

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION

A-002493-23

LEONOR ALCANTARA, individually and as
Guardian ad Litem for E.A.; LESLIE JOHNSON,
individually and as Guardian ad Litem for D.J.;
JUANA PEREZ, individually and as Guardian ad
Litem for Y.P.; TATIANA ESCOBAR
individually; and IRA SCHULMAN, individually
and as Guardian ad Litem for A.S.
Petitioners,

v.

ANGELICA ALLEN-MCMILLAN, ACTING
COMMISSIONER of the NEW JERSEY
DEPARTMENT OF EDUCATION; NEW
JERSEY STATE BOARD OF EDUCATION;
and NEW JERSEY DEPARTMENT OF
EDUCATION,
Respondents.

ON APPEAL THE FINAL
DECISION OF THE
COMMISSIONER OF
EDUCATION

AGENCY REF. NO.: 156-6/14

OAL DOCKET NO. EDU 11069-
2014S

SAT BELOW: HONORABLE
SUSAN A. SCAROLA, ALJ

ON REMAND TO THE
COMMISSIONER OF
EDUCATION A-003693-20

APPELLANTS' BRIEF

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PRELIMINARY STATEMENT

This nearly ten-year-old case has raised the following questions: (i) are Lakewood public school students being denied their fundamental state constitutional right to a “thorough and efficient” education (T&E)? (ii) if they are being denied T&E, is the School Funding Reform Act (SFRA) the cause? and (iii) if they are being denied T&E, what remedy must be provided?

Only the first question has been definitively answered thus far. With the Acting Commissioner’s April 1, 2024, final agency decision (Final Decision) aligning with the administrative law judge’s (ALJ) initial decision and with the decision by a unanimous panel of this court the relevant decision makers agree that Lakewood public school students are being denied T&E.

That consensus elevates Lakewood public school students to a special constitutional status, shared only with Abbott district students. In Abbott, the New Jersey Supreme Court accorded the students special constitutional protection, even shifting to the State the burden of proving the constitutionality of an underfunded SFRA. This court should consider doing the same for Lakewood students.

This court’s March 6, 2023, remand order to the Acting Commissioner

directed her to address the second question-- the student-petitioners' argument that SFRA was the cause. Neither the Final Decision, nor the Comprehensive Review on which it is based, meaningfully address that question, however.

The Final Decision barely mentions SFRA, let alone evaluates its application to Lakewood and constitutionality as applied. In the Analysis section, there is a single conclusory sentence to the effect that "the Assistant Commissioner concludes that the SFRA is not the significant cause of Lakewood's failure to provide T&E."(Final Decision at 7) .

The Acting Commissioner's only attempt to support that conclusion is by referring to general presumptions of validity accorded to legislative enactments without addressing whether those general presumptions should apply here where there has been a final, unchallenged adjudication that Lakewood students have been denied their fundamental constitutional right to T&E.

Had the Final Decision delved into the details of how SFRA actually operates with respect to Lakewood it would have become clear that there is a fundamental mismatch between Lakewood's unique fiscal needs, caused by its unique demographic characteristics, and SFRA's statewide funding formula.

Because the Final Decision gave SFRA an unwarranted constitutional pass, it never addressed the third major question raised, the remedial issues regarding the State's school funding system, and especially SFRA. This brief will focus on the second and third questions. Student-petitioners' will argue as to the constitutionality of SFRA as applied that, even if the statutory formula is fully funded in the upcoming school year, it will fall far short of providing the district with enough funding to assure its students T&E. The simple reason, acknowledged by the State and everyone else, is that Lakewood has unique demographic characteristics and that SFRA's application to Lakewood has never been meaningfully evaluated and calibrated to those district characteristics, as required by Abbott XX.

We address the third question by explaining why the Final Decision's emphasis on local remedies regarding increased tax levies and improved local management efficiencies is manifestly wrong as a matter of law and fact. We then suggest how this court should launch an appropriate State-level remedial process as expeditiously as possible so that the longstanding and inexcusable denial of the Lakewood public school students' fundamental constitutional right to T&E can be remedied.

COMBINED STATEMENT OF RECENT PROCEDURAL HISTORY AND RELEVANT FACTS¹

To spare this court from having to review yet again already well-plowed ground, we have combined into a brief statement the most salient recent procedural and factual matters on which we believe the court should focus.

The most recent, and relevant, phase of this lengthy litigation began with this court’s unanimous March 6, 2023, decision ruling that Lakewood public school students are being denied their fundamental constitutional right to T&E (March 6 decision). Because the State did not appeal that ruling, it has become final and definitive. This court also remanded the case to the Acting Commissioner with specific instructions—to address the student-petitioners’ argument that the denial of T&E was caused by SFRA. In this court’s definitive and binding words, “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.”²

¹The following transcripts are in the record: February 5, 2018 (1T), February 7, 2018 (2T), February 12, 2018 (3T), February 13, 2018 (4T), February 23, 2018 (5T), March 27, 2018 (6T), July 10, 2018 (7T), August 20, 2018 (8T), October 3, 2018 (9T), December 18, 2018 (10T), July 9, 2019 (11T), July 10, 2019 (12T), July 22, 2019 (13T), July 23, 2019 (14T). References to the appendix accompanying this brief are numbered followed by the letter "a" (e.g., 1a, 2a, etc.). For references to the appendix that accompanied the original filing A-003693-20 on August 20, 2021 the letters "Pa" precede the number (e.g., Pa1).

²Earlier in its opinion, this court stated that “The record demonstrates Lakewood’s school district is in a unique and precarious position” because “Lakewood’s state-issued school aid is calculated based upon its 6,000 [now about 5,000] enrolled public school students,”

This court did not retain jurisdiction, presumably because it expected the Acting Commissioner to act promptly and responsively. Unfortunately, that did not happen despite repeated prompting by the student-petitioners.³ More than two months after this court’s remand order, on May 12, 2023, the Acting Commissioner denied the student-petitioners’ motion seeking emergency relief and sent a letter to their attorneys announcing a comprehensive review of the Lakewood school district, which would be the centerpiece of the Acting Commissioner’s response to this court’s March 6, 2023, remand order.

The comprehensive review had originally been ordered by the Acting Commissioner on July 16, 2021, but apparently nothing had been done by the

but that its “education budget has been severely strained by its obligation to provide transportation and special education tuition to many of the 31,000 [now about 47,000] non-public school students not included in the aid calculation.” Alcantara v. Allen-McMillan, 475 N.J. Super. 58, 62-63 (App. Div. 2023) (Emphasis added.).

³ Between April 20, 2023, and February 12, 2024, student-petitioners’ attorneys sent 15 communications to the Acting Commissioner seeking a timetable for the court-ordered remand process, compliance with the specific terms of the remand order, expedited action, and identification of the Acting Commissioner’s attorneys for the remand process. These communications included emails, letters and formal motions. They preceded and followed this court’s November 27, 2023, order granting student-petitioners’ motion in aid of litigants’ rights and ordering the Acting Commissioner to comply with the remand order by April 1, 2024. Nonetheless, none of those requests was responded to adequately (and most were not responded to at all) until a February 23, 2024, letter from Assistant Commissioner Booker. That letter stated that Acting Commissioner Dehmer would be recused because he had testified for the State in this case, and it set forth, for the first time, a specific timetable for the State’s compliance with this court’s remand order, as modified by your November 27, 2023, order.

NJDOE in response to that order. In her May 12, 2023, letter, the Acting Commissioner indicated that she was “now directing the Department to expedite” that review. The “expedited” review apparently did not begin until late in 2023, about six months after the Acting Commissioner ordered that it be expedited and more than 26 months after the Acting Commissioner first ordered it. Eventually, the review was done by consultants not by the Department, resulting in the March 1, 2024, release of the “Comprehensive Review of the Lakewood Public School District,” (Comprehensive Review) on which the Acting Commissioner relied heavily in his April 1, 2024, Final Decision.

Student-petitioners are submitting this appeal to the Acting Commissioner’s Final Decision as of right well before the appeal process has run because of our strong continuing belief that time is of the essence for those students. As just one indication of the urgency of resolving this case expeditiously, the Lakewood school district has requested another advanced state aid loan for the upcoming school year—this one for \$104 million--to enable it to balance its budget. On top of the large outstanding loan balance, which the ALJ described more than three years ago as creating an unsustainable fiscal situation for the district, this could be the straw that

breaks the district's back. The real victims, yet again, would be the student-petitioners, Lakewood's public school students.

ARGUMENT

POINT I

THIS COURT'S DEFINITIVE AND UNCHALLENGED RULING THAT LAKEWOOD PUBLIC SCHOOL STUDENTS ARE BEING DENIED T&E SHOULD GIVE THEM SPECIAL CONSTITUTIONAL STATUS

This court's unanimous March 6 decision that Lakewood's public school students were being denied T&E elevated them to a status previously accorded only students in the Abbott districts. Together they constitute the only New Jersey public school students to have been judicially identified as being denied those fundamental constitutional rights.

The Abbott litigation resulted in the students being accorded special constitutional status. The best statement of that appears in the first paragraph of Justice LaVecchia's opinion for the court in Abbott XXI:

The schoolchildren who comprise the plaintiff class in the Abbott v. Burke litigation have been denominated victims of a violation of constitutional magnitude for more than twenty years. [footnote

omitted]. Because of the severity of their constitutional deprivation, that class of pupils was determined to be deserving of special treatment from the State. ...The State has for decades recognized the special status of that plaintiff class of pupils, [footnote omitted] and its compliance with this Court's remedial orders demonstrates the State's long recognition that plaintiffs' constitutionally based remedies have imbued them with status akin to that given to wards of the State. In sum, the Abbott plaintiffs have been the long-standing beneficiaries of specific judicial remedial orders, which were entered to correct proven constitutional deprivations that the State was unable to correct on its own. Abbott v. Burke (Abbott XXI), 206 N.J. 332, 340 (2011) (Emphasis added.).

The proven constitutional deprivations experienced by Lakewood public school students have not persisted yet for 20 years—and we profoundly hope that is not permitted to occur⁴—but those deprivations are, nonetheless, both

⁴ The court should note that this case was filed almost 10 years ago, and consistently since the June 2014, filing with the Commissioner (then David Hespe) the student-petitioners have asserted that their fundamental constitutional rights were being violated and that that denial needed to be remedied as soon as possible. Indeed, the Final Decision acknowledges that the State was well aware of Lakewood's serious educational and fiscal

grave and unacceptable in a State that prides and touts itself as providing its students with an excellent education. The Lakewood students also share with the Abbott students a very high level of characteristics associated with educational disadvantage. They are 100% low-income, almost 95% Latino and black, and a high percentage speak English as a second language.⁵

POINT II

**THE SPECIAL CONSTITUTIONAL STATUS ACCORDED LAKEWOOD
PUBLIC SCHOOL STUDENTS SHOULD IMPACT HOW THIS
COURT APPROACHES THE DECISION BEFORE IT REGARDING
SFRA'S UNCONSTITUTIONALITY AS APPLIED TO THE LAKEWOOD
SCHOOL DISTRICT**

Because of the students' special status as "wards of the State," the Supreme Court in Abbott XXI placed on the State, not on the students, the burden of proof regarding whether an underfunded SFRA satisfied the State's constitutional obligation to the Abbott students. (See 206 N.J. at 357).

problems since at least the 2009 needs assessment conducted by NJDOE. Final Decision at 16. Thus, the denial of T&E to Lakewood public school students may not be as longstanding as the denial to Abbott district students, but it is surely longstanding.

⁵ In this court's March 6 decision, those data appear in footnote 1.

The Alcantara circumstances are sufficiently analogous to suggest that this court should seriously consider adopting that approach in this case.⁶ But the special constitutional status acquired by Lakewood’s public school students goes far beyond that burden of proof issue.

The State has a special, heightened responsibility to Lakewood’s students, as this court recognized in its March 6 decision and remand order, by concluding its opinion with a quote from Abbott XX: “the State has a continuing obligation to ‘keep SFRA operating at its optimal level...’ and ‘[t]here should be no doubt that we would require remediation of any deficiencies of a constitutional dimension, if such problems do emerge.’” Alcantara v. Allen-McMillan, 475 N.J. Super. 56, 71 (App.Div. 2023) (quoting from Abbott v. Burke (Abbott XX), 199 N.J. 140, 146 (2009)).

In subsequent Argument Points, this brief will demonstrate: (i) how dramatically short of an “optimal level” SFRA has been operating for Lakewood, (ii) how that has resulted in clear “deficiencies of a constitutional dimension,” (iii) why it is the State that has ultimate responsibility for those

⁶ Even if this court were to choose to place the burden of proof on the student-petitioners, it should use the “significant cause” or “preponderance of evidence” standard, not an enhanced or “heavy” burden. In the early stages of Abbott, the ALJ rejected the State’s similar effort to impose a “heavy” burden on the school funding law’s challengers. “Based on the record developed, I must determine how Chapter 212 has actually been implemented and whether plaintiffs proved their contentions to be more likely true than not by a preponderance of the believable evidence.” Abbott v. Burke, EDU5581-85 (initial decision), August 24, 1988.

deficiencies and their remediation, and (iv) why expeditious remediation of those deficiencies is required.

