a motion to “participate,” the administrative analog to an amicus application, in the administrative proceedings. Ibid.³ This motion was granted on November 21, 2016. Ibid.

Two years later, on the eve of trial, the Board filed a motion to intervene. (Ra5; RIa8). On October 9, 2018, the Board’s motion was denied. (Ra5; RIa8). In denying the motion, the ALJ noted the late juncture at which the Board’s motion arose, that the Board had previously contested its status as a party, and that Appellants were capable of presenting the matter on behalf of the individuals most affected—the parents and children who attend Lakewood’s public schools. (RIa8-93).

On March 1, 2021, following a lengthy hearing and post-hearing briefing, the ALJ issued an initial decision concluding that Lakewood was not providing T&E to its students. (Ra17; Ra108-12). But she did not find that the failure to provide T&E was a result of any constitutional infirmity with the SFRA as applied to Lakewood. (Ra110). Rather, the district’s failings were a result of a

³ “Participation” permits entities “with a significant interest in the outcome of a case” to enter as a “participant.” N.J.A.C. 1:1-16.6(a). While participants may file briefs, exceptions to the initial decision, or participate in oral argument before the administrative tribunal, participants are not parties. See Ocean Cty. Chapter Inc. of Izaak Walton League of America v. Dep’t of Env’tl. Prot., 202 N.J. Super. 1, 10-11 (App. Div. 1997) (Stating that “‘participation’ does not confer party status”).

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number of contributing factors distinct from the SFRA, including fiscal mismanagement by Lakewood, community choices, and other legislation. (Ra110-17).

As a result of these non-SFRA factors, the ALJ held that the SFRA was not unconstitutional as applied to Lakewood. (Ra117).

C. The Commissioner's July 26, 2021 Final Agency Decision.

On July 16, 2021, the Commissioner issued a final decision rejecting the initial decision in part and adopting it in part. (Ra136). In reaching her decision, the Commissioner accepted the ALJ's findings of fact but disagreed that Lakewood's public school students were not receiving T&E. (Ra132-33). The Commissioner acknowledged the concerning educational deficits revealed during the course of the OAL hearing and ordered the Department to conduct a comprehensive review of the District's organization, structure, and policies. (Ra133). Because the Commissioner rejected the ALJ's conclusion regarding T&E, she did not address the constitutionality of the SFRA except to generally concur with the ALJ's finding that it was not unconstitutional as applied to Lakewood. (Ra136). On August 20, 2021, Appellants filed a notice of appeal of the Commissioner's decision. The Board did not attempt to participate in the appeal.

D. The Appellate Division’s March 6, 2023 Decision.

On March 6, 2023, the Appellate Division issued a published decision reversing the Commissioner’s decision. Alcantara v. Allen-McMillan, 475 N.J. Super. 58 (App. Div. 2023). The court reviewed the Department’s statistics, comparing the performance of Lakewood’s public school students to State averages, and found that the record showed that the district’s public school students were not receiving T&E. Id. at 69-70. The court did not, however, decide whether such a failure was a result of the SFRA. Instead, the court remanded the matter to the Department to “consider [Appellants’] substantive arguments pertaining to the SFRA” Id. at 71. The Board did not attempt to participate in the appeal. See id. at 61.

Following the court’s remand, the Commissioner took necessary steps to implement an expedited review of the Lakewood district and notified the parties of the expedited review by letter dated May 12, 2023. (Ra137-38).

E. The Comprehensive Review of the District.

Following this court’s March 6, 2023 decision, the Commissioner expedited the comprehensive review of Lakewood. (Ra143). The Department retained the services of Dr. Kimberley Harrington Markus, a former Commissioner of the Department; Public Consulting Group (PCG), a public sector consulting firm with an extensive background in education; and Jeremiah

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Ford, an expert in New Jersey public school transportation, to undertake the analysis. Ibid. PCG, in turn, assembled a multidisciplinary team of nine educational specialists and a financial auditing firm to conduct the evaluation, focusing on five key areas: governance, curriculum and instruction, special education, financial practices, and transportation. (Ra144; Ra149).

On August 22, 2023, the Commissioner sent a letter to Appellants and the Board to provide an update on the status of the comprehensive review. (RIa10). The Commissioner advised that upon completion of the comprehensive review, a report would be issued to both Appellants and the Board. (RIa11). Appellants and the Board would then be given “an opportunity to respond to the resulting report prior to the issuance of any final agency decision on the as-applied constitutionality of the SFRA.” Ibid. The Commissioner explained that a briefing schedule for responses would be set at a later date. Ibid.

On February 23, 2024, the Commissioner issued another update letter to Appellants and the Board. (RIa12). Following up on her previous letter, the Commissioner advised Appellants and the Board that the experts’ comprehensive review report would be issued no later than March 1, 2024. (RIa13). Upon receipt, the Department would immediately provide Appellants and the Board with a copy of the report, and they would “be permitted to respond to Dr. Harrington’s report and recommendations” within ten days. Ibid.

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The experts issued their report on the comprehensive review of Lakewood on March 1, 2024. (Ra147). The report answered two questions: (1) “what is the role of SFRA in [relation to the] deprivation of T&E in Lakewood Public School District?” and (2) “what other causes may be impacting the Lakewood Public School District to deliver T&E?” (Ra149). The report concluded that the SFRA was not the cause of the district’s failure to provide T&E. (Ra177). Rather, the report outlined significant issues inherent with the district’s overall management and functioning. For example, the report found the district to be plagued by poor communication, a lack of “intentional planning,” and ineffective or inefficient systems. (Ra154-57). Additionally, the district’s “pervasive inefficiencies, deficiencies, and the apparent shortfall in oversight and strategic systemic action . . . have culminated” in its failure to provide T&E. (Ra177).

Upon receipt of the report, the Department provided a copy to both Appellants and the Board via email on March 1, 2024. (RIa15). On March 7, 2024, Appellants filed their response to the comprehensive review, copying the Board on the transmittal. (RIa16). On March 11, 2024, the Board filed its response to the comprehensive review. (RIa17-18). In its submission, the Board indicated that its response “should be read in conjunction with the March 7, 2024 Letter Brief” submitted by Appellants. Ibid.

