

WEISSMAN & MINTZ LLC

ATTORNEYS AT LAW

ONE EXECUTIVE DRIVE
SUITE 200
SOMERSET, NEW JERSEY 08873
(732) 563-4565
FAX (732) 560-9779

www.weissmanmintz.com

90 BROAD STREET
SUITE 254
NEW YORK, NEW YORK 10004
(212) 509-0918

JOEL N. WEISSMAN (1957-1998)
MARK ROSENBAUM (1955-2002)

STEVEN P. WEISSMAN
ANNMARIE PINARSKI
WILLIAM G. SCHIMMEL
IRA W. MINTZ
FLAVIO L. KOMUVES
JASON L. JONES
JUSTIN SCHWAM
CHARLETTE MATTS
PATRICIA A. VILLANUEVA

Of Counsel
ROSEMARIE CIPPARULO
ADAM M. GORDON
YAEL BROMBERG

Counsel
DAVID A. MINTZ*

* ADMITTED TO PRACTICE ONLY IN NEW YORK



May 11, 2020

Via Email SupremeCTBrief.mbx@njcourts.gov

Heather J. Baker, Clerk
Supreme Court of New Jersey
Hughes Justice Complex
25 W. Market Street, 8th Floor, North Wing
Trenton, NJ 08625-0970

**Re: In re Renewal Application of TEAM Academy Charter School, et al.
Dkt. No. A-45-19
Our File No. WM-20-28**

Dear Ms. Baker:

This firm represents the American Federation of Teachers, AFL-CIO, AFT New Jersey, AFL-CIO, and Newark Teachers Union, AFT, AFL-CIO (collectively "Applicants"), in connection with Applicants' motion for leave to appear as *amici curiae* in support of petitioner Education Law Center in the above-referenced matter.

Per instructions from the Court, Applicants' notice of motion, brief and supporting papers are being filed with the Court via email. It is anticipated that hard copies of same will be filed with the Court on or before May 18, 2020. All parties have consented to email service. Kindly charge our court account 140552 for any fees associated with this filing.

Respectfully Submitted,

WEISSMAN & MINTZ LLC

s/Justin Schwam
Justin Schwam, Esq.

Enc.
cc: Certificate of Service list

SUPREME COURT OF NEW JERSEY

IN RE RENEWAL APPLICATION OF
TEAM ACADEMY CHARTER SCHOOL

IN RE RENEWAL APPLICATION OF
ROBERT TREAT ACADEMY CHARTER
SCHOOL

IN RE RENEWAL APPLICATION OF
NORTH STAR ACADEMY CHARTER
SCHOOL OF NEWARK

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF MARIA
L. VARISCO-ROGERS CHARTER
SCHOOL

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF
UNIVERSITY HEIGHTS CHARTER
SCHOOL

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF GREAT
OAKS LEGACY CHARTER SCHOOL

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF NEW
HORIZONS COMMUNITY
CHARTER SCHOOL

DOCKET NO.: A-45-19

ON CERTIFICATION FROM A
FINAL JUDGMENT OF THE
SUPERIOR COURT OF NEW JERSEY,
APPELLATE DIVISION, DOCKET NOS.

A-3416-15T1

A-4384-15T1

A-4385-15T1

A-4386-15T1

A-4387-15T1

A-4388-15T1

A-4398-15T1

CIVIL ACTION

Sat Below: Judges Alvarez,
Nugent, and Mawla, J.J.A.D.

**NOTICE OF MOTION FOR
LEAVE TO APPEAR AS
AMICUS CURIAE**

Justin Schwam, Esq. (NJ ID No. 026502011)

WEISSMAN & MINTZ LLC

1 Executive Drive, Suite 200

Somerset, New Jersey 08873

*Attorneys for Proposed Amici
American Federation of Teachers,
AFL-CIO; AFT New Jersey, AFL-
CIO; Newark Teachers Union, AFT,
AFL-CIO*

TO: See attached Service List and Certificate of Service

COUNSEL:

PLEASE TAKE NOTICE that the American Federation of Teachers, AFL-CIO ("AFT"), AFT New Jersey, AFL-CIO ("AFTNJ"); and Newark Teachers Union, AFT, AFL-CIO ("NTU") (collectively "Applicants"), by and through counsel, hereby apply to this Court pursuant to R. 1:13-9 for an order granting Applicants the right to appear as *amici curiae* in the above captioned matter for purposes of filing a brief and participating in oral argument.