POINT III

SFRA HAS FALLEN FAR SHORT OF AN OPTIMAL LEVEL AS IT HAS BEEN APPLIED TO LAKEWOOD

For SFRA to operate at its optimal level requires, at a minimum, that it be fully funded every year and be periodically reevaluated and, as necessary, retooled with respect to every district. Lakewood has been especially victimized by the State's failure to meet either of those explicit constitutional conditions, and particularly the second, because of its concededly unique demographic circumstances and the drain that imposes on its budget.

Had the State seriously evaluated the extent to which SFRA's statewide formula, let alone a persistently underfunded version of SFRA, was meeting the needs of Lakewood public school students for T&E, it would long ago have engaged in substantial retooling of SFRA.⁷ Instead of doing that, however, the State has sought to plug Lakewood's fiscal shortfalls by annual and ever-

⁷ The only significant amendment of SFRA was S-2 in 2018, which principally phased out Adjustment Aid to Abbott districts and reallocated the funds to other districts. According to S-2's critics, that amendment was inconsistent with SFRA's and Abbott's funding equalization focus.

increasing advance state aid loans pursuant to N.J.S.A. 18A:7A-56⁸ and to blame the district and the broader Lakewood municipality for their alleged shortcomings.

The advance state aid loan statutory provision has two explicit pre-conditions for a district to be eligible for such payments: (i) it must have a State monitor in place; and (ii) the Commissioner must recommend that “the payment is necessary to ensure the provision of a thorough and efficient education.”⁹ In the case of Lakewood, a succession of commissioners have certified the district’s need for such advance state aid loans for eight of the last 10 years. Student-petitioners have argued almost from the start of this case, that those certifications are acknowledgements that SFRA funding for Lakewood is insufficient for the district to be able to provide its students with T&E and, effectively, prove their case without more. Instead of seeking to refute that legal assertion, the State has ignored it.

⁸ \$4.5 million in 2014, \$5.6 million in 2016, \$8.5 million in 2017, \$28 million in 2018 (plus \$1.57 million in emergency aid), \$36 million in 2019, \$55 million in 2020, \$71 million requested for 2021 but replaced by federal COVID funding to Lakewood, \$24 million in 2022 (supplemented by the balance of federal funds), \$50 million certified in 2023 (with another \$43 million pending), and \$104 million requested, but still pending, for 2024.

⁹ The process requires the Commissioner to submit a certification to the State Treasurer regarding the necessity for such an advance state aid loan, and the State Treasurer must approve.

The Comprehensive Review referred to \$215,124,570¹⁰ of such loans having been extended to Lakewood in a brief section of the PCG report entitled “District Financial Challenges,” but it never describes the extent of that challenge and its impact on the district, let alone how that “challenge” can be overcome.

Under the governing statute, that district indebtedness is to be repaid within 10 years “through automatic reductions in State aid provided to the school district in subsequent years.” That arrangement led the ALJ to characterize the use of advance state aid loans as a “Ponzi Scheme.” (July 9, 2019, 12T 109-2 to 5). She also found that the already staggering amount of the loans by 2019 had created an unsustainable fiscal situation for the district. (ALJ at 66).¹¹

For the upcoming school year, Lakewood has requested \$104 million in additional advance State aid loans to fill its budget hole. One would expect that would lead the State to acknowledge that such annual loans, especially of this increasing magnitude, are an untenable way to meet its constitutional

¹⁰ The district with the next highest amount of advance state aid loans is Lyndhurst with an outstanding balance of \$2.9 million. See Joe Strupp, *Lakewood Schools seek \$104 million state loan to help balance 2024-2-25 budget*, Asbury Park Press (Mar. 26, 2024).

¹¹ In a related fiscal context, the Lakewood school district’s need to expend more than half of its total budget on transportation and special education costs for non-public school students, led this court, in its March 6 decision, to use similar terminology—that it constituted an “abnormal and unsustainable imbalance.” 475 N.J.Super. at 62-63.

obligation to assure students sufficient resources for T&E,¹² as well as proof positive that SFRA is not working adequately for Lakewood, let alone at its “optimal level.”

Unfortunately, that has not been the case. For the almost ten-year history of this litigation, and even well over a year after this court definitively ruled that Lakewood students were being denied T&E primarily for fiscal reasons, the State has persisted in arguing, against all reason, that SFRA and the State are not responsible. The Final Decision is the latest of many such iterations.

¹²The New Jersey Supreme Court has made explicit many times that T&E funding must be assured, certain, predictable, non-discretionary and timely to enable effective educational planning. Advance state aid loans meet none of those criteria, and, as repayable loans, they are not even “funding.” Beyond that, New Jersey courts, and a sister court in another state with a T&E constitutional clause, have found that excessive reliance on forced loans is itself a violation of T&E. In a New Jersey case, the Appellate Division found that “Excessive debt burden...would result in a condition inconsistent with the ‘thorough and efficient system of free public schools...’ which the State is obligated to maintain and support.” In re Pet. For Auth. To Conduct, 298 N.J. Super. 1, 7 (App.Div. 1997). In a school funding decision similar to Abbott, the Ohio Supreme Court ruled that although “some type of borrowing provision may be necessary to provide funds in the case of extreme emergencies or unexpected calamities,...any system that entails borrowing from future funds to meet ordinary expenses is not a thorough and efficient system....[A] school district can get into a spiral where it is continually borrowing and paying back the following year. A school district, therefore, is always taking away from the future. Any time a school district does such borrowing into the future, it robs future generations of children.” DeRolph v. Ohio, 89 Ohio St. 3d 1, 26 (2000); De Rolph v. Ohio, 78 Ohio St. 3d 193, 222 (1997).

POINT IV

THE SUB-OPTIMAL PERFORMANCE OF SFRA AS APPLIED TO THE LAKEWOOD SCHOOL DISTRICT HAS CAUSED CLEAR “DEFICIENCIES OF A CONSTITUTIONAL DIMENSION”

This analysis begins with the court’s determination, in its March 6 decision, that Lakewood public school students are being denied T&E. That is clearly a deficiency of constitutional dimension. The only further ruling required is that SFRA was a significant cause of that denial and that is precisely the ruling student-petitioners seek in this appeal.

Try as the State might to squirm out of the obvious causal connection between the denial of T&E, largely for fiscal reasons, and SFRA, the State’s school funding law, which is the main source of state education aid to school districts, including Lakewood, it is of no avail.

In the next Argument Point, this brief will address the State’s deeply flawed contention that the main, if not sole, cause of the proven T&E denial is local tax policy and local school district educational and fiscal management practices. Those defenses to State accountability have been offered and rejected repeatedly throughout the history of New Jersey’s school funding litigation. As we will demonstrate in this brief, they may be even less plausible in this case given both the huge and unprecedented amounts of advance

state aid loans necessary to fill Lakewood’s gaping budget holes and the continuous presence in the district of multiple State monitors for the past ten years.

There is a clear nexus between the proven denial of T&E to Lakewood public school students and the flawed application of SFRA to the district. SFRA is supposed to ensure that, considering their particular circumstances, districts have sufficient assured funding to be able to provide T&E to their students. The Final Decision accepts that proposition when it quotes from SFRA’s legislative findings that SFRA “should provide State aid for every school district based on the characteristics of the student population and up-to-date measures of the individual district’s ability to pay.” N.J.S.A. 18A:7F-44(d). Final Decision at 7 (Emphasis added.). The State’s failure to adjust SFRA based on the admittedly unique characteristics of Lakewood’s student population and on “up-to-date measures” of Lakewood’s realistic “ability to pay” is at the heart of SFRA’s unconstitutionality as applied to Lakewood.¹³

¹³ The record in this case provides ample evidence that the State’s effort to impose on Lakewood a far greater share of the financial burden of providing its public school students with T&E is ill-founded. After all, as of the 2010 U.S. census, Lakewood had the 555th lowest per capita income of New Jersey’s 564 municipalities--\$16,430, compared to the state’s \$34,858. (Pa261). This court also may judicially notice that the estimates for the 2023 U.S. census show Lakewood Township’s median household income is \$59,054, with 4.29 persons per household, and 25.4% of its total population lives in poverty. When the area of the Township dominated by retirement communities is excluded, the median

The main statutory vehicle for assuring that SFRA provides the funding for every district to provide T&E to its students is the “Adequacy Budget,” which has been characterized by the New Jersey Supreme Court in Abbott XX as the “core” of SFRA’s formula. Abbott XX, 199 N.J. at 153.¹⁴ To even begin to have its fiscal needs met, Lakewood needs not only a fully funded Adequacy Budget, but also one that has been adjusted to reflect its students’ unique characteristics. To provide T&E to its students, the district obviously needs not only to be receiving that amount, but also to be spending it.¹⁵

But Lakewood’s unique demographics, and its consequent unique fiscal circumstances, make the solving of its fiscal problems also unique. Simply requiring, as N.J.S.A. 18A:7F-6 does, that expenditures be increased “so as to meet at least the adequacy budget” will not suffice because SFRA’s

household income declines to \$54,826, the number of persons per household increases to 4.94, and the poverty level rises to 30.1%. By comparison, the state median household income is \$97,126, the number of persons per household is 2.64, and the number who live in poverty is 9.7%.

¹⁴ During the earlier years in this litigation, when Lakewood was spending below its Adequacy Budget because its actual local tax levy was less than SFRA’s formulaic “budgeted local share,” and when its students were not being provided T&E, the Commissioner had the clear power and duty to require such a district “to increase expenditures so as to meet at least the adequacy budget within the next two budget years.” N.J.S. A. 18A:7F-6.

¹⁵ Of great relevance to this issue, SFRA used the term “adequacy budget” to replace the prior statutory formulation of “minimum T&E budget,” without any indication that that change was intended to lower the State’s fiscal commitment to school districts and their students.

statewide adequacy budget, as currently constituted, is just not adequate to enable Lakewood to provide its students with T&E.

As proof positive of the gross mismatch between Lakewood’s actual circumstances and needs and SFRA’s formulaic Adequacy Budget for Lakewood, just consider that for the past two school years, based on NJDOE state aid notices, Lakewood has been spending substantially more than its Adequacy Budget.¹⁶

According to SFRA’s express terms, if a district proposes a budget that includes a budgeted local tax levy and equalization aid that together exceed the Adequacy Budget, it is deemed to be proposing “programs and services in addition to the core curriculum standards adopted by the State Board of Education,” that is to say, beyond T&E, and the district must include in the legal hearing on the budget a statement to that effect. N.J.S.A. 18A:7F-5 (d) (10). Moreover, if the local voters reject a local tax levy for a budget exceeding the Adequacy Budget, the budget

¹⁶Illustratively, the notice published by NJDOE’s Office of School Finance of Projected 2023-24 State School Aid (28a) shows Lakewood’s “Amount Over Adequacy” as \$7,392,666 (based on Projected Adequacy Spending or, “Adequacy Budget,” of \$123,706,303 and a Prebudget Year Spending of \$131,098,969). Yet, Lakewood’s User Friendly Budget Summary for the same school year— 2023-24— includes as “Unusual Revenues and Appropriations” an item amounting to “\$98,368,439 with the source listed as “State aid,” and the explanation listed as “Additional state aid needed to assure T&E.” (32a). In fact, this was not normal “State aid” at all, but was a projected advance state aid loan, thus far only partially provided for that school year.

is submitted to the municipal governing body for a “determination of the amount that should be expended.” If the governing body reduces the district’s proposed budget, “the district may appeal any of the reductions to the commissioner on the grounds that the reductions will negatively impact on the stability of the district given the need for long term planning and budgeting.” However, “A district may not appeal any reductions on the grounds that the amount amount is necessary for a thorough and efficient education.” N.J.S.A. 18A:7F-5 (e) (1).

In other words, when a district’s proposed budget exceeds its SFRA Adequacy Budget, there is in effect an un rebuttable presumption that anything proposed to be spent beyond the Adequacy Budget is not necessary for T&E. Yet, in the same school years when, according to statute, Lakewood was exceeding its SFRA-defined Adequacy Budget, the State was providing huge and annually increasing advance state aid loans to the district. And those loans were based on certifications by the commissioner to the state treasurer to the effect that, without the loans, Lakewood had insufficient funds to provide its students with T&E.

Clearly, there is a fundamental contradiction between how SFRA defines T&E formulaically through its Adequacy Budget and how the district,

the commissioner and the treasurer define it on the ground given Lakewood’s unique demographic and fiscal circumstances. By extending these annual loans, the State’s Executive Branch is acknowledging that SFRA funding is not sufficient for Lakewood; but the New Jersey courts have made crystal clear that annual discretionary loans cannot make up for SFRA’s constitutional deficiencies.

The explanation for this gross mismatch between SFRA’s Adequacy Budget and Lakewood’s real-world needs is simple. The “thorough record”¹⁷ compiled by the ALJ demonstrated to the satisfaction of this court that:

- “Lakewood’s school district is in a unique and precarious position...due, in large part, to demographic trends in the area;”
- Lakewood Township “has approximately 37,000 school-aged children [now approximately 52,000], however, only about 6,000 [now about 5,000] are enrolled in the secular public schools...[and t]he majority—84%--are enrolled in private religious schools;”
- “Testimony before the ALJ established that this demographic trend is likely to continue and accelerate;”
- “Demographically, 8.1% of the District’s [public-school] students are

¹⁷ Alcantara v. Allen-McMillan, 475 N.J.Super. 58, 61 (App.Div.2023).