F. The April 1, 2024 Final Agency Decision.

After reviewing the entire record in this matter, Assistant Commissioner Cary Booker issued a final agency decision on April 1, 2024, which was sent to Appellants and the Board, finding that “Lakewood’s failure to provide T&E to its students does not derive, in significant part, from the provisions of the SFRA.” (Ra398; RIa20).⁴ In reaching this decision, the Assistant Commissioner rejected Lakewood’s argument that the SFRA fails to take into consideration its unique demographic situation and the cost for it to provide transportation and special education services to more than 30,000 nonpublic school students. (Ra379). Rather, the Assistant Commissioner concluded, as did the ALJ, that “Lakewood’s own choices and management issues have resulted in the unavailability of funds that could and should have been used to provide T&E to its students.” (Ra388-89).

The Assistant Commissioner found that Lakewood has “chosen not to require its tax base to further support its schools, and suffers from local mismanagement regarding its transportation and special education costs.” (Ra389). The Assistant Commissioner concluded that these issues, rather than infirmities in the SFRA, are significant contributing factors in Lakewood’s

⁴ The final decision on remand was delegated to Assistant Commissioner Booker pursuant to N.J.S.A. 18A:4-34.

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failure to provide T&E. (Ra398). Furthermore, he explained that other laws, such as those affecting local tax levies and annual appropriations, play as much of a role in Lakewood's finances as the SFRA. (Ra390-91). And he concluded that Lakewood's ongoing and pervasive fiscal mismanagement have led to inefficient use of funds that otherwise could have been used to ensure students were receiving T&E. (Ra391-92). For example, the Assistant Commissioner noted that Lakewood has recognized transportation and special education services as being particular areas of concern, yet it has not taken steps to address these concerns. (Ra393-94). For these reasons, and in light of the information contained in the comprehensive report, the Assistant Commissioner rejected Appellants' claim that the SFRA was unconstitutional as applied to Lakewood. (Ra398).

Following the Assistant Commissioner's decision, Appellants filed a notice of appeal on April 17, 2024. The Board did not attempt to participate in the appeal at that time.

The Department filed a statement of items comprising the record on appeal on June 3, 2024, and all briefing concluded on August 20, 2024. Appellants filed a request for oral argument on August 16, 2024.

On January 14, 2025, the Board filed this motion to intervene.

ARGUMENT**THE MOTION IS UNTIMELY AND THE BOARD DOES NOT MEET THE STANDARDS FOR INTERVENTION AT THIS LATE STAGE.**

Nearly a year after this appeal was filed, and five months after all briefing has concluded, the Board brings an eleventh-hour motion to intervene. In making this untimely request, the Board does not explain why it should be permitted to enter this matter as an appellant at this time, following its decision to not file a notice of appeal. Instead, it makes general references to its obligation to provide T&E—a duty which, as this court has already found, it has been derelict in—and conclusory statements that it can provide context to an already extensive record. It does not explain how its interests differ from Appellants or why it sat silently on the sidelines for a year, despite being fully aware of this matter. Because the Board cannot meet the standard for intervention, its motion must be denied.

A. The Board Is Not Entitled to Intervene As of Right.

Although there is no court rule controlling intervention in appeals, courts may allow intervention after final judgment or on appeal if necessary “to preserve some right which cannot otherwise be protected.” Warner Co. v. Sutton, 270 N.J. Super. 658, 662 (App. Div. 1994) (quoting Chesterbrooke Ltd. P’ship. v. Planning Bd. of Chester, 237 N.J. Super. 118, 123 (App. Div. 1989)).

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To determine whether such intervention is appropriate, this court applies the rules for intervention in trial court. See CFG Health Sys., LLC v. Cnty. of Essex, 411 N.J. Super. 378, 386 (App. Div. 2010).

Intervention as of right under Rule 4:33-1 requires the movant to:

(1) claim “an interest relating to the property or transaction which is the subject of the action,” (2) show he is “so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest,” (3) demonstrate that the “applicant’s interest” is not “adequately represented by existing parties,” and (4) make a “timely” application to intervene.

[Chesterbrooke, 237 N.J. Super. at 124 (quoting Vicendese v. J-Fad, Inc., 160 N.J. Super. 373, 378-79 (Ch.Div.1978)); R. 4:33-1.]

Further, a movant is required to “file and serve on all parties a motion to intervene stating the grounds therefor and accompanied by a pleading setting forth the claim or defense for which intervention is sought” R. 4:33-3. The Board has failed to meet the standard for intervention as of right.

1. The Application is Not Timely.

The Board’s motion to intervene is untimely. “An essential prerequisite to intervention is timeliness, which should be equated with diligence and promptness.” Hanover v. Morristown, 118 N.J. Super. 136, 143 (Ch. Div. 1972). Whether intervention as of right should be granted may be determined by evaluating the extent to which a grant “of the motion will unduly delay or

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prejudice the rights of the original parties.” Atl. Emplrs Ins. Co. v. Tots & Toddlers Pre-School Day Care Ctr., 239 N.J. Super. 276, 280 (App. Div. 1990) (citation omitted). In making this determination, courts must consider “the purpose for the intervention motion in relation to the stage of the action when the motion is made.” Meehan v. K.D. Partners, L.P., 317 N.J. Super. 563, 569 (App. Div. 1998) (quoting Chesterbrooke, 237 N.J. Super. at 125). Generally, “courts do not look with favor upon one who, fully aware of what has transpired, nonetheless fails to act on his rights and is unreasonably tardy in filing a petition for intervention.” Hanover, 118 N.J. Super. at 142 (internal citations and quotations omitted).

