

New Jersey Commissioner of Education
Final Decision

In the Matter of the Lakewood School District
Board of Education, Ocean County

The record of this matter, the June 12, 2026 Order of Administrative Law Judge Susan M. Scarola, movants' June 15, 2026 request for interlocutory review, and the parties' and movants' additional submissions in response thereto have been reviewed and considered.

On January 14, 2026, the Commissioner of the New Jersey Department of Education (Department) filed an Order to Show Cause (OTSC) why an administrative order placing the Lakewood Township School District under full State intervention should not be executed. The Lakewood Township Board of Education (Board) opposed the action, and the matter was transmitted to the Office of Administrative Law (OAL) as a contested case.

On May 15, 2026, movants Paul L. Tractenberg, Esq., Arthur H. Lang, Esq., and Melvin L. Wyncs filed a motion for leave to participate in the proceedings, pursuant to *N.J.A.C. 1:1-16.6*. In their motion, movants state that they "seek to participate on behalf of Lakewood public school students and their parents and guardians whose educational interests may be directly and substantially affected by the outcome of this proceeding." They further note that Tractenberg and Lang served as co-counsel for Lakewood students and parents/guardians in the *Alcantara*¹

¹ *Alcantara v. Allen-McMillan*, 475 N.J. Super. 58 (App. Div. 2023) (*Alcantara I*) and *Alcantara v. Allen-McMillan*, 482 N.J. Super. 424 (App. Div. 2025) (*Alcantara II*).

matter, and that Wyns served as the school funding expert in that case. Movants indicate that they “seek participation for the limited purpose of assisting in the development of a complete and informed record concerning the impact of the [Department’s] petition upon students attending the public schools of Lakewood.” They argue that their participation may assist by “presenting legal and factual issues affecting Lakewood’s public school students; addressing educational impacts and constitutional concerns; providing perspectives that may not otherwise be fully represented by the existing parties; and helping ensure a complete administrative record.”

In their statement in support of their motion, movants reference their work in the *Alcantara* matter that led to the Appellate Division’s decision that Lakewood students have been denied a thorough and efficient education (T&E).² They go on to state, “We have, however, been unable to assure them an adequate remedy for that profound violation. That is because we have been unable to persuade the relevant decision makers that the School Funding Reform Act’s (SFRA) failure to ensure adequate funding has been the effective cause of Lakewood’s inability to provide T&E. We still deeply believe that to be the case, however, and that underlies our motion for leave to participate in this matter.” Movants acknowledge that “this proceeding is not the vehicle for putting such a remedy in place, but we are concerned that a focus on who should manage the Lakewood schools, as if that by itself can cure Lakewood’s educational problems, will deter the state’s education authorities from addressing the real issues.” According to movants, “the record is clear and undeniable that Lakewood’s educational problems cannot

² *Alcantara I, supra*.

be remedied by improved management. . . [W]hat is required is adequate funding every year that meets the *Abbott* standards of being certain, predicable and guaranteed.” Movants write, “[I]n our opinion, the central question we should be addressing is whether Lakewood had adequate assured resources to provide its students with T&E. Only if adequate resources are assured, does the question of who is responsible for converting those resources into meaningful educational opportunities become relevant.” Respondents close by indicating, “In our role as participants, our strong urging is for [Administrative Law Judge (ALJ)] Scarola to dismiss the State’s effort to take over the Lakewood school district unless takeover is coupled with adequate assured funding pursuant to a modified SFRA or otherwise.”

The Department opposed the motion to participate, arguing that movants sought “to once again assert a claim that the [SFRA] is unconstitutional as applied to Lakewood.” They contend that movants “should not be permitted to relitigate the SFRA issue at the OAL after receiving a resounding decision to the contrary at the Appellate Division. Permitting them to do so would not ‘add constructively to the case’ and would only serve to cause ‘undue delay [and] confusion.’” The Department also asserted that movants “seek participation to advance remedies outside this tribunal’s jurisdiction” when they urge the tribunal to recommend State intervention only if it is “coupled with adequate assured funding pursuant to a modified SFRA.” According to the Department, “[T]he issue in this case is whether intervention is a reasonable remedy to address Lakewood’s failure to provide T&E to its students. Thus, modifying the SFRA is not an issue at hand.” Moreover, “this tribunal has no authority to alter or amend an act of the Legislature.” Finally, the Department argues that movants “do not represent any parent or student, nor any groups of the same” and the “application is devoid of any explanation of what

two attorneys and a witness from a prior litigation would bring to the table to add constructively to the case, other than introducing legal arguments that have already been rejected by the appellate courts.”

In reply to the Department’s opposition, movants argue that they do not attempt to relitigate anything but only to have the ALJ “consider whether changing managers without changing the resources they have to manage is likely to achieve T&E” for Lakewood’s students. They indicate that they do not seek to have the ALJ impose any remedy, and that they believe that their time representing Lakewood students and parents/guardians “have provided [them] with important insights about local management of [Lakewood] schools, state oversight and the role of adequate educational resources.”

The Board took no position on the merits of the motion but submitted a letter to object and respond to statements made in the Department’s opposition brief. Specifically, the Board argues that it is not “an accepted fact that Lakewood is currently not providing its students with a thorough and efficient education,” that Lakewood disputes this allegation, and the Department “retains the burden of establishing that fact as part of its effort to obtain full state intervention.” The Board contends that it was not a party to the *Alcantara* matter and “thus had no opportunity to address this issue before the Appellate Division;” additionally, the court’s conclusion pertained to the 2014 to 2019 school years rather than the education the Board is providing to students at the current time.