Black and 86% are Latino. The entire student body is eligible for free or reduced-price lunches based on household income. The District has a high percentage of students who speak English as a second language;”

- Lakewood is, thus, “an outlier amongst other New Jersey school districts in which most of the students are enrolled in public schools;”
- “The non-public school students in Lakewood alone constitute nearly a quarter of all such students in our state;”
- Since “Lakewood’s state-issued school aid is based upon its 6,000 [now about 5,000] enrolled public-school students... Lakewood’s education budget has been severely strained by its obligation to provide transportation and special education tuition to many of the 31,000 [now about 47,000] non- public school students not included in its [SFRA] aid calculation;”
- From the extensive record developed before the ALJ, “the key takeaway is this: the total budget for the most recent school year at the time of that [ALJ] decision [2017-18] was \$143.45 million...[and] over half--\$78 million—went to transportation and special education tuition for non-public students;”

- “This is an abnormal and unsustainable imbalance;”
- “By way of comparison, in neighboring districts, the costs of transportation and special needs tuition accounted for roughly four to seven percent of their annual education budgets.” (Alcantara v. McMillan, 475 N.J.Super. 58, 62-63 (App.Div. 2023))

This extensive record evidence led the ALJ to conclude that Lakewood public-school students were being denied their fundamental constitutional right to T&E. This court agreed with, and reinstated, that conclusion in its March 6 decision.

Inexplicably, however, the ALJ did not follow the inexorable logic of her own findings outlined above and attribute that constitutional deficiency to SFRA. Standing alone, the \$215 million of advance state aid loans extended by the State—because, without them, Lakewood would have insufficient funding to provide its student with T&E—offer all the evidence this court should require to support a ruling that SFRA is, at least, the significant cause of the T&E denial and that student-petitioners have proven that by a preponderance of the evidence.

Moreover, that ruling should not be called into question by the State’s promise that SFRA, however belatedly, will be fully funded for the upcoming

school year. That will not, by itself, significantly alleviate the profound constitutional deficiency suffered by Lakewood public-school students. The students of the Lakewood school district will continue to suffer from that constitutional deficiency until this court acts decisively to require that SFRA, and the NJDOE's implementation of it, be retooled to meet the actual circumstances and needs of Lakewood students.

POINT V

THE STATE HAS ULTIMATE RESPONSIBILITY FOR ASSURING
THAT LAKEWOOD PUBLIC SCHOOL STUDENTS RECEIVE T&E,
AND, THEREFORE, FOR REMEDYING THE DEFICIENCIES OF A
CONSTITUTIONAL DIMENSION REGARDING SFRA AND ITS
APPLICATION

It is hard to understand how a foundational constitutional principle of more than 50 years standing in New Jersey—the State's ultimate responsibility for T&E—is being defied by the State, without its even acknowledging that that is what it is doing. The Final Decision is largely based on that inexplicable State constitutional default.

The principle was set forth in the New Jersey Supreme Court's first decision in Robinson v. Cahill in April 1973, and has formed a cornerstone not

only of the Robinson litigation, but also of Abbott v. Burke, which grew organically out of Robinson beginning in 1981.

In Robinson, Chief Justice Weintraub wrote on behalf of a unanimous court about the meaning of the state constitution's T&E clause:

...[W]e do not doubt that an equal educational opportunity for children was precisely in mind. The mandate that there be maintained and supported 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' can have no other import. Whether the State acts directly or imposed the role upon local government, the end product must be what the Constitution commands. A system of instruction in any district of the State which is not thorough and efficient falls short of the constitutional command. Whatever the reason for the violation, the obligation is the State's to rectify it. If local government fails, the State government must compel it to act, and if the local government cannot carry the burden, the State must itself meet

its continuing obligation. (Robinson v. Cahill, 62 N.J. 473, 513 (1973) (Emphasis added.)).

This seminal statement of New Jersey constitutional law has clear application to our case since the education being received by Lakewood public-school students has been determined to fall short of T&E. Consequently, rectifying that situation is ultimately the State's responsibility if the local district cannot do so. If the primary cause of the T&E denial is the state's school funding system, as we believe it is in our case, then the State's responsibility to cure the problem is obvious and undeniable.

Until quite recently the State's executive and legislative branches have adhered to this core constitutional concept of ultimate state responsibility for T&E. But something seems to have gone badly awry and it has infected the way in which the State has chosen to implement SFRA. Now the State seems to be seeking to impose ultimate responsibility for T&E on local districts, including Lakewood. The Final Decision reflects that wrong-headed and ahistorical approach, but the signs were there years before.

For example, when Kevin Dehmer, the Commissioner-Designate, testified in the Alcantara case on July 9, 2019, he clearly expressed that

constitutional misconception. He testified that, as Assistant Commissioner for the NJDOE's Division of Finance, his division oversaw the offices of School Finance, Fiscal Policy and Planning, and State monitors (11T 7-12), all highly relevant to our case. Later in his testimony, the following exchange occurred:

Q Is it...the role of your office to see to it that every district is able to provide a thorough and efficient education?

A My understanding is that generally [it is] the responsibility of the local board to ensure T&E. We [in NJDOE] do provide some different supports in different offices, but that's...usually when there's been a failure to provide it or something in the local board. (11T 89-12 to 19).

(Emphasis added.)¹⁸

¹⁸Mr. Dehmer further testified that he thought there was an improvement plan for Lakewood, but he did not know what it was. "So there's a plan laid out by the State monitor, which I believe my deputy could speak in more detail about....[T]he monitor has a —has a plan that's required in order to plan to move the District ahead." (11T 120-23 to 121-18). But the only "plan laid out by the State monitor[s]" is legislative action to fix the formula. State monitor David Shafter suggested the creation of a "formula so that some portion of those [nonpublic] students could be counted as a percentage, in order to—in planning the adequacy budget." (5T 93-10 to 12). State monitor Michael Azzara testified that "They need more revenue. We're—if it comes from the taxpayers or it comes from the State, that's really a question for the legislature and the courts, not me. I mean, I would assume that it would come from the State because the district is tapped [out] for its property tax." (5T 129-23 to 130-3). As for the Department's plan that Mr. Dehmer thought his "deputy could speak in more detail about," it simply does not seem to exist. The ALJ

This seems to encapsulate the State’s current view and it is reflected in the Final Decision—that the State Department of Education’s role is to provide support to local school boards, and that it is the local boards which have ultimate responsibility for ensuring T&E.

It seems impossible to square that with the contrary view that the New Jersey Supreme Court announced in Robinson in 1973 and reiterated many times since in Abbott and other important T&E decisions. If, as seems clearly to be the case, the denial of T&E in Lakewood is primarily a function of the less-than-optimal performance of SFRA, then trying to impose ultimate responsibility on the local district makes absolutely no sense.

Yet, that is what the Final Decision unmistakably seeks to do. In attempting to explain why SFRA and its application to Lakewood is not the cause of the acknowledged denial of T&E, the Final Decision asserts that:

...the record demonstrates that Lakewood’s own choices and management issues have resulted in the unavailability of funds that could and should

asked Glenn Forney, Deputy Assistant Commissioner of Finance, “if there’s any end game here, without continually raising the [loan] amount that Lakewood gets. Assuming everything stayed the same.” Mr. Forney answered, “We’re just going year by year at this point.” (14T 146-3 to 6).

have been used to provide T&E to its students...[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....[That] Lakewood's decision to not maintain adequate local fair share contributed to the district's current fiscal problems.

Final Decision at 12-13.

The Final Decision then devotes eight of its 21 pages to an elaborate effort to blame the Lakewood district for all the problems that have conspired to deny its students T&E and to exempt SFRA's application to Lakewood from any blame.¹⁹ These include Lakewood's failures both to raise more tax revenue to support its public schools and to correct its myriad educational, management and fiscal inefficiencies.

According to the Acting Commissioner, this buttresses the State's argument for why SFRA is not even a significant cause of the denial of T&E to

¹⁹ The Lakewood school district submitted to the Acting Commissioner a detailed rebuttal of the Comprehensive Review's criticism of the district. In the Background and Procedural History section, the Final Decision briefly summarizes the district's submission (Final Decision at 6). In the Analysis section, however, the Final Decision makes only two passing references to points made in the district's rebuttal and dismisses both out of hand. (Final Decision at 19 and 20).

Lakewood public school students. However, the Final Decision never: (i) quantifies how much could be raised by Lakewood taxpayers by dint of greater efforts (within the legally-prescribed limits)²⁰ or saved by Lakewood school district personnel implementing State-recommended efficiencies, and how that would compare to the huge and constantly escalating amount of State loans extended to keep Lakewood afloat; or (ii) explains why, for at least the last 15 years,²¹ the educational and fiscal problems afflicting the Lakewood school district have not prompted the State to use its undeniable power and duty to order the district to implement available and necessary fiscal and educational measures.²²

²⁰ The Final Decision cites two statutory provisions, N.J.S.A. 18A:22-40 and N.J.S.A. 18A:7F-39, which it asserts Lakewood voters could have used to increase the local school tax levy, and, thereby, presumably T&E funding. The Final Decision criticizes Lakewood for having sought to use only one of those provisions and only once, in 2016. (Final Decision at 13). What the Final Decision fails to indicate is that one of those statutory provisions, 18A:7F-39, by its express terms, cannot be used to provide T&E funding and that the 2016 referendum pursuant to the other provision, N.J.S.A. 18A:22-40, was defeated by a vote of 99% to 1%. Commenting on that singular effort, State monitor Michael Azzara testified that, “The Department and local leaders and state leaders, and everybody was saying...that any separate questions are not going to be passed, so don’t even bother holding the referendum and spending the money [on it].” 5T 113-8 to 13.

²¹ The Final Decision refers several times to a 2009 needs assessment issued by NJDOE that alerted the State to these problems. (See, e.g., Final Decision at 16).

²² As indicated supra, in the first modern New Jersey Supreme Court school funding decision in *Robinson v. Cahill*, a unanimous court opined in the strongest terms on April 3, 1973, that the State was ultimately responsible for the provision of T&E to students. For the ensuing 51 years, that has been a core constitutional principle of New Jersey law.

The Acting Commissioner's most extreme effort to absolve SFRA of responsibility appears in the middle of the Analysis section. The relevant language must be quoted in its entirety for the absurdity of the point to become clear:

From FY 2010 through the enactment of P.L.2018, c.67, State aid was not allocated pursuant to the provisions of the SFRA.

Instead, State aid was calculated based on provisions included in the State budget, with underlying funding policy changing every year. While petitioners assert that this fact contributes to the conclusion that the SFRA is unconstitutional, the Assistant Commissioner concludes that the opposite is true. Lakewood was not fully funded according to the provisions of the SFRA; therefore, even if Lakewood's funding levels had contributed to the denial of T&E during those years, the SFRA could not have been the cause. (Final Decision at 14) (Emphasis added.).

What an extraordinary admission by the State! The logical extension of this stunning assertion seems to be that a statute cannot be found unconstitutional as applied if it is not actually being applied fully or even at all. So, if the Legislature appropriated no funds for SFRA

and districts received no State education aid, SFRA could not be found deficient even though it was designated as the State's main vehicle for funding education. That cannot be an argument, logically or legally, supporting SFRA's constitutionality as applied.

It also underscores how haphazard and inefficient the State's implementation of SFRA has been since at least FY 2010, and how the State's promises to the New Jersey Supreme Court in connection with Abbott XX's ruling that SFRA was facially constitutional were dishonored almost immediately. SFRA, instead of being the promised uniform and equitable basis for statewide educational funding, was effectively overridden by the Legislature's annual appropriations process. That totally undermined the Supreme Court's constitutional requirement that funding of T&E be certain, predictable, non-discretionary and timely to facilitate effective educational planning.

To reach the conclusion it did, the Final Decision had to ignore not only the 50-year state constitutional principle of ultimate State responsibility for T&E, but also:

- The language of SFRA clearly placing ultimate responsibility on the Commissioner;²³
- The State assignment to the Lakewood school district continuously for the past 10 years of multiple State monitors, who have broad statutory powers and duties to “oversee the fiscal management and expenditures of school district funds...; oversee the operation and fiscal management of school district facilities...; ensure development of an acceptable plan to address the circumstances...which resulted in the appointment of the State monitor...[and which] shall include measurable benchmarks and specific activities to address the deficiencies of the school district; oversee all district staffing...; have authority to override a chief school administrator’s action and a vote by the board of education on any of the matters set forth in this subsection...; and shall report directly to the commissioner or his designee on a weekly basis...[and] monthly to the board of

²³ Among many relevant SFRA provisions, one stands out: “The commissioner shall not authorize the disbursement of funds to any district until the commissioner is satisfied that all educational expenditures in the district will be spent effectively and efficiently in order to enable students to achieve core curriculum content standards [T&E]. The commissioner shall be authorized to take any affirmative action as is necessary to ensure the effective and efficient expenditure of funds by school districts....” N.J.S.A. 18A:7F-60.

education and members of the public...;”²⁴ N.J.S.A. 18A:7A-55 (b) (1-5), (c).