In support of this motion, Applicants rely on the brief and certification that accompany this motion.

Respectfully submitted,

WEISSMAN & MINTZ LLC

Dated: May 11, 2020

By: s/Justin Schwam
Justin Schwam

SERVICE LIST

Heather J. Baker, Esq.
Clerk, Supreme Court of New Jersey
Hughes Justice Complex, 8th Floor
25 West Market Street
P.O. Box 970
Trenton, New Jersey 08625
(via SupremeCTBrief.mbx@njcourts.gov)

David G. Sciarra, Esq.
Elizabeth Athos, Esq.
Jessica A. Levin, Esq.
Education Law Center
60 Park Place, Suite 300
Newark, NJ 07102
(via email by consent: DSciarra@edlawcenter.org,
EAthos@edlawcenter.org, JLevin@edlawcenter.org)
Attorneys for Appellant Education Law Center

Michael S. Stein, Esq.
Brendan N. Walsh, Esq.
Ranit Shiff, Esq.
Pashman Stein Walder Hayden
Court Plaza South
21 Main Street, Suite 200
Hackensack, NJ 07601
(via email by consent: mstein@pashmanstein.com,
bwalsh@pashmanstein.com, rshiff@pashmanstein.com)
Attorneys for Appellant Education Law Center

Lauren A. Jensen, DAG
Department of Law and Public Safety
R.J. Hughes Justice Complex
25 W. Market Street
Trenton, NJ 08625-0112
(via email by consent: Lauren.Jensen@law.njoag.gov)
Attorneys for Appellee Commissioner of Education

Thomas O. Johnston, Esq.
Johnston Law Firm LLC
151 Forest Street, Suite A
Montclair, NJ 07042
(via email by consent: tjohnston@johnstonlawfirmllc.com)
Attorneys for Appellee TEAM Academy, Robert Treat Academy, North Star Academy, University Heights, Great Oaks Legacy, and New Horizons Community Charter Schools

Adam S. Herman, Esq.
ADAMS GUTIERREZ & LATTIBOUDERE LLC
The Legal Center 1031 Raymond Boulevard Suite 900
Newark, NJ 07102
(via email by consent: aherman@asgllaw.com)
Attorneys for Appellee Maria L. Varisco-Rogers Charter School

William C. Morlok, Esq.
Parker McCay P.A.
9000 Midlantic Drive, Suite 300
P.O. Box 5054
Mt. Laurel, New Jersey 08054
(via email by consent: wmorlok@parkermccay.com)
Attorneys for Amicus Franklin Twp. Board of Education

Brenda Liss, Esq.
Arsen Zartarian, Esq.
Newark Board of Education
765 Broad Street
Newark, NJ 07102
(via email by consent: bliss@nps.k12.nj.us,
azartarian@nps.k12.nj.us)
Attorneys for Amicus Newark Board of Education

Philip E. Stern, Esq.
Amy A. Pujara, Esq.
DiFrancesco, Bateman, Kuzman, Davis, Lehrer & Flaum, P.C.
15 Mountain Blvd.
Warren, NJ 07059
(via email by consent: pstern@newjerseylaw.net,
apujara@newjerseylaw.net)
Attorneys for Amicus Plainfield Board of Education

Ezra Rosenberg, Esq.

David Hinojosa, Esq.

Genevieve Bonadies Torres, Esq.