When evaluating the timeliness of a motion to intervene on appeal, “the question is whether movants acted promptly after entry of th[e] order” on appeal for which intervention is sought. Warner, 270 N.J. Super. at 666-68. Intervention on appeal will, generally, be found to be timely when made within the time applicable for filing an appeal. Ibid. (citing United Airlines v. McDonald, 432 U.S. 385, 395 n.16 (1977)).

Here, the Board seeks to intervene 289 days after the Assistant Commissioner’s April 1, 2024 decision, which it received the same day. Thus, whether measured by the time limits for appealing a final agency decision under R. 2:4-1, or the extended time permitted under R. 2:4-4, the Board’s motion is

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severely late. See Hanover, 118 N.J. Super. at 143 (denying intervention motion made fourteen months after judgment). Worse still, the Board’s motion comes five months after all briefing has concluded and as the parties await oral argument. At this stage, intervention would require, at a minimum, re-opening the briefing period to allow the Board to file its merits brief—which was not appended to its motion—as well as time for the Department and Appellants to respond. With this appeal in its final stages, intervention would unduly delay the matter and prejudice the parties.

The Board has also effectively waived any right to participate in this appeal either as an appellant or through the intervention process. Waiver is the voluntary relinquishment of a known right. Clarke v. Clarke ex rel. Costine, 359 N.J. Super. 562, 571 (App. Div. 2003). It “implies an election by the party to dispense with something of value, or to forego some advantage which [that party] might have demanded and insisted on.” Ibid. (citing West Jersey Title & Guaranty Co. v. Industrial Trust Co., 27 N.J. 144, 152 (1958)). The “intent to waive need not be stated expressly, provided the circumstances clearly show that the party knew of the right and then abandoned it, either by design or indifference.” Knorr v. Smeal, 178 N.J. 169, 177 (2003). The Board’s decision not to file a notice of appeal despite its direct involvement as a participant in the proceedings below, and its subsequent deliberate indifference as the appeal

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proceeded, clearly evidences its waiver of any right to participate in this appeal.

Since the matter's inception, the Board has consistently avoided fully participating in this matter, choosing instead to allow Appellants to represent its interests. In 2014, when the Department sought to include the Board in the administrative matter as a party, the Board contested its inclusion and was not brought into the matter. (Ra3; RIa8). Then, in 2016, when the Department again sought to join the Board as a party, the Board "voted to not participate in the action." (Ra4).⁵ After this matter was appealed following the Commissioner's July 26, 2021 final agency decision, the Board did not appeal, nor did it seek to intervene in the appeal. See Alcantara, 475 N.J. Super. at 61.

After this court remanded the matter, the Department consistently kept the Board apprised of the status of the remand and comprehensive review. On August 22, 2023, the Commissioner sent a letter to the Board to provide an update on the status of the comprehensive review and informing it that it would have the right to respond to the report. (RIa10-11). On February 23, 2024, the Commissioner issued another letter to the Board advising of the date the comprehensive review report would be issued and the time to respond. (RIa12-

⁵ While the Department initially sought the Board's inclusion as the administrative record was being developed below, its appearance here, at the eleventh hour, would simply delay resolution of this matters as set forth above, and would not assist the court as Appellants have adequately represented its interests.

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13). The Department promptly provided a copy of the comprehensive review report to the Board on March 1, 2024. (RIa15). And while the Board did file a response to the report, it took no action to appeal after being served with the Assistant Commissioner's April 1, 2024 final agency decision. (RIa17-18).

Because the Board has known about this matter for years and failed to file for intervention within the time to appeal, its motion is untimely and must be denied.

2. The Board's Interests are Adequately Represented.

The Board has also failed to show that its interests are not adequately represented by Appellants or that its interests will be impaired.

The movant has the burden to demonstrate grounds to intervene, including proof that existing parties will not adequately represent its interests. See Am. Civ. Liberties Union of N.J., Inc. v. Cnty. of Hudson, 352 N.J. Super. 44, 67 (App. Div. 2002). When a movant's "position is essentially that of the [existing party]" and it is "in as good as a position as [the existing party] to prosecute the lawsuit," then the movant fails to establish a need for intervention. See Builders League of South Jersey, Inc. v. Gloucester County Util. Auth., 386 N.J. Super. 462, 469 (App. Div. 2006) (denying intervention where moving party had same interest as existing party, who was "in as good a position" as the moving party to litigate matter). Importantly, "intervention as of right is not triggered merely

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because the parties do not see eye-to-eye on every aspect of the litigation;” instead, the rule requires that “the movant’s interest is not adequately represented” by the existing parties. City of Asbury Park v. Asbury Park Towers, 388 N.J. Super. 1, 3, 10-11 (App. Div. 2006).

The Board provides no explanation as to why its interests are not adequately represented by Appellants in this matter. Rather, the Board admits that its interests and arguments are fully aligned with Appellants. According to the Board, it “joins [A]ppellants” argument as to the SFRA, and posits that it and Appellants “share similar arguments.” (Ib2). Further, the Board states that it “does not seek to relitigate the entire case” because it “joins in the Appellants” arguments. (Ib9). And the Board states that its “claim aligns with the existing parties” (Ib12).

Despite acknowledging its alignment with Appellants, the Board asserts that because it is required to provide T&E, it must be allowed to intervene to ensure it can fulfill that obligation and speak to the conditions in the district. (Ib9). But the issue on appeal is not whether the Board is providing T&E; that question was already answered by this court in the negative. Alcantara, 475 N.J. Super. at 69-70. The only remaining issue is whether the SFRA is a significant factor in this failure. Id. at 70-71. Certainly Appellants, which include parents and children who attend Lakewood’s public schools, are in as equal a position

to present their coequal claims and can speak to the conditions in the district, especially given the extensive record in this matter.

Thus, by the Board's own admissions, its interests are fully aligned with Appellants and are adequately represented. As such, the Board has failed to establish that it is entitled to intervention as of right and its motion must be denied.