- The extraordinary \$215 million in advance state aid loans provided Lakewood over the past 10 years based on annual certifications of the Commissioner of Education to the effect that without those funds the district would be unable to provide its students with T&E.²⁵

²⁴ The Final Decision’s only reference to the State monitors assigned to the Lakewood school district is in a footnote stating: “Despite petitioner’s [sic] suggestion to the contrary, the Assistant Commissioner does not find that the fault for these errors [ascribed to the Lakewood school district] lies with the State monitor. **It is not the monitor’s responsibility to double-check the work of each member of Lakewood’s staff.**” It is not clear on what basis the Assistant Commissioner reached that conclusion. It was certainly not based on the statutory language cited above. One can only imagine that, given the Final Decision’s characterization of the State monitors’ limited and ineffective role, the Lakewood school district must be wondering exactly why it has been required to pay the State monitors \$2.01 million over the past 10 years. Final Decision at 15, n. 23 (Emphasis added.)

²⁵ The policy basis of a statute imposing on a fiscally struggling school district all the salary and other costs of State monitors assigned to that district to lead it out of its fiscal troubles seems questionable. That is especially the case, when the presence of multiple monitors is for the long-term—in Lakewood’s case, potentially as long as 20 years. Both the long-term role of State monitors in Lakewood and the extraordinary amounts of advance state aid extended under another statute are linked since such loans can only be provided to districts with State monitors in place. This raises serious questions about whether the State has used those statutes beyond their reasonable purview as a means of evading the more direct and appropriate response to Lakewood’s longstanding fiscal problems—a long overdue retooling of SFRA, and perhaps other legislative action, to directly and adequately address Lakewood’s obvious fiscal problems and the denial of T&E to Lakewood public school students caused by those fiscal problems.

This court should affirm in the strongest terms the State's ultimate responsibility for T&E, a core New Jersey jurisprudential principle for more than 50 years.

POINT VI

THIS COURT SHOULD RULE THAT SFRA IS UNCONSTITUTIONAL AS APPLIED TO THE LAKEWOOD SCHOOL DISTRICT AND THAT THE EXECUTIVE AND LEGISLATIVE BRANCHES MUST FULLY REMEDY THE CONSTITUTIONAL DEFICIENCIES AS EXPEDITIOUSLY AS POSSIBLE

A. THIS COURT SHOULD RULE THAT SFRA IS UNCONSTITUTIONAL AS APPLIED TO THE LAKEWOOD SCHOOL DISTRICT

The prior argument points make clear that Lakewood public school students have been denied their fundamental constitutional right to T&E because SFRA has operated at a far less than optimal level for them. This court should confirm that inescapable conclusion by ruling that SFRA is unconstitutional as applied to the Lakewood school district.

B. THIS COURT SHOULD REQUIRE THE EXECUTIVE AND LEGISLATIVE BRANCHES TO FULLY REMEDY THIS CONSTITUTIONAL DEFICIENCY

The state constitution and statutes clearly impose responsibility for providing T&E on the Legislature and on the Executive. The constitutional education clause imposes on the Legislature clear and explicit responsibility for providing “for the maintenance and support of a thorough and efficient system of free public schools.” N.J. Const. Art. VIII, par. 4. Sec. 1.

As a part of discharging that responsibility, the Legislature has made elaborate statutory provision in Title 18A for the Executive Branch’s role in assuring T&E. Most of those statutory provisions attach to the Commissioner and State Board of Education and to the NJDOE, but the Governor is assigned an important role, too. For example, N.J.S.A. 18A:7F-46 creates a reporting system designed to assure that “the efficiency standards...necessary to achieve a thorough and efficient education” are periodically updated. The mechanism specified is that every three years “the Governor, after consultation with the commissioner, shall recommend to the Legislature through the issuance of the Educational Adequacy Report for the three years to which the report is applicable” various adjustments in the SFRA formula.

As the New Jersey courts did in Robinson and Abbott, and many related decisions, this court should order that the other branches take all necessary and appropriate steps to remedy the constitutional deficiencies identified in

this case regarding the Lakewood public school students. Of course, as was done in those earlier cases, this court should identify the relevant constitutional parameters for a remedy and defer to the other branches the development of a constitutionally sufficient remedy for a reasonable period of time, having in mind the extent to which time is of the essence to these constitutional claimants. To ensure that this response occurs within an expeditious timeframe, the student-petitioners urge this court to retain jurisdiction of this matter.

C. TO FULLY REMEDY THE CONSTITUTIONAL DEFICIENCIES PROVEN IN THIS CASE, THE OTHER BRANCHES MUST ADHERE TO THE PARAMETERS OUTLINED BY THIS COURT

A constitutionally sufficient remedy must accomplish two main objectives:

- The Lakewood school district must be put on a sustainable fiscal footing; and
- Going forward Lakewood public school students must receive adequate and assured funding for T&E.²⁶

²⁶ These objectives will not, however, deal with another dimension of the unconstitutional denial of T&E to a generation or more of Lakewood public school students who are no

Any meaningful remedy for the Lakewood school district’s well-documented fiscal distress will have to rely, at least initially, on legislative action. After all, the appropriations’ power of the State resides in the Legislature and the constitutional education clause starts with the words, “The Legislature shall provide for the maintenance and support” of T&E.

Still, that does not mean that the other branches of state government do not have essential roles to play in the remedial process. The executive branch can—and must—identify problems in the public education system and recommend changes to rectify those problems. And when changes are made, the executive must implement them properly.

The judiciary’s role can be reactive—to determine the legality and sufficiency of the changes agreed to by the other branches, or proactive—to urge necessary action on the other branches when they have not taken the initiative as is the case here.

longer in attendance. Those students, perhaps those in attendance starting in 2009 when a NJDOE needs assessment identified serious fiscal and educational problems in Lakewood, have suffered serious negative effects on their lives and employment prospects by the denial of T&E to them. Justice Albin’s statement from his concurrence in Abbott XXI, quoted *infra*, underscores those damages. Consequently, some form of compensation, even “reparations payments,” might be appropriate and necessary to remedy the constitutional harm inflicted on them.

In this case, you have an opportunity and perhaps an obligation to suggest how SFRA's unconstitutionality as applied to the Lakewood school district can best be remedied. We may not yet be at the stage of a detailed remedial exposition, but it is an appropriate time to begin laying out the remedial parameters.

Here is a brief statement of those parameters:

1. If the Lakewood school district is to be placed on a stable and solid fiscal footing, the following State actions have to be taken: (i) the existing advance state aid loan balance must be forgiven in its entirety; (ii) the district must be reimbursed for repayments it has made against the loans;²⁷ and (iii) the district must be reimbursed for all payments it has made toward the State monitors' salaries and costs.²⁸

²⁷The loans were a direct result of SFRA's failure to provide the Lakewood school district with adequate funding for T&E. In effect, they—and probably additional dollars—should have come to the district as State education grants, not repayable loans. Therefore, any repayments already made or considered due should be reimbursed or forgiven. That would enable the district to go forward on a fiscally stable and sustainable basis.

²⁸The Final Decision has called into question whether the Lakewood school district received value for its substantial outlay of dollars for salaries and costs of the multiple State monitors assigned to it for 10 years. Even aside from that question, it seems like questionable State policy to impose on a financially struggling district the substantial annual costs of State monitors charged by the State with overseeing the district's operations and helping it get back on its fiscal feet.

2. The annual state aid payments made to the district going forward must be sufficient to enable it to provide its students with T&E.²⁹
3. The necessary legislative changes can be achieved through an amendment of the SFRA aid formula, or separate freestanding legislation, or a combination of the two, so long as they assure that the Lakewood school district receives adequate annual funding

²⁹ The student-petitioners are not alone in their belief that statutory changes must be made to the current funding approach to enable them to be assured T&E. For example, the State monitors placed in the Lakewood school district have made repeated public comments about the district's problems being revenue problems not spending problems. (See videotaped statement of State monitor Michael Azzara provided by letter of then-participant Paul L. Tractenberg, dated March 29, 2015, marked in the OAL as Exhibit 15). The district's independent auditor was recently quoted as saying that: "the district needs to see a better state funding approach because it cannot rely on loans and a mounting debt;" "to me, it is a state funding formula issue;" "Lakewood is a one-of-a-kind school district, it does not fit like any other school district;" "district leaders are forced to rely too much on state loans due to an inadequate state aid funding formula." <https://www.app.com/story/news/local/2024/02/26/auditor-latest-to-demand-better-state-aid-formula-for-lakewood-schools/72699102007/>. In much the same vein, a July 11, 2023, internal report by State Auditor David Kaschak was featured in an August 15, 2023, article in the APP, entitled "NJ Auditor finds 'severe fiscal distress' in Lakewood schools, recommends new funding model." That report stated that the "Lakewood school district may be considered a district confronted by severe fiscal distress and could benefit from the creation of an additional state aid category." Finally, State Senator Robert Singer, whose Ocean County district includes Lakewood, said of the Office of the State Auditor's report that: "the report is proof that a state aid change is needed." He also was quoted as saying that "We have no option but to do this.... We have asked to change the formula. This explains why it has to happen." Singer expressed the hope that legislation to alter the state aid formula could be introduced after the November 2023, elections, and expressed optimism about such a change being adopted because "The administration has been very cooperative with this." (<https://www.app.com/story/news/local/2023/08/15/lakewood-schools-under-severe-fiscal-distress-auditor-finds/70587887007/>).

consistent with the Abbott criteria—that it be certain, predictable, non-discretionary and timely to enable effective educational planning.

D. THE DENIAL OF T&E MUST BE REMEDIED AS EXPEDITIOUSLY AS POSSIBLE SINCE TIME IS OF THE ESSENCE FOR LAKEWOOD’S PUBLIC-SCHOOL STUDENTS

It is essential that the remedial process proceed as expeditiously as possible. Lakewood’s public school students have already suffered devastating injuries as a result of the denial of their fundamental constitutional right to T&E. As we have argued from the start of this overlong litigation, time is of the essence for those students.

The most powerful statement of this principle is in Justice Albin’s concurring opinion in Abbott v. Burke, 206 N.J. 332, 478 (2011) (Abbott XXI) (Albin, J., concurring opinion):

Children go to school for a finite number of years. They have but one chance to receive a constitutionally adequate education. That right, once lost, cannot be reclaimed. The loss of that right will have irreparable consequences, particularly for the disadvantaged children to whom SFRA was

intended to give a fair chance at a thorough and efficient education.

We have been arguing this point, perhaps less elegantly but more frequently, from the start of this litigation. Our only notable success thus far has been this court's November 27, 2023, order, which accelerated the remand clock.

It is difficult to explain, let alone justify, how almost 10 years have been consumed by this case and how generations of Lakewood public-school students have suffered from inadequate education while the State, supposedly the protector of their interests, delays, obfuscates and denies that it has ultimate power and duty to assure their rights to T&E.

This court must now stand up for those students because it is not clear that anyone else will. As the New Jersey Supreme Court stated many years ago, the judiciary must be the "designated last-resort guarantor" of the students' fundamental constitutional rights to T&E. Robinson v. Cahill, 69 N.J. 133, 154 (1975).

Earlier in that opinion, the Supreme Court made a statement that anticipates the situation currently before this court:

The Court has now come face to face with a constitutional exigency involving, on a level of plain, stark and unmistakable reality, the constitutional obligation of the Court to act. Id. at 139.

In its response to that obligation, the Court stated:

This Court, as the designated last-resort guarantor of the Constitution's command, possesses and must use power equal to its responsibility. Sometimes, unavoidably incident thereto and in response to a constitutional mandate, the Court must act, even in a sense seem to encroach, in areas otherwise reserved to other Branches of government....And while the court does so, when it must, with restraint and even reluctance, there comes a time when no alternative remains. That time has now arrived. Id. at 154-55.

Respectfully submitted,

s/ Paul L. Tractenberg Esq.

s/ Arthur H. Lang, Esq.

Dated: April 17, 2024

New Jersey Department of Education

Final Decision

Leonor Alcantara, individually and as Guardian ad Litem for E.A.; Leslie Johnson, individually and as Guardian ad Litem for D.J.; Juana Perez, individually and as Guardian ad Litem for Y.P.; Tatiana Escobar; Henry Moro and Ira Schulman, individually and as Guardian ad Litem for A.S.,

Petitioners,

v.

Angelica Allen-McMillan, Acting Commissioner of the New Jersey Department of Education; New Jersey State Board of Education; and New Jersey Department of Education,

Respondents.

Background and Procedural History

In a 2014 petition filed against the New Jersey Commissioner of Education, the New Jersey Department of Education (Department), and the New Jersey State Board of Education (collectively, “respondents”), petitioners alleged that the Lakewood Township Board of Education (Board or Lakewood) is unable to provide its public school students with a

thorough and efficient education (T&E) because it does not receive sufficient funding under the School Funding Reform Act, *N.J.S.A. 18A:7F-43 to -70* (SFRA).¹

Following a hearing, the Administrative Law Judge (ALJ) found that Lakewood's public-school students are not receiving T&E, but concluded that petitioners failed to meet their burden of demonstrating that the lack of T&E derives in significant part from the SFRA. The ALJ found that the population boom in Lakewood Township over the past twenty years resulted in a rise in attendance at private schools, totaling almost 30,000 non-public school students compared to approximately 6,000 students who attend Lakewood public schools. This causes a strain on the district financially, as the private school students are entitled to transportation at Lakewood's expense. Further, tens of millions of dollars are spent each year to send students to out-of-district placements.

