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Lakewood, New Jersey  
08701

December 23, 2016

Kimberly Harrington, Acting Commissioner  
New Jersey Department of Education  
100 Riverview Plaza  
PO Box 500  
Trenton, NJ 08625

**Re: Lakewood School District**

Dear Acting Commissioner Harrington,

I am a member of the Lakewood Township Board of Education and previously served as Board of Education President. As you may know, the Lakewood School District is comprised of approximately 5,000 in-District students, along with approximately 25,000 students who attend private schools in the area. A large percentage of these nonpublic students require special education or related services, which includes auxiliary and remedial services under Chapters 192 and 193 for such things as reading, writing, math and ESL. When Chapter 192 and 193 services are requested by a student's parents, it is imperative that the student be evaluated for eligibility as soon as possible so that, if the student is eligible, the services can be provided without delay. A delay of even a matter of days can result in the student falling far behind his or her peers in their educational progress.

In fact, as Chairman of the Board's non-public committee I worked with the Lakewood Board of Education attorney to make sure that we were complying with all of the regulatory timelines to complete these evaluations. Our attorney wrote an opinion letter to the Administration expressing concern that State-mandated procedures and requirements concerning eligibility evaluations for Chapter 192 and 193 services have not been adhered to during, at least, the 2015-2016 school year, particularly with respect to the time for providing such evaluations and whether evaluations were granted by the District at parental request.

I was greatly concerned, then, when I reviewed the most recent Guidelines for Auxiliary and Remedial Services (Chapters 192 and 193) for Nonpublic School Students, which were released this month by the Department of Education, Office of Nonpublic School Services. These guidelines have been significantly modified from prior years, particularly with respect to student eligibility determinations. Previously, the guidelines required that in order to request

Chapter 192 and/or 193 services for their child, a parent must sign and submit a 407-1 student application form. The district receiving the form was then required to verify eligibility and sign the disposition section of the application, and transmit the application to the Chapter 192 and 193 service provider within five working days after receipt, without exception. This five-day timeline ensured that student applications were reviewed on an expedited basis so that much needed services could be provided to eligible students.

The newly released guidelines address eligibility on pages 15-16, and the five-day timeline to review 407-1 forms for eligibility remains a requirement. However, the new guidelines include an exception to the five-day limit in the form of a footnote, which states that “[d]istricts handling over 10,000 services may exceed the deadlines in this timeline.” No other guidance regarding the review of student applications is provided. This exception greatly concerns me for a number of reasons.

First, the exception is open-ended. While districts with less than 10,000 services must still adhere to the five-day deadline for reviewing student eligibility, there is no deadline on those districts providing more than 10,000 services. This oversight could conceivably result in student applications being “in limbo” for months at a time or even not being reviewed at all, since there is no requirement that an affected district to do so, nor is there any apparent penalty should eligibility applications not be acted upon within any amount of time. This would obviously hurt the children who greatly need services but who have yet to be deemed eligible for them.

Second, since there is no motivation for a district to review 407-1 forms within any period of time, students may be denied services or have delayed access to them, resulting in a failure to provide them with a free and appropriate education (“FAPE”) as guaranteed by law. This could have significant financial consequences on a school district should the parents of those children decide to file for due process or otherwise challenge the district’s failure to properly educate their child.

Finally, the Lakewood School District is, to my knowledge, the only New Jersey school district providing more than 10,000 services under Chapters 192 and 193. It appears that this exception is targeted to Lakewood alone, since no other district in the State would be subject to the exception and must provide their students with an eligibility determination within five days of receiving the 407-1 form. It is disheartening that Lakewood would be singled out and permitted to essentially harm its own students by not evaluating their eligibility for services in an expedient period of time.

With this exception in place, the process of filling out the required forms and submitting them for review could take months, when the intent is to have it take a matter of days. It is unacceptable that the five-day limit has been removed only for Lakewood, which has a large concentration of students who need services the most and who will now either wait an undefined period of time before getting those services or not get them at all.

In fact, we are already seeing this in the District as District staff have followed these guidelines and taken advantage of this footnote exception and are now contributing to a situation that, in view, harms our students and results in significantly delayed evaluations and/or services. This is clearly not what Chapter 192 and 193 services were designed to do – instead, it is just the opposite. To this point, I am aware that there were hundreds of these 407-1 applications that were submitted in October and November of this year that were not fully processed for all services for over four weeks. Given the impending holiday recess it is clear that evaluations for these students will be delayed for months. This, in turn, will significantly delay potential services. When I questioned this at our last meeting I was told by the Administration that Lakewood is exempt from the five-day rule given the volume of students. This is frankly unacceptable and intolerable.

I respectfully request that you review the guidelines and immediately eliminate the exception for determining eligibility under Chapters 192 and 193 applicable to districts handling more than 10,000 services. Lakewood non-public children should not be treated any differently than any other children throughout the State. Anything else will negatively impact the students of our district.

I look forward to your response.

Respectfully,

*Isaac Zlatkin*

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c: Laura Winters, Supt.  
Board of Education c/o Regina Robinson  
Michael Azzara, Monitor  
David Shafter, Monitor  
Glenn Forney, DOE