B. The Board Is Not Entitled to Permissive Intervention.

Where intervention as of right is not permitted, a movant may alternatively seek permissive intervention under R. 4:33-2. Am. Civil Liberties, 352 N.J. Super. at (App. Div. 2002). That rule provides, in pertinent part:

Upon timely application anyone may be permitted to intervene in an action if the claim or defense and the main action have a question of law or fact in common. . . . In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

[R. 4:33-2.]

In determining whether to grant permissive intervention, courts may consider “the promptness of the application, whether or not the granting thereof will result in further undue delay, whether or not the granting thereof will eliminate the probability of subsequent litigation, and the extent to which the grant thereof may further complicate litigation which is already complex.” Am. Civil Liberties, 352 N.J. Super. at 70 (citation omitted).

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The Board cannot meet the standard for permissive intervention. As discussed, the Board's motion is untimely. Intervention at this stage will cause undue delay and prejudice the parties on appeal. Further, the Board's interests are fully aligned with Appellants. Lastly, the Board has failed to demonstrate that it has any interests or information critical to the outcome of this matter that Appellants can not, and have not, provided.

Therefore, the Board has failed to meet the standard for permissive intervention and its motion must be denied.⁶

CONCLUSION

For these reasons, the Board's motion to intervene should be denied.

Respectfully submitted,

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY

By: /s/Ryan J. Silver
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cc: All counsel of record (via electronic filing)

⁶ If this court grants the Board's motion, the Department respectfully requests the right to respond to any arguments raised by the Board.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER DENYING

MOTION TO DISMISS

OAL DKT. NO. EDU 11069-14

AGENCY DKT. NO. 156-6/14

LEONOR ALCANTARA, ET AL,

Petitioners,

v.

DAVID HESPE, COMMISSIONER OF

EDUCATION, ET AL.,

Respondents.

Arthur Lang, Esq. and Frank L. Corrado, Esq., for petitioners (Barry, Corrado & Grassi, PC, attorneys)

Geoffrey N. Stark, Deputy Attorney General, for respondents (John J. Hoffman, Acting Attorney General of New Jersey, attorney)

Paul L. Tractenberg, Esq., Participant

Record Closed: June 9, 2015

Decided: July 24, 2015

BEFORE **JOHN S. KENNEDY, ALJ:**

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Respondents, David Hespe, Commissioner, New Jersey Department of Education and New Jersey Department of Education, have moved, in lieu of Answer, to dismiss petitioner's complaint challenging the allocation method and amount of state funding received by the Lakewood School District.

The original Petition of Appeal was filed with the Department of Education on June 24, 2014. The Department of Education transmitted the matter to the Office of Administrative Law (OAL), where it was filed on September 4, 2014. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13. The parties filed several briefs in support and in opposition to the motion and oral argument was presented on June 9, 2015. The record closed on June 9, 2015.

FACTUAL DISCUSSION

Petitioners, consisting of students and parents of students attending schools in Lakewood School District (Lakewood) as well as parents of nonpublic schools in Lakewood, filed this action challenging the allocation method and amount of State funding received by Lakewood. Petitioners generally allege that Lakewood shares certain characteristics with the districts identified as "Abbott Districts" in Abbott v. Burke, 119 N.J. 287 (1990), and that as a result, Lakewood students are deprived of a constitutionally mandated thorough and efficient education (T&E). Petitioners requested relief falls into several categories. First, they request that the Commissioner increase funding appropriations to Lakewood. Next, they seek orders requiring the Commissioner make certain policy recommendations to the State Legislature. They also seek various declaratory rulings and administrative remedies.

Respondents' motion asserts several reasons why petitioners' petitions should be dismissed. First, respondents allege that petitioners have failed to join the Lakewood School District, who is a necessary party to this litigation. As it is the recipient of education funding from the state and the entity responsible for ensuring that

the funding is used appropriately to address the educational needs of its students, respondents assert that Lakewood School District is an indispensable party in this litigation. Petitioners argue that Lakewood is not a necessary party to the litigation since the petition alleges, in part, that the Department of Education has been arbitrary and capricious in its methodology for determining the wealth of Lakewood and for removing Lakewood from the District Factor Groups. As the petition seeks a resolution of these funding issues, Lakewood is not a necessary party. Discovery, the petitioner claims, will be sufficient to provide all of the information necessary to determine whether respondents are improperly funding Lakewood. The discovery process will further be facilitated by the fact that the Department of Education has placed state monitors in the Lakewood School District. Since these monitors have access to all information available to the school district, Lakewood need not be joined.

Next, respondents allege that the petition fails to allege a sufficient basis to establish standing as the petition does not specify how each individual petitioner is being adversely affected by the manner in which respondents are funding the district. Respondents contend that the student petitioners are the harmed parties by nature of being residents of Lakewood and thus do not receive T&E.

Finally, respondents assert that the petition should be dismissed because the remedies sought are not available in this type of proceeding. Petitioner responded that the proceeding is necessary to provide a factual record for administrative and judicial remedies.

LEGAL ANALYSIS AND CONCLUSION

N.J.A.C. 1:12-5, governing motions for summary decision, permits early disposition of a case before the case is heard if, based on the papers and discovery which have been filed, it can be decided "that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law." N.J.A.C. 1:12-5(b). The provisions of N.J.A.C. 1:12-5 mirror the language of R. 4:46-2 of the New Jersey Court Rules governing motions for summary judgment. To

survive summary decision, the opposing party must show that “there is a genuine issue which can only be determined in an evidentiary proceeding.” Ibid. Failure to do so entitles the moving party to summary decision. Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520 (1995).

Moreover, even if the non-moving party comes forward with some evidence, this forum must grant summary decision if the evidence is “so one-sided that [the moving party] must prevail as a matter of law.” Id. at 536. This tribunal is required to do “the same type of evaluation, analysis or sifting of evidential materials as required by Rule 4:37-2(b) in light of the burden of persuasion that applies if the matter goes to trial.” Id. at 539-540. Like the New Jersey Supreme Court’s standard for summary judgment, summary decision is designed to “liberalize the standards so as to permit summary [decision] in a larger number of cases” due to the perception that we live in “a time of great increase in litigation and one in which many meritless cases are filed.” Id. at 539 (citation omitted).