Nevertheless, the ALJ found that the SFRA is not unconstitutional as applied to Lakewood and that Lakewood has failed to take steps to increase its ability to provide T&E. The ALJ found that although Lakewood had a budget surplus in 2010, it chose not to increase its levy to the cap for several years thereafter, despite being aware of population growth trends. Due to those choices, the district did not generate revenues that could have compounded over the years and was not taxing up to its local fair share. Relatedly, the ALJ found that Lakewood made little effort to exercise statutorily available tools to raise funds.

¹ Petitioners are parents of children who attend Lakewood's public schools. Lakewood and Paul Tractenberg, Esq., joined this matter as participants. Mr. Tractenberg is a Professor of Law Emeritus and Board of Governors Distinguished Service Professor at Rutgers University. He established the Education Law Center, the Institute on Education Law and Policy, and the Center for Diversity and Equality of Education. While Lakewood initially declined to join this matter as a party and joined instead as a participant in 2016, Lakewood subsequently filed a motion to intervene as a party at the start of the hearing in 2018, which was denied.

Additionally, the ALJ explained that although Lakewood's transportation costs have continued to increase annually from \$23 million in 2014-15 to \$31 million in 2018-19, there is little evidence that Lakewood has done everything possible to reduce those costs. Further, there is no evidence that these rising costs are solely due to the increasing number of nonpublic school students in the district. The ALJ also noted that a large portion of Lakewood's budget is dedicated to special education due to the number of out-of-district placements (specifically, 343 students were placed in private schools for a cost of \$33 million in 2018-19), but the record lacks evidence of any steps taken to set up a district-run special education program to save money by educating these students in-district, as the Department has urged. The ALJ also noted that the SFRA provides greatly increased aid for in-district special education, as opposed to out-of-district special education, but found no evidence in the record that Lakewood even tried to avail itself of that option.

The ALJ also reasoned that Lakewood does not offer a comprehensive preschool for three-year-old general education students. The ALJ found no evidence that Lakewood even attempted to receive State financing for a preschool facility to accommodate more at-risk, non-special education children.

Finally, the ALJ added that other legislation outside the SFRA has affected Lakewood financially, such as a tax levy cap on school districts and the annual Appropriations Act.

Following a review of the record, including the ALJ's Initial Decision and the exceptions and replies thereto, the Commissioner issued a decision concluding that petitioners failed to establish the lack of T&E in Lakewood. *Alcantara v. Hespe*, Commissioner Decision No. 149-21 (July 16, 2021). In doing so, the Commissioner relied upon improving standardized test scores,

success in meeting accountability targets, and the wide range of classes and programs offered to students. Nonetheless, the decision recognized that the quality of education in Lakewood could be improved, and therefore ordered the Department to conduct a comprehensive review of Lakewood's organization, structure, and policies to assess its compliance with quality performance indicators and to determine how it could improve its educational program. *Id.* at 7. As a result of the finding that Lakewood delivered T&E, the Commissioner did not reach the issue of the constitutionality of the SFRA. *Alcantara v. Hespe*, Commissioner Decision No. 149-21 (July 16, 2021).

Petitioners appealed, and the Appellate Division reversed and remanded the matter with instructions for the Commissioner to consider petitioners' substantive arguments pertaining to the SFRA. *Alcantara v. Allen-McMillan*, 475 N.J. Super. 58 (App. Div. Mar. 6, 2023).

On May 12, 2023, the Commissioner issued a letter directing the Department to expedite the comprehensive review of the Lakewood school district initially ordered in *Alcantara v. Hespe*, *supra*. The Commissioner indicated that the information that comprised the record before the OAL, the Commissioner, and the Appellate Division is now outdated and found that an updated record would assist the Department in identifying the root causes that led to the educational deprivations identified by the Appellate Division.

The Department retained Dr. Kimberly Markus, an education consultant who is also a former New Jersey Commissioner of Education, along with Public Consulting Group LLC, a management consulting firm that focuses on public sector clients, to complete the review. The report, entitled "Comprehensive Review of the Lakewood Public School District" (Comprehensive Report), was filed on March 1, 2024. The Comprehensive Report examined

five critical areas deemed relevant as influencing the provision of T&E in Lakewood: governance, curriculum and instruction, special education, finance, and transportation. The report closely evaluated each of these areas and presented a comprehensive analysis of each area's impact on T&E. The report's findings and conclusions are discussed in further detail below.

In response to the Comprehensive Report, petitioners² note that it confirms the conclusions of the ALJ and the Appellate Division that Lakewood students are not receiving T&E, and they urge the Department to remedy this denial as expeditiously as possible. According to petitioners, the Comprehensive Report does little to analyze the impact of the SFRA on the quality of education in Lakewood. Therefore, petitioners indicate that they do not feel the need to respond to the details of the report and instead choose to use their response to express their views regarding the final agency decision in this matter.

Petitioners take issue with the Comprehensive Report's framing of the obligation to provide T&E as an obligation of the district, rather than the State. Petitioners argue that the denial of T&E in Lakewood is primarily a function of the less-than-optimal performance of the SFRA and, accordingly, ultimate responsibility should be imposed on the State. Petitioners note that the SFRA has not been fully funded for 15 years, rendering any defense of its constitutionality at a disadvantage.³ Petitioners further contend that if the SFRA were functioning at an optimal level, it would not have been necessary for the district to receive

² A joint response was filed by Mr. Tractenberg and counsel for petitioners. For ease of reference, this decision will use the term "petitioners" when referring to this response, together with the statements and arguments made therein.

³ Petitioners acknowledge that the Governor's proposed budget for FY2024-25 would fully fund the SFRA if enacted.

\$215 million in advance state aid loans since 2015. Petitioners also argue that the Comprehensive Report set an improperly high burden on petitioners by stating that declaring the SFRA unconstitutional would require that the SFRA “be established as the singular cause for the denial of a thorough and efficient education.”⁴ Finally, petitioners set forth a number of suggestions for remediation, including forgiving the existing advance state aid loan balance, amending the SFRA, or passing separate legislation to provide additional funding to Lakewood.

Lakewood’s⁵ response identifies alleged factual errors in numerous areas of the Comprehensive Report. Lakewood objects to what it characterizes as the selective use of comments made by stakeholders, as well as to portions of the report dealing with issues which the reviewers allegedly did not discuss with Lakewood’s officials. According to Lakewood, the Comprehensive Report makes recommendations without discussion of the cost to the district and fails to analyze whether the recommendations will improve the provision of education to Lakewood students.⁶

Analysis

Upon review of the record, including the ALJ’s Initial Decision, exceptions and filings made in response to the Initial Decision, the supplemental information contained in the Comprehensive Report, and the parties’ written responses to the Comprehensive Report, the Assistant Commissioner concludes that the SFRA is not the significant cause of Lakewood’s

⁴ Comprehensive Report at 30.

⁵ The filing indicates that it is the response of Superintendent Dr. Laura A. Winters and the Superintendent’s Executive Leadership Team, and that it has been reviewed by both a committee of the Board and individual Board members.

⁶ The majority of these areas concern portions of the report not relied upon herein and, accordingly, they are not reviewed in detail. To the extent that Lakewood’s response does address items discussed herein, the response is detailed in the applicable section of the analysis below.

failure to provide T&E and that therefore, the SFRA is not unconstitutional as applied to Lakewood. “It is well recognized that legislative enactments enjoy a presumption of validity,” and when a constitutional challenge is raised, “there is a strong presumption that the statute is constitutional.” *Abbott ex rel. Abbott v. Burke (“Abbott XX”)*, 199 N.J. 140, 235 (2009) (internal citations omitted). “Whether a statute passes a constitutional challenge ‘as-applied’ to any individual school district at any particular time must be determined only in the factual context presented and in light of the circumstances as they appear.” *Ibid.* Here, the constitutionality of the SFRA as applied to Lakewood “turn[s] on proof that [petitioners] suffer educational inequities and these inequities derive, in significant part, from the funding provisions” of the SFRA.⁷ *Abbott v. Burke (“Abbott I”)*, 100 N.J. 269, 296 (1985).

The SFRA is a weighted school funding formula through which districts fund their budgets using a combination of local levies and State aid, which includes multiple categories of aid, discussed in more detail below.⁸ See N.J.S.A. 18A:7F-43 to -66. According to the legislative findings, the SFRA “should provide State aid for every school district based on the characteristics of the student population and up-to-date measures of the individual district’s ability to pay.” N.J.S.A. 18A:7F-44(d).

Equalization aid is a wealth-equalized category of State aid to school districts. The amount of equalization aid that a district receives is based, in part, on measures of local fiscal capacity to raise revenue to support the school district. The first component in calculating a

⁷ Based on this principle, the Acting Commissioner declines to apply the higher standard set forth in the Comprehensive Report – that the SFRA must be the “singular” cause for the educational inequities in Lakewood.

⁸ Although each type of aid discussed herein is categorized, these categories are all part of the district’s general fund revenue.

district's equalization aid is determining its adequacy budget, which is an estimate of a district's cost of providing educational opportunities to its students that are consistent with State standards and incorporates the characteristics of the student body. The calculation begins with a base per pupil amount, which reflects the cost of educating a student included in the district's resident enrollment in grades kindergarten through five who does not have any additional needs.⁹ *N.J.S.A.18A:7F-51(a)*. Next, this base per pupil amount is augmented using weights that account for students who are: enrolled in middle school or high school; "at-risk" (meaning that the student lives in a household in which income is no greater than 185 percent of the federal poverty threshold); English language learners; or enrolled in a county vocational school district.¹⁰ *Ibid.*

The adequacy budget also accounts for the provision of special education services, employing a census-based model that funds special education based on the assumption that a fixed percentage of the district's resident enrollment requires special education services at a specific excess cost. *N.J.S.A. 18A:7F-51(e)*.¹¹ Two-thirds of this cost is added to the district's

⁹ The base per pupil amount is established by the Educational Adequacy Report (EAR), which is issued by the Governor to the Legislature every three years. *N.J.S.A. 18A:7F-49; N.J.S.A. 18A:7F-46(b)*. The 2023 EAR is available at <https://www.nj.gov/education/stateaid/2223/EAR2023.pdf> (last visited March 13, 2024). For fiscal year (FY) 2023, the base per pupil amount was \$12,451. 2023 EAR at 5.

¹⁰ The EAR establishes these weights. *N.J.S.A. 18A:7F-49*. The SFRA also includes a county-level geographic cost adjustment. *N.J.S.A. 18A:7F-51(a)*.

¹¹ The percentage of students requiring special education services is based on the statewide average classification rate established in the EAR. *N.J.S.A. 18A:7F-51(e)*. For FY2023, the classification rate was 15.9 percent and the average excess cost was \$19,524. 2023 EAR at 11-12.

adequacy budget.¹² *Ibid.* Finally, the adequacy budget includes an allotment for students who receive speech-only services.¹³ *Ibid.*

The second component of calculating a district's equalization aid is determining its local fair share (LFS), which is an estimate of the amount that a district is able to raise through local taxation to support its education expenditures. This calculation considers two economic factors: the district's equalized property valuation and aggregate income, as determined based on New Jersey gross income tax returns.¹⁴ *N.J.S.A. 18A:7F-52(a)*. If a district's adequacy budget is greater than the LFS, the district's equalization aid equals the difference between the two; if the LFS exceeds the adequacy budget, the district does not receive equalization aid. *N.J.S.A. 18A:7F-53*.

Districts also receive security aid, which includes two components. First, districts receive a flat per pupil amount, multiplied by the district's resident enrollment.¹⁵ *N.J.S.A. 18A:7F-56*. Second, districts receive a per pupil amount that increases as the percentage of low-income students in the district's resident enrollment increases.¹⁶ *Ibid.* This per pupil amount is multiplied by the number of low-income students included in the district's resident enrollment. *Ibid.*

¹² The remaining one third is funded through special education categorical aid, which is dispersed to districts without regard to any measure of a district's wealth. *N.J.S.A. 18A:7F-55*.

¹³ For FY2023, the speech-only classification rate was 1.61 percent and the average excess cost was \$1,270. *N.J.S.A. 18A:7F-51(e)*; 2023 EAR at 11-12.

¹⁴ Each of these factors is multiplied by a Statewide rate, with the products being summed and divided by two; the resulting amount is the LFS. *N.J.S.A. 18A:7F-52(a)*.

¹⁵ The FY2023 per pupil amount was \$86. *N.J.S.A. 18A:7F-56*; 2023 EAR at 10.

¹⁶ For FY2023, the per pupil amount for the second component increases to a maximum of \$519 per pupil once the low-income concentration is equal to or greater than 40 percent. *N.J.S.A. 18A:7F-56*; 2023 EAR at 10.

Districts receive transportation aid for each student for whom the district is required to provide transportation, including nonpublic students. *N.J.S.A. 18A:7F-57*. Districts receive a base amount for each student who does not have any special transportation needs, plus an additional fee per mile between the student’s home and school.¹⁷ *Ibid.* For students who have special transportation needs – such as the need for a wheelchair on the school bus, a one-to-one aide or nurse assigned to the student, or transportation to an extended school year program – districts receive an increased base amount for each student, plus a mileage fee.¹⁸ *Ibid.*

On top of the transportation aid allocated for each nonpublic student, the State bears additional costs for nonpublic student transportation. For nonpublic school students, districts are subject to a maximum per pupil expenditure.¹⁹ *N.J.S.A. 18A:39-1a*. As the maximum increases beyond the amount of \$710 set for the 2001-2002 school year, the additional cost is borne by the State. *Ibid.*

Districts that educate students with higher special education costs receive additional funding in the form of extraordinary special education costs aid. This type of aid reimburses school districts for a portion of the costs incurred in educating students with disabilities in various educational settings. Specifically: 1) for students educated in a public school setting with general education peers, districts are reimbursed for 90 percent of the cost of instruction

¹⁷ For FY2023, the base amount is \$481.37 per pupil, plus \$13.17 per mile. *N.J.S.A. 18A:57(b)*; 2023 EAR at 10.