Lawyers' Committee for Civil Rights Under Law

1500 K Street NW, Suite 900

Washington, D.C. 20005

(via email by consent: erosenberg@lawyerscommittee.org,

dhinojosa@lawyerscommittee.org, gbonadies@lawyerscommittee.org)

Attorneys for Proposed Amici Lawyers' Committee for Civil Rights

Under Law and the Constitutional and Education Law Scholars

SUPREME COURT OF NEW JERSEY

IN RE RENEWAL APPLICATION OF
TEAM ACADEMY CHARTER SCHOOL

DOCKET NO.: A-45-19

IN RE RENEWAL APPLICATION OF
ROBERT TREAT ACADEMY CHARTER
SCHOOL

ON CERTIFICATION FROM A FINAL
JUDGMENT OF THE
SUPERIOR COURT OF NEW JERSEY,
APPELLATE DIVISION, DOCKET NOS.

IN RE RENEWAL APPLICATION OF
NORTH STAR ACADEMY CHARTER
SCHOOL OF NEWARK

A-3416-15T1

A-4384-15T1

A-4385-15T1

A-4386-15T1

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF MARIA
L. VARISCO-ROGERS CHARTER
SCHOOL

A-4387-15T1

A-4388-15T1

A-4398-15T1

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF
UNIVERSITY HEIGHTS CHARTER
SCHOOL

CIVIL ACTION

Sat Below: Judges Alvarez,
Nugent, and Mawla, J.J.A.D.

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF GREAT
OAKS LEGACY CHARTER SCHOOL

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF NEW
HORIZONS COMMUNITY
CHARTER SCHOOL

PROPOSED BRIEF ON BEHALF OF AMERICAN FEDERATION OF TEACHERS,
AFL-CIO; AFT NEW JERSEY, AFL-CIO; NEWARK TEACHERS UNION, AFT,
AFL-CIO IN SUPPORT OF THEIR MOTION FOR LEAVE TO APPEAR AS
AMICUS CURIAE

Weissman & Mintz LLC
One Executive Drive, Suite 200
Somerset, NJ 08873
(732) 563-4565

Of counsel and on the brief:
Justin Schwam, Esq.
(Attorney ID # 026502011)

jschwam@weissmanmintz.com
*Attorneys for Proposed Amici
American Federation of
Teachers, AFL-CIO; AFT New
Jersey, AFL-CIO; Newark
Teachers Union, AFT, AFL-CIO*

Steven P. Weissman, Esq.
(Attorney ID # 024581978)

TABLE OF CONTENTS

STATEMENT OF INTEREST.....1

PROCEDURAL HISTORY.....3

STATEMENT OF FACTS.....3

PRELIMINARY STATEMENT.....3

I. Social Science Research Supports the Need to Have the Commissioner Affirmatively Analyze the Impact of Charter School Expansions in Abbott Districts such as Newark under a Heightened Standard of Review.....5