Here, there is genuine issue as to material fact in this matter in relation to the extent which Lakewood School District should be involved. Respondents claim Lakewood is a necessary party while petitioners assert that all this information necessary to make a determination as to whether the district is improperly funded can be obtained through discovery.

A Petition of Appeal filed with the Commissioner must name as a party “any person or entity indispensable to the hearing of a contested case. N.J.A.C. 6a:3-3(B). Failure to do so is grounds for dismissal of the petition. Ibid. An indispensable party is one that “has an interest inevitably involved in the subject matter before the court and a judgement cannot justly be made between the litigants without either adjudging or necessarily affecting the absentee’s interest.” Jennings v. M & M trans. Co., 104 N.J. Super. 265, 272 (Ch. Div. 1969). As it is the recipient of education funding from the state and the entity responsible for ensuring that the funding is used appropriately to address the educational needs of its students, respondents assert Lakewood is an indispensable party. The underlying claim in the petition is not whether Lakewood is

appropriately using the funding. Rather, the petition asserts that the School District is not being funded properly. This is a fact specific determination, one which will require discovery to be conducted. Given that state monitors have already been placed in the district to assess how Lakewood is spending its educational funds, respondents should have adequate access to district documents during the discovery process.

In prior New Jersey finance litigation the only plaintiffs/petitioners have been students and their parents. See Robinson v. Cahill, 118 N.J. Super. 223 (1973); Abbott v. Burke, 119 N.J. 287 (1990). In one such case, the State moved to dismiss the petition for lack of standing when the district, and not students and their parents, were named in the petition. See Bacon v. N.J. State Dept. of Educ., 398 N.J. Super. 600 (App. Div. 2008). Therefore, **I CONCLUDE** that Lakewood School District is not a necessary party to this litigation.

I further **CONCLUDE** that petitioners, consisting of students and parents, have standing to challenge the school funding. It is clear as can be seen in Bacon, supra, that students have standing to challenge a claim that their constitutional right to T&E is being denied. Whether that is in fact the case will be determined through the discovery process.

Respondents lastly argue that dismissal is proper because petitioners seek remedies not available in this type of proceeding. Specifically, the petition failed to meet the procedural requirements for such relief. In this case, as in all prior school funding cases, the ultimate relief sought is of a constitutional dimension that can only be provided by the courts. In Abbott v. Burke, (Abbott I) 100 N.J. 269 (1985), the State moved to dismiss for plaintiffs' failure to exhaust administrative remedies. The Abbott I Court had to decide "whether the controversy, in the first instance, can and should be resolved in whole or in part before an administrative tribunal, or whether it must immediately be considered by the judiciary." Id. at 296. The Abbott I Court was "satisfied that the presence of constitutional issues and claims for ultimate constitutional relief does not, in the context of litigation, preclude resort in the first instance to administrative adjudication." Id. at 297.

The Bacon districts initially filed their complaint in Superior Court but the matter was transferred to the Commissioner. The Office of Administrative Law has been charged with producing a complete record in the previous school funding cases, and I **CONCLUDE** that the current matter is likewise appropriately placed before this tribunal to establish a complete record and exhaust all administrative remedies.

Based upon the above, I **CONCLUDE** that respondents' Motion to Dismiss is not ripe and must be **DENIED**

Accordingly, it is **ORDERED** that:

1. Respondents' motion to dismiss is **DENIED**;
2. I shall conduct a conference with the parties on August 13, 2015, at 3:30 p.m., to determine a date upon which an evidentiary hearing will be conducted for the purpose of resolving the factual dispute identified herein.
3. Any remaining questions of law will be resolved upon the conclusion of said hearing and the completion of the factual record.

This order may be reviewed by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** either upon interlocutory review pursuant to N.J.A.C. 1:1-14.10 or at the end of the contested case, pursuant to N.J.A.C. 1:1-18.6.

July 23, 2015

DATE



JOHN S. KENNEDY, ALJ

cmo



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)

LETTER ORDER

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Cranford, NJ 07016

Michael I. Inzelbuch, Esq.
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Lori Prapas, 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

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 Counsel:

1. The Order of August 20, 2018, is hereby supplemented. The State shall provide the names of the school districts for which a monitor was

OAL DKT. NO. EDU 11069-14

appointed for 2018-2019, and the names of any districts that received any advance state aid and the amount for 2018-2019.

2. The participant's Lakewood BOE motion to intervene is denied. On September 2, 2014, the State filed a motion to join Lakewood as a party which Lakewood contested.¹

The State's motion was denied by Order entered on July 23, 2015, by the Hon. John Kennedy. Lakewood was permitted to participate, but was not designated as a party. This Order was not appealed.

Prior to the commencement of the hearing, the Township of Lakewood Board of Education (BOE), now represented by different counsel, moved to intervene as a party, which application was denied on February 7, 2018. This Order was not appealed.

The hearing commenced and was held on February 5, 7, 12, 13 and 22, 2018. Lakewood continued to move to intervene as a party. That motion was denied by Order dated August 20, 2018.

Notwithstanding these prior Orders, Lakewood again renews its motion to intervene as a party.

At this state of the proceedings – the petitioner's case is nearly concluded and a motion to dismiss has been filed by the State – the addition of another party would cause undue delay in concluding these proceedings which have been protracted. Further, the petitioner is capable of presenting this matter on behalf of the parents and children

¹ Lakewood was then represented by other counsel. The reason Lakewood chose to contest its participation as a party are not known, but do form the law of the case.

OAL DKT. NO. EDU 11069-14

who attend Lakewood's schools. Lakewood's motion to intervene as a party is again denied.

3. The State shall be permitted to file an amended certification from Glenn Forney within five days if it deems it necessary.
4. The testimony of Melvin Wyns shall be taken at hearing scheduled for October 22, 2018.
5. Continued hearing dates are scheduled for December 18 and 19, 2018.