¹⁸ For FY2023, the base amount is \$3,355.31 per pupil, plus \$6.40 per mile. *N.J.S.A. 18A:57(b)*; 2023 EAR at 10.

¹⁹ If a district is unable to secure transportation between home and school for an eligible nonpublic school student within this limit, the district can satisfy its statutory obligation to provide transportation by making an aid-in-lieu-of transportation payment to the parent or guardian. *N.J.S.A. 18A:39-1.6*. Accordingly, the district’s cost to transport a nonpublic student should never exceed the statutory maximum.

and support services that exceed \$40,000; 2) for students educated in a public school setting who are in self-contained classrooms, districts are reimbursed for 75% of the cost of instruction and support services that exceed \$40,000; and 3) for students educated in a private, out-of-district placement, districts are reimbursed for 75 percent of the tuition costs that exceed \$55,000. *N.J.S.A. 18A:7F-55*.

In addition to the above principles, it is important to note that students enrolled in an approved private school for students with disabilities (APSSD) are included in the district's enrollment count for State aid purposes. See *N.J.S.A. 18A:7F-45* (including in the definition of "resident enrollment" a pupil who is a resident of the district and is enrolled in a "private school to which the district of residence pays tuition"). Accordingly, for purposes of calculating equalization aid, special education categorical aid, and security aid, a student enrolled in an APSSD is counted on the same basis as a student who attends Lakewood's public schools.²⁰

Throughout the proceedings in this matter, petitioners have argued that the SFRA is unconstitutional as applied to Lakewood because it does not take Lakewood's unique demographics into account. Specifically, petitioners cite Lakewood's extraordinary costs in providing transportation and special education services to more than 30,000 nonpublic school students.²¹ However, the record demonstrates that Lakewood's own choices and management issues have resulted in the unavailability of funds that could and should have been used to

²⁰ As noted above, the district may also receive extraordinary special education costs aid for students enrolled in APSSDs, based on the criteria set forth in *N.J.S.A. 18A:7F-55*.

²¹ As of 2019, Lakewood had approximately 6,000 public school students and more than 30,000 private school students. Initial Decision at 65. Lakewood's response to the Comprehensive Report indicates that Lakewood currently has approximately 5,000 public school students and more than 40,000 nonpublic students. Lakewood Response at 1.

provide T&E to its students. The ALJ found that these issues existed at the time of the Initial Decision; the Comprehensive Report found that the issues persist today.

The SFRA anticipates that both the State and the local district will contribute to the district's budget in amounts determined by the district's relative wealth. Our Supreme Court has long upheld the sharing of financial responsibility for schools between the State and local districts. *Robinson v. Cahill*, 62 N.J. 473, 510 (1975). Accordingly, the Court has considered a municipality's ability to raise funds to support its portion of school funding to be critical when analyzing the formula's constitutionality. Indeed, when finding previous funding regimes unconstitutional as applied to certain districts, the Supreme Court specifically relied upon those districts' *inability* to raise revenue due to the lack of a tax base and municipal overburden. *Abbott by Abbott v. Burke*, 119 N.J. 287, 357 (1990) (finding that municipal overburden "effectively prevents districts" from raising money to support education in special needs districts); *see also Robinson v. Cahill*, 69 N.J. 449, 465 (1976) (identifying the possibility of an as-applied challenge based upon a "showing of inability at the local level" to contribute sufficient funding). The Court reasoned that, even at full State funding, such districts could not achieve a thorough and efficient education due to the lack of local resources. That is simply not the case for Lakewood, which 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. Nothing in the record supports a finding that Lakewood suffers from municipal overburden to a degree that it cannot raise revenue to support its public schools and reduce the impact of transportation and special education costs.

As the ALJ found, Lakewood’s decision to not maintain adequate local fair share contributed to the district’s current fiscal problems. Initial Decision at 96-97. Lakewood had a \$5 million surplus in 2010. Initial Decision at 65. Lakewood chose not to raise its tax levy to the cap from 2011-2014, despite the fact that the community’s non-public school population was rapidly increasing. Initial Decision at 96-97. From 2014 to 2018, Lakewood was not taxing up to its LFS and lost not only the increased revenue from those years, but the compounding value as well. *Id.* at 60, 71, 97. Over fiscal years 2015 through 2018, Lakewood raised \$31.5 million less than it would have had it taxed at its LFS level. *Id.* at 71. Furthermore, Lakewood chose not to avail itself of opportunities to present voters with a referendum to increase the school tax levy, as permitted by *N.J.S.A.* 18A:22-40 and *N.J.S.A.* 18A:7F-39, in any year except 2016.²² *Id.* at 97-98. As a consequence of all of these decisions, Lakewood’s school-tax rate was below the state average and below other districts. *Id.* at 52; *Cf. Abbott*, 119 N.J. at 355 (noting that special needs districts lacked resources but already had higher-than-average school tax rates and local tax levies). Lakewood only tried on one occasion in 2016 to raise additional money to help with transportation costs, which was unsuccessful. The Acting Commissioner concurs with the ALJ’s supported finding that Lakewood failed to take advantage of opportunities under the funding scheme to ameliorate its financial difficulties. *Id.* at 97. The SFRA cannot be solely blamed for the substantial loss of revenue attributable to Lakewood’s tax-related choices.

Additionally, the SFRA is not the only legislation that affects a district’s finances. *N.J.S.A.* 18A:7F-38 – which is not a provision of the SFRA – places a cap on the district’s tax levy, limiting

²² The 2016 referendum, which was aimed at providing courtesy busing, a non-T&E item, was rejected by the voters. Initial Decision at 63.

the district's ability to raise revenue. With the tax levy comprising a sizable portion of a district's funding, any restriction on the amount of the levy has financial consequences, separate and apart from the amount of State aid the district receives under the SFRA. The annual Appropriations Act also affects the amount of money districts receive through the SFRA. From FY2010 through the enactment of P.L.2018, c.67, State aid was not allocated pursuant to the provisions of the SFRA. Instead, State aid was calculated based on provisions included in the State budget, with underlying funding policy changing every year. While petitioners assert that this fact contributes to their conclusion that the SFRA is unconstitutional, the Assistant Commissioner concludes that the opposite is true. Lakewood was not fully funded according to the provisions of the SFRA; therefore, even if Lakewood's funding levels had contributed to the denial of T&E during those years, the SFRA could not have been the cause.

The record also demonstrates severe deficiencies in Lakewood's fiscal management, including its failure to keep track of expenditures, records, and data and questionable spending practices. For example, testimony demonstrated that there were no purchase orders in place for students sent to out-of-district placements. Initial Decision at 36. The district did not keep an accurate position control roster reconciled with the names of staff. *Ibid.* An auditor from the Office of Legislative Services testified that an audit of Lakewood found financial transactions that were not consistent with government auditing standards, a lack of control environment leading to a lack of stability, lax reconciliation procedures, a lack of supporting documentation, Board approvals of contracts without review, and other questionable expenses. *Id.* at 54-44. The audit also noted that, in terms of special education costs, there was a lack of proper approval, tuition documentation, and attendance records for students placed in unapproved

nonpublic schools. *Id.* at 76. The New Jersey State Aid Audit Unit determined that poor record-keeping resulted in Lakewood incorrectly reporting hundreds of students on its Application for State School Aid (ASSA). *Id.* at 57.

Attention to administrative and financial detail remains an issue in Lakewood. There were significant data discrepancy and reporting issues related to special education State Performance Plan indicators and categorization of students by placement type. Comprehensive Report at 5. A financial audit noted that there are significant deficiencies in Lakewood's vendor management controls, payroll processing controls, financial close controls, and governance and IT cycle controls. *Id.* at 6. The Comprehensive Report found that the Board is not approving vendors before payment is issued, as required. *Id.* at 10. The transportation review noted that many nonpublic students do not have a student identification number in the District Report of Transported Resident Students (DRTRS), presenting a risk that students might be counted and funded in multiple counties. *Id.* at 20. A spot-check of transportation documents revealed several that listed the Township of Branchburg rather than the Lakewood Public School District as the contracting unit, which "could indicate a systemic lack of legal, procurement, and financial review and oversight of bid documents." *Id.* at 21.

The pervasive errors and questionable practices in Lakewood's record-keeping result in the inefficient use of funds.²³ If the Board is not properly vetting its vendors and only approving payments after services have been rendered, there is a risk that the district is overcharged. This practice is of even greater concern when paying for students' out-of-district

²³ Despite petitioner's suggestion to the contrary, the Assistant Commissioner does not find that the fault for these errors lies with the State monitor. It is not the monitor's responsibility to double-check the work of each member of Lakewood's staff.

placements or for special education services in nonpublic schools; the necessity of documenting tens of millions of dollars for those expenses, and thereby ensuring that all payments are proper, should be paramount. Furthermore, when students are incorrectly categorized or omitted from the rolls, Lakewood may be losing out on State aid for those students.

The record further reflects that transportation and special education costs accounted for more than half of the district's budget in 2017-2018. Initial Decision at 65. The financial impact of these areas was no surprise to the district. Through a Needs Assessment issued by the Department in 2009, when Lakewood was still running a surplus, the Department recommended that Lakewood take steps to reign in transportation and special education costs. Initial Decision at 74. This was followed by a 2014 Audit that made similar recommendations and observed the inevitable population trends. *Id.* at 75. Lakewood has not taken reasonable steps to control its special education and transportation costs despite receiving advice to do so for over a decade. Initial Decision at 77. In the 2009 Needs Assessment, the DOE noted that courtesy busing was contributing to the district's financial strain. *Id.* at 99. While the district no longer provides courtesy busing at its own expense, that practice was not stopped until 2016. *Id.* at 100. The cost of courtesy busing services – totaling \$4 million for the 2008-2009 school year,²⁴ and presumably similar for the other years in which it was provided – drained resources from the district that could have been used to provide T&E. The 2014 Audit observed that Lakewood used gendered buses and that tiering bell times could save \$6.7 million. Initial Decision at 75-76. At the OAL hearing, multiple experts, including one testifying on behalf of petitioners, stated that transportation costs could be reduced if route sharing were increased,

²⁴ Initial Decision at 100.

but it's unclear if any such initiatives have been explored. *Id.* at 10-12; 55-56. The ALJ found that Lakewood admitted it could stagger their school schedules to greatly reduce transportation costs, but noted that the record was unclear on whether such staggering had ever occurred. *Id.* at 100.

In terms of current transportation practices, the Comprehensive Report indicates that there is not sufficient separation between Lakewood as a contracting agency and the Lakewood Student Transportation Authority (LSTA) as a vendor. Comprehensive Report at 6. Additionally, the review notes that a single employee may have been employed full time by both Lakewood and the LSTA, creating "potential for procurement issues, diminished incentive to return saved funds to Lakewood, and potential for conflicts in contract oversight of the LSTA as a vendor," in addition to the duplication of salary. *Id.* at 20. Furthermore, there are potential opportunities to lower prices by bidding tiered routes as packages rather than individually. *Id.* at 6. The Report notes that some buses run four to eight routes a day at a cost of over \$200,000 per bus, and finds extreme examples of the same bus being used for multiple routes. *Id.* at 145, 153. It also observes that for students transported by the district rather than the LSTA, buses run less full and costs per student are higher. *Id.* at 152.

Although the Commissioner acknowledges that Lakewood's demographics result in higher nonpublic transportation costs than in other districts, when the SFRA is fully funded, the majority of nonpublic transportation costs are supported by the State through a combination of the transportation aid for each nonpublic student and the State's assumption of the portion of the cost that exceeds \$710. By way of example, testimony indicated that Lakewood paid \$1,000 for each bused student in FY2018. Initial Decision at 21. Under the SFRA, that year

Lakewood would have received a minimum of \$466 for each nonpublic student who was required to be transported.²⁵ With the State bearing the cost in excess of \$710, that leaves \$244 per nonpublic student that must be covered by the district's tax levy (the \$710 local share per student reduced by the \$466 State aid payment per student); for 30,000 nonpublic students, the total would be approximately \$7.3 million. This cost is certainly substantial, but with an anticipated tax levy of \$96.9 million for FY2018,²⁶ Lakewood would have \$89.6 million remaining in its levy to use – in combination with other categories of State aid it received – to provide T&E to its students.