On June 11, 2026, the ALJ denied movants’ motion to participate, finding that they “seek to re-litigate issues concerning the SFRA that have already been decided by the court. These issues are not the issue presented here, namely, whether an order should be entered permitting

State intervention in Lakewood's school district." Order Denying Motion to Participate, at 5. The ALJ concluded, "To permit the participation of movants in this matter would not add constructively to the case and would only create delay or cause confusion of the issues that are to be considered in this intervention proceeding." *Id.* at 5-6. More specifically, the ALJ indicated, "Whether the SFRA is the cause of the alleged failure of the district to provide a thorough and efficient education has been settled by the court in *Alcantara II*. Nothing would be gained by permitting those arguments to be renewed or re-presented here." *Id.* at 6.

Movants sought interlocutory review of the ALJ's Order, pursuant to N.J.A.C. 1:1-14.10. Movants argue that the ALJ made several substantial errors in the Order. Movants contend that the ALJ mischaracterized the Appellate Division's decision in *Alcantara I* when she indicated that the court found that the SFRA was not unconstitutional as applied to Lakewood, but that an expedited comprehensive review of the district was necessary because information concerning the lack of a thorough and efficient education in the record was outdated. Movants posit that the ALJ may have conflated the decisions in *Alcantara I* and *Alcantara II* and argue that "[w]ithout an accurate understanding of [the decisions], it will be impossible for the ALJ to meaningfully address in the current proceeding what should be central to its thrust – to ensure that Lakewood's public-school students get a full and expeditious remedy for the violation of their fundamental constitutional rights to T&E."

Movants also contend that the ALJ uncritically accepted the Department's position that movants only want to re-litigate a settled issue. They assert that their years of experience representing Lakewood students demonstrate that they have a significant interest in the outcome of the proceedings, and that there are positive benefits to their participation, such that

it is unclear to them how the ALJ concluded that their participation could cause confusion in the ALJ's consideration of the ultimate issue of achieving T&E for Lakewood's students.

In opposition to the request for interlocutory review, the Department argues that movants have failed to meet the standard for granting same, as they have not identified how interlocutory review would have an impact on the status of the parties, the scope of issues, presentation of evidence, or the decisional process, noting that the basis for movants' participation is "only to raise already-settled issues and the parties in the matter are capable of representing the interests at stake," while interlocutory review requires "extraordinary circumstances" and "grave damage or injustice." The Department also argues that movants "do not represent any parent or student, nor any groups of the same. Nor do Movants identify what they could add constructively to this case that the parties in interest cannot." According to the Department, "mere disagreement with the ALJ's ruling is not a basis for interlocutory review."

The Department contends that movants' arguments regarding the alleged errors in the ALJ's Order lack merit. The Department suggests that "the ALJ may have inadvertently cited *Alcantara I* instead of *Alcantara II* for the Appellate Division's holding that mismanagement by those in charge of Lakewood were the cause of its failure to provide T&E, rather than the SFRA," but "the legal holding is the same and in no way discredits the reasoning set forth in the ALJ's sound decision." The Department also asserts that the ALJ did not err in "describing the SFRA's constitutionality as a settled issue" because "the Appellate Division explicitly rejected Movants' funding claim, noting that Lakewood received all of the SFRA funding it qualified for in each year, yet still failed to provide T&E due to the district's own choices and mismanagement," such that "the ALJ appropriately relied on that holding." The Department argues that "the SFRA is not even

an issue before the ALJ. . . . The issue before the ALJ is whether State intervention is a reasonable remedy to address the lack of T&E in Lakewood.”

Additional submissions from movants largely reiterate or restate the arguments described above. Movants continue to argue that they are not attempting to relitigate the constitutionality of the SFRA. They indicate that the State has not “quantified how much money State management will save” or “explained whether, under its management, [Lakewood] would have adequate funding to provide T&E without the continuation of annual state loans.” Movants acknowledge that introducing those elements would complicate the proceedings, but they argue that “remedying the denial of T&E to [Lakewood] students, rather than keeping the process simple” should be what is required, and their participation would add that benefit. They express concern that the proceedings will be about “whether State or local management is better, without a direct connection to whether that issue alone can provide the students with a full T&E remedy.” They question the Board’s statement that it is not seeking to relitigate the *Alcantara* matter, and assert that they should be permitted to participate to help ensure that Lakewood’s students receive T&E.

Upon review, the Assistant Commissioner affirms the ALJ’s decision denying movants’ motion to participate. In reviewing a motion to participate, *N.J.A.C. 1:1-16.6(b)* requires the judge to consider “whether the participant’s interest is likely to add constructively to the case without causing undue delay or confusion.” Here, although movants contend that they are not attempting to relitigate the constitutionality of the SFRA as applied to Lakewood, the position they articulate throughout their submissions is that a lack of adequate funding is the reason that Lakewood’s students are not receiving T&E. Movants’ submissions repeatedly reference the

resources and funding available to the district, and they urge the ALJ to “dismiss the State’s effort to take over the Lakewood school district unless takeover is coupled with adequate assured funding pursuant to a modified SFRA or otherwise.” While they characterize their interest in the proceedings as an attempt to ensure the delivery of T&E to Lakewood’s students, their arguments make clear that they believe the method to do so is to alter the funding available to Lakewood. As the ALJ correctly noted, that issue is outside the scope of these proceedings. The Assistant Commissioner therefore agrees with the ALJ that allowing movants to participate would create delay and confusion.

Accordingly, the motion to participate is denied.

IT IS SO ORDERED.

A handwritten signature in blue ink, consisting of a stylized, cursive 'K' followed by a horizontal line extending to the right.

ASSISTANT COMMISSIONER OF EDUCATION³

Date of Decision: August 6, 2026
Date of Mailing: August 6, 2026

³ Pursuant to *N.J.S.A. 18A:4-34*, this matter has been delegated to Assistant Commissioner Katrina McCombs.