This order may be reviewed by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, either upon interlocutory review pursuant to N.J.A.C. 1:1-14.10 or at the end of the contested case, pursuant to N.J.A.C. 1:1-18.6.

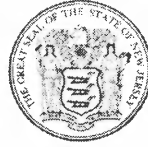
October 9, 2018

DATE



SUSAN M. SCAROLA, ALJ (Ret., on recall)

SMS/cb



State of New Jersey

DEPARTMENT OF EDUCATION

PO Box 500

TRENTON, NJ 08625-0500

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

ANGELICA ALLEN-McMILLAN, Ed.D.
Acting Commissioner

August 22, 2023

VIA EMAIL ONLY

Paul L. Tractenberg, Esq.
123 Washington Street
Newark, NJ 07102
paultractenberg@gmail.com

Arthur H. Lang, Esq.
918 East Kennedy Boulevard
Lakewood, NJ 08701
lakewoodlaw@gmail.com

Re: Leonor Alcantara, et al. v. Angelica Allen-McMillan, Acting Commissioner of the Department of Education, et al., -- Agency Dkt. No. 156-6/14; Commissioner Decision No. 149-21 -- Appellate Dkt. No. A-3693-20

Dear Mr. Tractenberg and Mr. Lang:

This letter serves as an update regarding the Department of Education's (Department) review of the Lakewood School District in the above-referenced matter.

As you are aware, on March 6, 2023, the Appellate Division issued an opinion finding that Lakewood's public school students are not receiving a thorough and efficient education (T&E). Alcantara v. Allen-McMillan, 475 N.J. Super. 58 (App. Div. 2023). As such, it remanded the matter to me for a determination as to whether the School Funding Reform Act (SFRA) is unconstitutional as applied to Lakewood. And as I explained in my previous letter of May 12, 2023, in light of the Appellate Division's decision, and to execute my obligations under the remand, I directed the Department to expedite its comprehensive review of the Lakewood School District.

In furtherance of my directive, Dr. Kimberley Harrington Markus, a former Commissioner of the Department, has been retained to oversee the comprehensive review and author a report and recommendations at its conclusion. Experts Public Consulting Group and Jeremiah Ford have been retained to assist Dr. Harrington in her review. Additional experts may be retained throughout the course of the review as needed. The experts will collaborate with the Department to examine the

Paul L. Tractenberg, Esq.
Arthur H. Lang, Esq.
August 22, 2023
Page 2

Lakewood School District's operations and performance in several key areas, including educational policy, special education, administration and governance, and accounting. In addition to these areas, the review will include, but will not be limited to, an examination of the particular areas of concern raised by petitioners in these proceedings, such as transportation costs for the Lakewood School District's students and special education funding. As part of the process, these experts will review information currently held by the Department and will require additional information directly from the Lakewood School District. Their review may also require in-person access, meetings, and observation, among other things.

I anticipate the review will take approximately six months; however, this is only a preliminary estimate as the volume of information to be reviewed and complexity of the required analysis are unknown at this time. Upon completion of the expedited comprehensive review, a report containing findings and recommendations will be issued. The Lakewood School District and the petitioners will have an opportunity to respond to the resulting report prior to the issuance of any final agency decision on the as-applied constitutionality of the SFRA. A specific briefing schedule will be issued upon the submission of Dr. Harrington's report.

I will continue to keep you informed as this process moves forward.

Sincerely,



Angelica Allen-McMillan, Ed.D.
Acting Commissioner

AAM/CH/JS

c: Laura Winters, Superintendent (lwinters@lakewoodpiners.org)



State of New Jersey

DEPARTMENT OF EDUCATION

PO Box 500

TRENTON, NJ 08625-0500

PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

KEVIN DEHMER
Acting Commissioner

February 23, 2024

VIA E-MAIL

Paul L. Tractenberg, Esq.
123 Washington Street
Newark, N.J. 07102
paultractenberg@gmail.com

Arthur H. Lang, Esq.
918 East Kennedy Boulevard
Lakewood, N.J. 08701
lakewoodlaw@gmail.com

Michael I. Inzelbuch, Esq.
1340 West County Line Road
Lakewood, New Jersey 08701
michael@inzelbuchlaw.com

Re: Leonor Alcantara, et al. v. Angelica Allen-McMillan, Acting Commissioner of the Department of Education, et al.
Agency Dkt. No. 156-6/14; Commissioner Decision No. 149-21; Appellate Dkt. No. A-3693-20

Dear Counsel:

This letter serves as an update regarding the Department of Education's comprehensive review of the Lakewood School District in the above-referenced matter, and also sets forth a briefing schedule prior to my final agency decision — as discussed more fully in correspondence from the previous Acting Commissioner, Angelica Allen-McMillan, Ed.D., dated May 12 and August 22, 2023. As an initial matter, Acting Commissioner Kevin Dehmer is recused from this matter as he testified in the matter before the Office of Administrative Law.

As you are aware, on March 6, 2023, the Appellate Division issued an opinion finding that Lakewood's public school students are not receiving a thorough and efficient education. Alcantara v. Allen-McMillan, 475 N.J. Super. 58 (App. Div. 2023). As such, it remanded the matter to the Acting Commissioner for a

Page 2
February 23, 2024

determination as to whether the School Funding Reform Act (SFRA) is unconstitutional as applied to Lakewood. Id. at 67.

In light of the Appellate Division's decision, and to execute her obligations under the remand, Acting Commissioner Allen-McMillan directed the Department to expedite its comprehensive review of the Lakewood School District in a letter to counsel for the petitioners dated May 12, 2023. She explained that the comprehensive review would provide her with additional and more current information, that an updated record is "required in order to make an appropriate informed decision about the SFRA and its application to Lakewood[,]” and that an updated record would also “allow the Department to better identify the root causes that led to the education deprivations identified by the court and determine the appropriate responses.”