The 2009 Needs Assessment also recommended that Lakewood develop strategies to educate more of its special education students in-district, which would both save money and result in a greater allocation of extraordinary special education costs aid, which is structured to provide more aid for students who are educated in the district than for those in private placements. Initial Decision at 99-100. However, the ALJ concluded that petitioners had failed to demonstrate that Lakewood had taken steps to save money in this manner. *Ibid.* Furthermore, the ALJ concluded that even if none of the 343 students sent to out-of-district placements in the 2018-2019 school year (at a cost of \$33 million) could have been educated in-

²⁵ The base and mileage amounts are established by the EAR every three years and adjusted by the Consumer Price Index (CPI) for the following two years. *N.J.S.A.* 18A:57(b). For FY2017, the base amount was \$442.18 per pupil, plus \$12.10 per mile. 2023 EAR at 10. Because districts are required by *N.J.S.A.* 18A:39-1 to provide transportation to elementary students who reside more than two miles from school, the minimum transportation aid that the district would receive under the SFRA for each student was \$466.31 (\$442.18 + \$12.10 + \$12.10). This amount would have been slightly higher in FY2018 due to the CPI adjustment. The amount would also increase for any student who lived more than two miles from school, or for students with special transportation needs. However, for purposes of clarity, the lowest possible figure – the base amount from FY2017 – is used in this example.

²⁶ See Lakewood's User Friendly Bdger (last visited March 13, 2024): https://www.nj.gov/education/finance/fp/ufb/2017/reports/29/2520/UFB18_2520.pdf

district, Lakewood could have applied for additional aid based on an usually high rate of low-incidence disabilities.²⁷ *Id.* at 101. Petitioners did not present any evidence that Lakewood availed itself of this opportunity. *Ibid.* Nor had Lakewood applied for facilities funding to increase its ability to serve special education students in-district, despite the fact that Lakewood’s Superintendent testified that a barrier to providing in-district special education services was a lack of space. *Id.* at 17, 99-100.

The Comprehensive Report undermines the Lakewood’s Superintendent’s claim that so many out-of-district placements are necessary because of insufficient space within the District.²⁸ Initial Decision at 17. The Report notes that Lakewood has made substantial investments in state-of-the-art related therapy equipment but is underutilizing those resources because of the number of students with disabilities who are not educated in the public-school buildings. Comprehensive Report at 5. As the Comprehensive Report observes, “For students with disabilities to improve their academic achievement and reduce the achievement gap with their nondisabled peers, they need to be included in the core curriculum and receive evidence-based interventions . . . throughout a continuum of special education services which are provided in the Least Restrictive Environment (LRE), where, to the maximum extent appropriate, a student with a disability is educated with peers who are not disabled.” *Id.* at 15. Notably, Lakewood has not met targets related to LRE and has been found to be significantly

²⁷ See *N.J.S.A.18A:7F-55(g)*.

²⁸ The Superintendent also undermined that claim herself to the extent that she conceded that the Board could have sought voter approval for additional facilities but failed to do so. Initial Decision at 18.

disproportionate with regard to white students being placed in separate settings.²⁹ *Id.* at 14. The Comprehensive Report concludes that there is room in most of the buildings in the district to provide special education services. *Id.* at 26.

Lakewood’s response to the Comprehensive Report indicates that because nonpublic students are not entitled to receive individualized services with respect to disabilities, students with significant disabilities typically leave nonpublic schools to enroll in Lakewood’s public school system. Lakewood then becomes responsible for providing the intensive assistance that these students need, including the obligation of finding out-of-district placements at increased costs. Lakewood response at 1. Although Lakewood correctly notes that it is responsible for these students once they have enrolled in the district, as the Comprehensive Report concluded, creating special education programming in-district “could be a huge cost saver in the long run and best for students.” *Id.* at 26. The Assistant Commissioner concurs with the ALJ’s finding that the record contains “scant evidence of the district’s efforts to educate more of these children in-district, which could save Lakewood substantial sums and result in more aid.” *Initial Decision* at 101.

Conclusion

As stated by the Appellate Division, “the State has a continuing obligation to ‘keep SFRA operating at its optimal level.’” *Alcantara v. Allen-McMillan, supra*, 475 N.J. Super. at 71 (quoting *Abbott XX, supra*, 199 N.J. at 146). However, this principle does not give districts a

²⁹ Lakewood’s response to the Comprehensive Report takes issue with the disproportionality finding, arguing that the Department’s data does not take into account the total population of Lakewood students. Lakewood response at 25. However, that argument has previously been rejected by the Appellate Division. See *Bd. of Educ. of the Twp. of Lakewood v. N.J. Dep’t of Educ.*, No. A-0709-21, 2023 N.J. Super. Unpub. LEXIS 2155 (App Div. Nov. 27, 2023), *pending certification*.

blank check to spend money unwisely at the expense of the State’s taxpayers. In light of Lakewood’s tax-related choices that decreased revenue, the significant deficiencies in Lakewood’s spending practices, and Lakewood’s failure to control its transportation and special education costs, the Assistant Commissioner concludes that Lakewood’s failure to provide T&E to its students does not derive, in significant part, from the provisions of the SFRA.

Accordingly, the petition of appeal’s claim regarding the constitutionality of the SFRA as applied to Lakewood is hereby denied.

IT IS SO ORDERED.³⁰

A handwritten signature in black ink, appearing to read "Cary Booker", is enclosed in a thin black rectangular border.

ASSISTANT COMMISSIONER OF EDUCATION³¹

Date of Decision: April 1, 2024

Date of Mailing: April 1, 2024

³⁰ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.

³¹ Pursuant to *N.J.S.A. 18A:4-34*, this matter has been delegated to Assistant Commissioner Cary Booker.

STATE OF NEW JERSEY - DEPARTMENT OF EDUCATION
 DIVISION OF FINANCE AND BUSINESS SERVICES
 OFFICE OF SCHOOL FINANCE
 PROJECTED 2023-24 STATE SCHOOL AID
 PROJECTED ENROLLMENT REPORT

COUNTY: 29-OCEAN
 DISTRICT: 2520-LAKEWOOD TWP
 BUDGET: K-12

PRIOR YEAR RESIDENT ENROLLMENT		TOTAL	WEIGHTED ENROLLMENT CALCULATION		
October 2022		5,170.0 (A)	Enrollment with	Projected Enrollment	Projected Enrollment
October 2021		5,534.5 (B)	Base Weight	10/15/2023	Weighted Enrollment
October 2020		5,777.0 (C)			
October 2019		5,974.5 (D)			
October 2018		5,818.0 (E)	Half day Kindergarten	0 (Q-1)	0 (S-1)
October 2017		5,920.5 (F)	Elementary - Full K & Gr. 1-5	2,454 (Q-2)	2,454 (S-2)
			Middle School - Gr. 6-8	1,114 (Q-3)	1,159 (S-3)
			High School - Gr. 9-12	1,479 (Q-4)	1,701 (S-4)
			Total - Based on Grade Level		5,314 (S)
GROWTH RATE CALCULATION					
Sum of Items (A), (B) and (C)		16,481.5 (G)	At Risk Only	LEP Only	LEP & Low Inc
Sum of Items (D), (E) and (F)		17,713.0 (H)			
Item (G) Divided by three (3)		5,493.8 (I)	Projected Enrollment	Projected Enrollment	Projected Enrollment
Item (H) Divided by three (3)		5,904.3 (J)	by Student Characteristics		
Item (I) Divided by Item (J)		0.9305 (K)			
Third Root of Item (K)		0.976266 (L)	Half day Kindergarten	0 (T-1)	0 (V-1)
Item (L) Minus one (1)		-0.023734 (M)	Elementary - Full K & Gr. 1-5	986 (T-2)	1,172 (V-2)
Growth Rate - Item (M) as a %		-2.3734%(N)	Middle School - Gr. 6-8	704 (T-3)	320 (V-3)
			High School - Gr. 9-12	911 (T-4)	272 (V-4)
10/15/2022 RESIDENT ENROLLMENT		5,170.0 (O)	Subtotal	2,601 (T)	1,764 (V)
PROJ. 10/15/2023 RESIDENT ENROLLMENT (FTE)					
Item (O) Adjusted by the Growth Rate		5,047.0 (O-1)	Projected Enrollment	Projected Enrollment	Projected Enrollment
minus half of Item (Q-1)*			Weighted Enrollment	Weighted Enrollment	Weighted Enrollment
* 1/2 Day Kindergarten pupil is counted as half.			Additional Weights	Additional Weights	Additional Weights
			Above the Base	@ 0.50	@ (0.57000 + 0.125)
			Half day Kindergarten	0 (W-1)	0 (Y-1)
			Elementary - Full K & Gr. 1-5	562 (W-2)	815 (Y-2)
			Middle School - Gr. 6-8	417 (W-3)	231 (Y-3)
			High School - Gr. 9-12	597 (W-4)	217 (Y-4)
			Subtotal	1,576 (W)	1,263 (Y)
			Total Projected Weighted Enrollment	(S)+(W)+(X)+(Y)	8,215 (Z)

STATE OF NEW JERSEY - DEPARTMENT OF EDUCATION
 DIVISION OF FINANCE AND BUSINESS SERVICES
 OFFICE OF SCHOOL FINANCE
 PROJECTED 2023-24 STATE SCHOOL AID
 PREBUDGET YEAR AID TOTALS

COUNTY: 29-OCEAN
 DISTRICT: 2520-LAKEWOOD TWP
 BUDGET: K-12

GENERAL FUND	FY 2022-23 STATE AID	

Equalization Aid	\$14,958,782 (A-1)	
Special Education Categorical Aid	\$4,470,003 (A-2)	
Security Aid	\$2,186,868 (A-3)	
Transportation Aid	\$3,052,174 (A-4)	
Educational Adequacy Aid	\$0 (A-5)	
School Choice Aid	\$0 (A-6)	
Adjustment Aid	\$0 (A-7)	
Military Impact Aid	\$0 (A-8)	
Vocational Expansion Stabilization Aid	\$0 (A-9)	
Total K-12 SFRA Aid: [Sum of Items (A-1) thru (A-9)]		\$24,667,827 (AA-1)
SPECIAL REVENUE FUND		
Preschool Education Aid	\$2,479,216 (A-10)	
Preschool Education Expansion Aid	\$0 (A-11)	
Total Preschool Aid [Item(A-10) + Item(A-11)]		\$2,479,216 (AA-2)
PREBUDGET TOTAL ENTITLEMENT		\$27,147,043 (A)
[Item (AA-1) plus Item(AA-2)]		
BUDGETED LOCAL SHARE FOR THE PREBUDGET YEAR		\$109,483,316 (B)
2022-23 General Fund Tax Levy		
PREBUDGET YEAR ADEQUACY SPENDING:		
Items (A-1) thru (A-3) + (A-7) + (A-9) + (B)		\$131,098,969 (C)

STATE OF NEW JERSEY - DEPARTMENT OF EDUCATION
 DIVISION OF FINANCE AND BUSINESS SERVICES
 OFFICE OF SCHOOL FINANCE
 PROJECTED 2023-24 STATE SCHOOL AID
 EQUALIZATION AID

COUNTY: 29-OCEAN
 DISTRICT: 2520-LAKEWOOD TWP
 BUDGET: K-12

Page EQA

ADEQUACY BUDGET CALCULATION:		LOCAL SHARE CALCULATION - REGULAR DISTRICT	
***** REGULAR EDUCATION *****			
Projected Weighted Base Enrollment	5,314 (A)	Equalized Valuation (10/1/2022)	15,137,720,062 (N)
Total Base Cost		District Income (2020)	2,483,480,657 (O)
- @ \$13,181 per pupil		Equalized Val. x 0.012805233 / 2	96,921,016 (P-1)
times GCA 0.96780 times Item(A)	67,788,423 (B)	District Income x 0.051068829 / 2	63,414,224 (P-2)
Projected Weighted At-Risk Only Enrollment	1,576 (C)	Local Fair Share : Item(P-1) + Item(P-2)	160,335,240 (P)
Total At-Risk Only Cost		LOCAL SHARE - COUNTY VOCATIONAL SCHOOL DISTRICT	
- @ \$13,181 per pupil		County Local Shares	1,425,692,707 (Q)
times GCA 0.96780 times Item(C)	20,104,357 (D)	County Adequacy Budgets	1,157,707,717 (R)
Projected Weighted LEP Only Enrollment	62 (E)	Item(Q) / Item(R)	1.2315 (S)
Total LEP Only Cost		Local Share	0 (T)
- @ \$13,181 per pupil		Item(S) x Item(M) - for Voccs Only	
times GCA 0.96780 times Item(E)	790,907 (F)	EQUALIZATION AID CALCULATION	
Projected Weighted combined LEP & Low Income Enrollment	1,263 (G)	Adequacy Budget [Item(M)]	115,595,261 (U)
Total Combined LEP & Low Income Cost		Local Fair Share [Item (P) or (T)]	160,335,240 (V)
- @ \$13,181 per pupil		EQUALIZATION AID	
times GCA 0.96780 times Item(G)	16,111,550 (H)	[MAX(0,(Item(U) less Item(V)))]	\$0 (W)
***** SPECIAL EDUCATION *****			
Special Education Enrollment	802 (I)		
- FTE Resident Enrollment @ 15.90%			
Total Special Education Cost			
- @ \$20,668 per pupil			
times GCA 0.96780			
times Item (I) times 2/3	10,694,665 (J)		
Speech Only Enrollment	81 (K)		
- FTE Resident Enrollment @ 1.610%			
Total Speech Only Cost			
- @ \$1,344 per pupil			
times GCA 0.96780			
times Item (K)	105,359 (L)		
ADEQUACY BUDGET -			
Items (B) + (D) + (F) + (H) + (J) + (L)	\$115,595,261 (M)		