Following Acting Commissioner Allen-McMillan's directive, Dr. Kimberley Harrington Markus, a former Commissioner of the Department, was retained to oversee the comprehensive review and author a report and recommendations at its conclusion. Public Consulting Group and Jeremiah Ford were also retained to assist Dr. Harrington in her review. As Acting Commissioner Allen-McMillan explained in her letter dated August 22, 2023, the experts were retained to collaborate with the Department to examine the Lakewood School District's operations and performance in several key areas, including educational policy, special education, administration and governance, and accounting. The review was also to include, but not be limited to, an examination of the particular areas of concern raised by petitioners in these proceedings, such as transportation costs for the Lakewood School District's students, and special education funding.

Dr. Harrington's report containing her findings and recommendations is expected to be issued **no later than March 1, 2024**. Upon receipt of her report, the Department of Education, Office of Controversies and Disputes, will immediately release the report to counsel for the petitioners and counsel for the Board of Education for the Lakewood School District. Upon release of the report, the Lakewood School District and the petitioners will be permitted to respond to Dr. Harrington's report and recommendations. All submissions shall be filed with the Office of Controversies and Disputes **no later than ten days** from the date Dr. Harrington's report is released. **A final agency decision will then be issued no later than April 1, 2023. This briefing scheduled shall be considered preemptory in nature. No extensions will be granted absent extraordinary circumstances.**

Sincerely,



Cary Booker
Assistant Commissioner

CB/hl
c: Christopher Huber

From: Paul Tractenberg
To: Cary Booker (DOE)
Cc: Helene Leona (DOE); Arthur Lang; Michael Inzelbuch; Kevin Dehmer (DOE); Christopher Huber (DOE); Christopher Weber; Daniel Dryzga; Donna Arons; Jennifer Simons (DOE); Matthew Lynch; Matthew Platkin; Melissa Raksa; Melissa Schaffer; Ryan Silver; senruiz; Sensarlo@njleg.org
Subject: [EXTERNAL] Response to February 23, 2024, letter of Assistant Commissioner Cary Booker
Date: Monday, February 26, 2024 4:27:19 PM
Attachments: PLT letter to Assistant Commissioner Cary Booker responding to his of February 23^LLJ 2024.docx
List and summaries of Alcantara communications (1).docx

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New Jersey State Government Employees Should Forward Messages That May Be Cyber Security Risks To PhishReport@cyber.nj.gov.

Dear Assistant Commissioner Booker,

Attached is a self-explanatory letter responding to your February 23, 2024, letter to me and my co-counsel Arthur Lang and to Michael Inzelbuch, counsel to the Lakewood school district..

I hope that we have the opportunity to work together constructively and cooperatively to advance the fundamental educational rights of the public school students of Lakewood, and, if the further opportunity arises, of other NJ students.

Sincerely,

Paul Tractenberg
Co-counsel for student-petitioner/appellants

Rla014

From: [ControversiesDisputes](#)
To: [Paul Tractenberg](#); [Arthur Lang](#); [Michael Inzelbuch](#)
Subject: RE: Alcantara, et al. v. Allen-McMillan, et al.
Attachments: [image001.png](#)

Dear Counsel,

The below email returned an error message from the DOE's email system. To ensure that everyone has received the report, I will be sending it a second time via our Movelt system. In a few minutes, you will receive a separate email from Movelt containing a link to the report. Please note that Movelt links expire within 15 days, so please be sure to download the report as soon as possible. If you do not receive the report via regular email or Move It, please let me know.

Jennifer Simons

she/her/hers

Director

Office of Controversies & Disputes

New Jersey Department of Education

100 Riverview Plaza | Trenton, NJ - 08625

Work: 609-376-9079

Email: ControversiesDisputes@doe.nj.gov

Web: <https://www.nj.gov/education/>



From: ControversiesDisputes <ControversiesDisputes@doe.nj.gov>

Sent: Friday, March 1, 2024 4:07 PM

To: Paul Tractenberg <pauiltractenberg@gmail.com>; Arthur Lang <lakewoodlaw@gmail.com>;
Michael Inzelbuch <michael@inzelbuchlaw.com>

Subject: Alcantara, et al. v. Allen-McMillan, et al.

Dear Counsel,

Please see the attached report pertaining to the above matter.

Jennifer Simons

she/her/hers

Director

Office of Controversies & Disputes

New Jersey Department of Education

100 Riverview Plaza | Trenton, NJ - 08625

Work: 609-376-9079

Email: ControversiesDisputes@doe.nj.gov

Web: <https://www.nj.gov/education/>



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Rla015

From: Paul Tractenberg
To: Cary Booker (DOE)
Cc: Helene Leona (DOE); Arthur Lang; Michael Inzelbuch; Kevin Dehmer (DOE); Christopher Huber (DOE); Christopher Weber; Daniel Dryzga; Donna Arons; Jennifer Simons (DOE); Matthew Lynch; Matthew Platkin; Melissa Raksa; Melissa Schaffer; Ryan Silver; senruiz; Sensarlo@njleg.org
Subject: [EXTERNAL] Re: Response to February 23, 2024, letter of Assistant Commissioner Cary Booker
Date: Thursday, March 7, 2024 5:25:17 PM
Attachments: PLT final letter brief to Cary Booker re Alcantara 030724 (1).docx

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New Jersey State Government Employees Should Forward Messages That May Be Cyber Security Risks To PhishReport@cyber.nj.gov.

Dear Assistant Commissioner Booker,

Attached is my letter-brief responding to the March 1, 2024, report of the Department's consultants re: the Lakewood School District and recommending how your final agency decision should respond to the Appellate Division's March 6, 2023, remand order in Alcantara, et al. v. Allen-McMillan, et al.

Paul Tractenberg
Co-Counsel to Student-Petitioners
973-879-9201

On Mon, Feb 26, 2024 at 4:25 PM Paul Tractenberg <paultractenberg@gmail.com> wrote:
Dear Assistant Commissioner Booker,

Attached is a self-explanatory letter responding to your February 23, 2024, letter to me and my co-counsel Arthur Lang and to Michael Inzelbuch, counsel to the Lakewood school district..

I hope that we have the opportunity to work together constructively and cooperatively to advance the fundamental educational rights of the public school students of Lakewood, and, if the further opportunity arises, of other NJ students.

Sincerely,

Paul Tractenberg
Co-counsel for student-petitioner/appellants

From: Sandra
To: Cary Booker (DOE)
Cc: Michael Inzelbuch; Michael Inzelbuch; rfinger@lakewoodpiners.org; Laura Winters; kcampbell@lakewoodpiners.org; Judith DeStefano (DOE); Kevin Dehmer (DOE); Helene Leona (DOE); ControversiesDisputesFilings; Jennifer Simons (DOE); Christopher Huber (DOE); matthew.platkin@doe.nj.gov; Daniel Dryzga; Melissa Raksa; Ryan Silver; Melissa Schaffer; Paul Tractenberg; Donna Arons; lakewoodlaw@gmail.com; Christopher Weber
Subject: [EXTERNAL] Alcantara v Allen-McMillan et al 156-6/14; 149-21; A-3693-20
Date: Monday, March 11, 2024 11:23:02 AM
Attachments: 3-11-24 MII to Cary Booker.pdf
Response to PCG Comprehensive Review - FINAL - March 11, 2024.pdf
Importance: High

***** CAUTION *****

This message came from an **EXTERNAL** address (sandra@inzelbuchlaw.com). **DO NOT** click on links or attachments unless you know the sender and the content is safe.

New Jersey State Government Employees Should Forward Messages That May Be Cyber Security Risks To PhishReport@cyber.nj.gov.

Assistant Commissioner Booker:

Good morning.

Attached please find the response of Superintendent Dr. Laura A. Winters and the Superintendent's Executive Leadership Team's response to the March 1, 2024 report entitled "Comprehensive Review of the Lakewood Public School District" that has been reviewed by a committee of the Board as well as the individual Board of Education Members.

The attached response, respectfully, should be read in conjunction with the March 7, 2024 Letter Brief of Paul L. Tractenberg, Esq., directed to Your attention.

MICHAEL I. INZELBUCH, ESQUIRE

MI/sn

Dictated Only

Law Office of

Michael I. Inzelbuch, Esquire

1340 West County Line Road

Lakewood, New Jersey 08701

Phone: 1-732-905-0325 / Fax: 1-732-905-5872

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VIA UPS OVERNIGHT MAIL TO ASSISTANT COMMISSIONER CARY BOOKER

VIA E-MAIL: cary.booker@doe.nj.gov

March 11, 2024

Cary Booker, Assistant Commissioner
New Jersey Department of Education
100 Riverview Plaza
P.O. Box 500
Trenton, New Jersey 08625-0500

Re: **Alcantara, et al. v. Allen-McMillan, et al.**
Agency Dkt. No.: 156-6/14
Commissioner Decision No.: 149-21
Appellate Dkt. No.: A-3693-20

Dear Assistant Commissioner Booker:

As you are aware the undersigned represents the interests of the Lakewood Township Board of Education.

Attached please find the response of Superintendent Dr. Laura A. Winters and the Superintendent's Executive Leadership Team to the March 1, 2024 report entitled "Comprehensive Review of the Lakewood Public School District" that has been reviewed by a committee of the Board as well as individual Board of Education Members.

The attached response, respectfully, should be read in conjunction with the March 7, 2024 Letter Brief of Paul L. Tractenberg, Esq., directed to Your attention.

I appreciate your consideration and prompt attention to this request.

Respectfully submitted,

Michael I. Inzelbuch, Esquire

MICHAEL I. INZELBUCH, ESQ.

MII/sn
Attachments

Rla018

Alcantara, et al v. Allen-McMillan, et al
Agency Dkt. No.: 156-6/14
Commissioner Decision No.: 149-21
Appellate Dkt. No.: A-3693-20
Page - 2 –
March 11, 2024

cc: Honored Members of the Lakewood Board of Education
Robert S. Finger, CFE, CGFM, QPA, State Monitor
Dr. Laura A. Winters, Superintendent of Schools
Kevin Campbell, CPA, PSA, SBA, QPA, Assistant Business Administrator
Dr. Judith A. DeStefano, Interim Executive Ocean County Superintendent
Kevin Dehmer, Interim Commissioner of Education – State of New Jersey
Helene Leona, Executive Assistant Department of Education
Jennifer Simons, Director, Office of Controversies & Disputes, NJDOE
Christopher Huber, Special Assistant to Commissioner, NJDOE
Matthew J. Platkin, Attorney General – State of New Jersey
Daniel Dryzga, Assistant Attorney General in Charge – Administrative Practice
Christopher Weber, Assistant Chief, Deputy Attorney General
Melissa Raksa, Assistant Attorney General In Charge – Appellate Practice Group
Donna Arons, Assistant Attorney General – Appellate Practice Group
Ryan Silver, Deputy Attorney General
Melissa Dutton Schaffer, Deputy Director – Division of Law
Paul L. Tractenberg, Esquire
Aruthur Lang, Esquire
Executive Leadership Team
Dictated But Not Read

From: [ControversiesDisputes](#)
To: [Paul Tractenberg](#); [Arthur Lang](#)
Cc: [Michael Inzelbuch](#)
Subject: Decision No. 149-24 (Agency Dkt. No. 156-6/14)
Date: Monday, April 1, 2024 10:02:03 AM
Attachments: [image001.png](#)
[Decision No. 149-23 Alcantara \(156-06-14\).pdf](#)

Dear Counsel:

We are attaching a copy of the decision of the Assistant Commissioner of Education dated April 1, 2024 in the matter titled *Alcantara v. Allen-McMillan, Agency Dkt. No. 156-6/14, Decision No. 149-24.*

Jennifer Simons

she/her/hers

Director

Office of Controversies & Disputes

New Jersey Department of Education

100 Riverview Plaza | Trenton, NJ - 08625

Work: 609-376-9079

Email: ControversiesDisputes@doe.nj.gov

Web: <https://www.nj.gov/education/>