STATE OF NEW JERSEY - DEPARTMENT OF EDUCATION
 DIVISION OF FINANCE AND BUSINESS SERVICES
 OFFICE OF SCHOOL FINANCE
 PROJECTED 2023-24 STATE SCHOOL AID
 CATEGORICAL AIDS

COUNTY: 29-OCEAN
 DISTRICT: 2520-LAKEWOOD TWP
 BUDGET: K-12

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SPECIAL EDUCATION CATEGORICAL AID

Projected Special Education Enrollment
 - FTE Resident Enrollment @ 15.900%

802 (A)

Total Special Education Categorical Aid

- @ \$20,668 per pupil
 times GCA 0.96780
 times Item (A) times 1/3

5,347,332 (B)

SECURITY AID -

Projected FTE Resident enrollment

5,047.0 (C-1)
 459,277 (C)

- @ \$91 per pupil times Item (C-1)

Projected Low Income enrollment (FTE)

4,365.0 (D-1)
 86.4800% (D-2)

Low Income Concentration Rate

Per Pupil \$: if Item (D-2) >=40%, \$549.00

Item (D-1) times Item (D-3)

\$549.00 (D-3)
 2,396,385 (D)

Total Security Aid

\$2,763,710 (E)

[Item (C) + (D)] times GCA 0.96780

STATE OF NEW JERSEY - DEPARTMENT OF EDUCATION
DIVISION OF FINANCE AND BUSINESS SERVICES
OFFICE OF SCHOOL FINANCE
PROJECTED 2023-24 STATE SCHOOL AID
TRANSPORTATION AID

COUNTY: 29-OCEAN
DISTRICT: 2520-LAKEWOOD TWP
BUDGET: K-12

Page TRN

REGULAR PUPILS ELIGIBLE FOR TRANSPORTATION

REGULAR PUPILS AVERAGE DISTANCE

REGULAR + REG. SPECIAL + NONPUBLIC TRANS + NONPUBLIC AID IN LIEU
2,137.0 + 0.0 + 23,229.0 + 2,211.0 = 27,577.0 (A-1) 3.6 (A-2)

BA1 = (\$509.58 x (A-1)) + (\$13.94 x (A-1) x (A-2))

BA1 = (\$509.58 x 27,577.0) + (\$13.94 x 27,577.0 x 3.6)

BA1 = (\$14,052,688) + (\$1,383,924)

BA1 = \$15,436,612 (A)

SPECIAL EDUCATION PUPILS ELIGIBLE FOR TRANSPORTATION

SPECIAL EDUCATION PUPILS AVERAGE DISTANCE

1,014.0 (B-1)

4.2 (B-2)

BA2 = (\$3,551.93 x (B-1)) + (\$6.78 x (B-1) x (B-2))

BA2 = (\$3,551.93 x 1,014.0) + (\$6.78 x 1,014.0 x 4.2)

BA2 = (\$3,601,657) + (\$28,875)

BA2 = \$3,630,532 (B)

TRANSPORTATION AID

Item (A) plus Item (B)

\$19,067,144 (C) TRANSPORTATION AID

STATE OF NEW JERSEY - DEPARTMENT OF EDUCATION
 DIVISION OF FINANCE AND BUSINESS SERVICES
 OFFICE OF SCHOOL FINANCE
 PROJECTED 2023-24 STATE SCHOOL AID
 PRESCHOOL EDUCATION AID

COUNTY: 29-OCEAN
 DISTRICT: 2520-LAKEWOOD TWP
 BUDGET: K-12

District Factor Group	(A)
Concentration Rate of Low Income Enrollment	0.86480 (B)
Projected In-District Preschool Enrollment Funded	252.0 (C)
Projected Preschool Education Aid - Part I @ (\$14,738 per pupil X 0.96780 GCA) times Item(C)	3,594,276 (D)
Projected Licensed Child Care Provider Preschool Enrollment Funded	15 (E)
Projected Preschool Education Aid - Part II @ (\$16,565 per pupil X 0.96780 GCA) times Item(E)	240,480 (F)
Projected State Head Start Enrollment Funded	0 (G)
Projected Preschool Education Aid - Part III @ (\$9,153 per pupil X 0.96780 GCA) times Item(G)	0 (H)
Projected Number of Start Up Classes	0 (I)
Projected Preschool Education Aid - Part IV @ \$0 per class times Item(I)	0 (J)
PRESCHOOL EDUCATION AID Items (D)+(F)+(H)+(J)	\$3,834,756 (L)

STATE OF NEW JERSEY - DEPARTMENT OF EDUCATION
DIVISION OF FINANCE AND BUSINESS SERVICES
OFFICE OF SCHOOL FINANCE
PROJECTED 2023-24 STATE SCHOOL AID
CHAPTER LAW 67

COUNTY: 29-OCEAN
DISTRICT: 2520-LAKEWOOD TWP
BUDGET: K-12

ADEQUACY SPENDING COMPARISON:

Prebudget Year Spending:	BUD Item (C)	131,098,969 (A-1)	If Item(D-1) = YES or (D-3) = YES Not subject to reduction	NA (E-1)
Projected Adequacy Spending:	EQA (M) + CAT (B) + CAT (E)	123,706,303 (A-2)	If Item (D-2) = YES : Min[Item (B),Item (A-3)] times (-76%)	NA (E-2)
Amount Over Adequacy:	MAX[0,(Item (A-1) minus (A-2))]	7,392,666 (A-3)	If Item (D-4) = YES : Item (B) times (-76%)	NA (E-3)
Amount Under Adequacy:	MAX[0,(Item (A-2) minus (A-1))]	0 (A-4)		

Spending as % of Adequacy:
Item (A-1) divided by (A-2)

105.976% (A-5) AID INCREASE CALCULATION: If Item(B)< 0

STATE AID DIFFERENTIAL CALCULATION:

Uncapped Aid:	EQA(W) + CAT(B) + CAT(E) + TRN(C)	27,178,186 (B-1)	Amount below Uncapped Aid: Max[0, -Item (B)]	2,510,359 (F-1)
Prebudget Year Aid:	BUD(A-1) thru (A-4) + BUD(A-7)	24,667,827 (B-2)	Statewide Total State Aid Differential: Sum of Item (F-1) for all districts	1,301,383,574 (F-2)
State Aid Differential:	Item (B-2) minus Item (B-1)	-2,510,359 (B)	District's Proportionate Share: Item (F-1) divided by Item (F-2)	0.192899% (F)
2022 DCA TAX RATE*			Statewide Funds Available for State Aid Increase: Total Aid Reductions Total Additional State Aid Item (G-1) plus Item (G-2)	157,676,236 (G-1) 831,375,280 (G-2) 989,051,516 (G)
Total Tax Rate for the Municipality		1.560 (C-1)	Item (F) times Item (G)	1,907,870 (H)
State Average Tax Rate		2.021 (C-2)		
Municipality Tax Rate as % of State Average		77.190% (C)		

TOTAL CHANGE BY CATEGORY:**

Equalization Aid	0 (I-1)
Special Education Categorical Aid	877,329 (I-2)
Security Aid	576,842 (I-3)
Transportation Aid	453,699 (I-4)
Adjustment Aid	0 (I-5)
Total	1,907,870 (I)

CRITERIA FOR AID REDUCTION CALCULATION: If Item (B)>0

SDA Districts: if Item(C-1) > Item(C-2) & Item(A-4)>0 NA (D-1)
 SDA Districts: if Item(C-1) > Item(C-2) & Item(A-3)>0 NA (D-2)
 Non-SDA Districts: if Item(A-5)<90% & Item(C)>110% NA (D-3)
 None of the Above NA (D-4)

* Total equalized rates are calculated using Department of Community Affairs Property Tax Tables.
 ** Increase or Reduction is calculated and applied to each category according to N.J.S.A. 18A:7F-68.

STATE OF NEW JERSEY - DEPARTMENT OF EDUCATION
 DIVISION OF FINANCE AND BUSINESS SERVICES
 OFFICE OF SCHOOL FINANCE
 PROJECTED 2023-24 STATE SCHOOL AID
 NET STATE AID SUMMARY

COUNTY: 29-OCEAN
 DISTRICT: 2520-LAKENWOOD TWP
 BUDGET: K-12

Page NET

GENERAL FUND AID:		SPECIAL REVENUE FUND AID:	
Equalization Aid [BUD (A-1) + CH67 (I-1)]	14,958,782 (A-1)	Preschool Education Aid [PEA (M) or (L) for Universal or (G) for ECPA/ELLI]	3,834,756 (B-1)
Educational Adequacy Aid [BUD (A-5)]	0 (A-2)	SUBTOTAL	\$3,834,756 (B)
School Choice Aid [CHOICE (N)]	0 (A-3)	LESS:	
Transportation Aid [BUD (A-4) + CH67 (I-4)]	3,505,873 (A-4)	Assessment for Debt Service on SDA funding*	\$639 (C)
Special Education Categorical Aid [BUD (A-2) + CH67 (I-2)]	5,347,332 (A-5)	SUBTOTAL ADJUSTED [Item(A) + (B) - (C)]	\$30,409,814 (D)
Security Aid [BUD (A-3) + CH67 (I-3)]	2,763,710 (A-6)	DEBT SERVICE FUND AID:	
Adjustment Aid [BUD (A-7) + CH67 (I-5)]	0 (A-7)	Debt Service Aid, Type 2	682,029 (E)
Military Impact Aid [MIL (D)]	0 (A-8)	ADDITIONAL AID PAYABLE ON BEHALF OF DISTRICT:	
		Debt Service Aid, Type 1	0 (F)
SUBTOTAL	\$26,575,697 (A)		
		GRAND TOTAL AID PAYABLE TO AND ON BEHALF OF DISTRICT:	
		Total Aid	\$31,091,843 (G)

* This assessment must be budgeted as Capital Outlay expenditure for Assessment for Debt Service on SDA Funding (line 76210) in FY24. It will be shown in your FY24 payment schedule as a deduction from FY24 revenue.

STATE OF NEW JERSEY - DEPARTMENT OF EDUCATION
 DIVISION OF FINANCE AND BUSINESS SERVICES
 OFFICE OF SCHOOL FINANCE
 PROJECTED 2023-24 STATE SCHOOL AID
 PL 2000, c. 72 SECTION 9: DEBT SERVICE AID

COUNTY: 29-OCEAN
 DISTRICT: 2520-LAKEWOOD TWP
 BUDGET: K-12

SECTION 9 DEBT SERVICE AID, TYPE 2

(1) PROJECT ID	(2) BOND ID	(3) 2023-24 PROJECT DEBT SERVICE	(4) ELIGIBLE COSTS FOR PROJECT	(5) PRINCIPAL OF BOND/LP FOR PROJECT + "OTHER FUNDING"	(6) DIST. AID % (40% MINIMUM)	(7) 2021-22 AID ADJUSTMENT	(8) TOTAL PROJECT AID FROM ISSUANCE $((3) \times ((4) / (5)) \times (6)) + (7)$
2520050141000	2002543	\$639,512	\$9,363,750	\$9,363,750	40.0000%	0	\$255,805
2520070142000	2002543	\$296,895	\$4,347,145	\$4,347,145	40.0000%	0	\$118,758
2520080141000	2002543	\$85,166	\$1,247,000	\$1,247,000	40.0000%	0	\$34,066
2520080142000	2002543	\$173,809	\$2,419,081	\$2,544,921	40.0000%	0	\$66,086
2520083142000	2002543	\$249,624	\$3,655,000	\$3,655,000	40.0000%	0	\$99,850
2520084141000	2002543	\$173,986	\$2,547,500	\$2,547,500	40.0000%	0	\$69,594
2520084142000	2002543	\$122,053	\$1,787,100	\$1,787,100	40.0000%	0	\$48,821
2520090141000	2002543	\$118,739	\$1,738,575	\$1,738,575	40.0000%	0	\$47,496
2520090142000	2002543	\$154,777	\$2,266,250	\$2,266,250	40.0000%	0	\$61,911

(A): TOTAL SECTION 9 DEBT SERVICE AID TYPE 2 = \$802,387

STATE OF NEW JERSEY - DEPARTMENT OF EDUCATION
DIVISION OF FINANCE AND BUSINESS SERVICES
OFFICE OF SCHOOL FINANCE
PROJECTED 2023-24 STATE SCHOOL AID
PL 2000, c. 72 SECTION 10: DEBT SERVICE AID

COUNTY: 29-OCEAN
DISTRICT: 2520-LAKEWOOD TWP
BUDGET: K-12

(B) TOTAL SECTION 9 AND 10 DEBT SERVICE AID TYPE 1	=	\$0
(C) TOTAL SECTION 9 AND 10 DEBT SERVICE AID TYPE 2	=	\$802,387
(D) TOTAL TYPE 1 FY23 ADJUSTMENT*	=	\$0
(E) TOTAL TYPE 2 FY23 ADJUSTMENT*	=	\$0
(F) TOTAL TYPE 1: ITEM (B) TIMES 0.85 WITH FY23 ADJUSTMENT	=	\$0
(G) TOTAL TYPE 2: ITEM (C) TIMES 0.85 WITH FY23 ADJUSTMENT	=	\$682,029

*FY23 ADJUSTMENT PRORATED BY .85

Unusual Revenues and Appropriations

Line Number	Source	Amount	Explanation
495	State Aid	98,368,439	Additional state aid needed to ensure TandE