A. Charter School Expansions Have a Negative Fiscal Impact on Traditional Public Schools.....7

1. New Jersey Studies.....7

2. National Studies on Negative Fiscal Effects.....9

B. Charter School Expansions have Segregative Effects.....11

1. Disabilities.....12

2. English Language Learners (ELLs).....14

3. Students of Color.....15

II. The Commissioner Must Conduct a Heightened Review of Charter School Expansion Application in Abbott Districts.....17

CONCLUSION.....21

TABLE OF AUTHORITIES

	Page (s)
<u>Cases</u>	
<u>Abbott v. Burke,</u> 149 <u>N.J.</u> 145 (1997)	17
<u>Abbott v. Burke,</u> 153 <u>N.J.</u> 480 (1998)	20
<u>Abbott v. Burke,</u> 206 <u>N.J.</u> 332 (2011)	20
<u>Booker v. Board of Educ., Plainfield,</u> 45 <u>N.J.</u> 161 (1965)	15
<u>Brown v. Board of Educ. of Topeka, Kan.,</u> 349 <u>U.S.</u> 294 (1955)	2, 21
<u>Casey v. Male,</u> 63 <u>N.J. Super.</u> 255 (Cnty. Ct. 1960)	3
<u>Fisher v. University of Texas at Austin,</u> 570 <u>U.S.</u> 297 (2013)	2
<u>In re Grant of Charter School Application of Englewood on the</u> <u>Palisades,</u> 164 <u>N.J.</u> 316 (2000)	4, 15, 19
<u>In Re Proposed Quest Academy Charter Sch. of Montclair,</u> 216 <u>N.J.</u> 370 (2013)	19
<u>In re State ex rel. Essex Cty. Prosecutor's Office,</u> 427 <u>N.J. Super.</u> 1 (Ch. Div. 2012)	2
<u>Jenkins v. Morris Sch. Dist.,</u> 58 <u>N.J.</u> 483 (1971)	17
<u>Neonatology Assocs., P.A. v. Comm'n of Internal Revenue,</u> 293 <u>F.3d</u> 128 (3d Cir. 2002)	2
<u>Pfizer, Inc. v. Dir., Div. of Taxation,</u> 23 <u>N.J. Tax</u> 421 (Tax Ct. 2007)	2

Rozenblit v. Lyles,
 240 N.J. 535 (2020) 3

Taxpayers Association v. Weymouth Township,
 80 N.J. 6 (1976) 3

Constitutional Provisions

N.J. Const. art. 8, § 4, ¶ 1..... 4

Statutes

N.J.S.A. 18A:36A-1..... 4

N.J.S.A. 18A:36A-8 (e) 18

Regulations

N.J.A.C. 6A:11-2.2 (c) 18

Rules

Rule 1:13-9(a) 2

Other Authorities

2019-2020 User Friendly Budget, Newark Board of Education.....9

Brief of American Federation of Teachers, AFL-CIO, in
Brown v. Bd. of Educ. of Topeka, Kan.,
 1952 WL 82043 (U.S. 1952)21

Danielle Farrie, et al., Educ. L. Ctr., Newark Public Schools:
Budget Impacts of Underfunding And Rapid Charter Growth (2015) 8

Derek W. Black, Preferencing Educational Choice: The
Constitutional Limits,
 103 Cornell L. Rev. 1359 (2018)7, 8, 12, 17, 20

David Lapp, et al., The Fiscal Impact of Charter School
Expansion: Calculations In Six Pennsylvania School Districts,
Research for Action (September 2017)10

Gary Orfield, et al., New Jersey's Segregated Schools: Trends
and Paths Forward, UCLA Civil Rights Project (Nov. 2017) .14, 16

Helen F. Ladd & John D. Singleton, The Fiscal Externalities of Charter Schools: Evidence From North Carolina,
15 Education Finance and Policy 1919

Jack Buckley and Carolyn Sattin-Bajaj, Are ELL Students Underrepresented in Charter Schools? Demographic Trends in New York City, 2006-2008,
5 Journal Of School Choice 45 (2011)15

Mark Weber & Julia Sass Rubin, New Jersey Charter Schools: A Data-Driven View, Part I, Enrollments and Student Demographics, (2014)11, 12, 13

Mark Weber, New Jersey Charter Schools: A Data-Driven View, Part II, Finances and Staffing (2015)12

Mark Weber & Julia Sass Rubin, New Jersey Charter Schools: A Data-Driven View, 2018 Update - Part 1 (2018)8, 13, 15

Michael D’Arcy, et al., Charter Schools Pose Greatest Credit Challenge to School Districts in Economically Weak Urban Areas, Moody’s Global Credit Research (October 15, 2013)11

Robert Bifulco and Randall Reback, Fiscal Impacts of Charter Schools: Lessons from New York,
9 Education Finance and Policy 86 (2014)10

United States Government Accountability Office, Charter Schools: Additional Federal Attention Needed To Help Protect Access for Student with Disabilities,
Report to Congressional Requesters, (June 2012)13, 14

STATEMENT OF INTEREST

Applicants American Federation of Teachers, AFL-CIO ("AFT"), AFT New Jersey, AFT, AFL-CIO ("AFTNJ"), and the Newark Teachers Union, AFT, AFL-CIO ("NTU") (collectively, "AFT proposed amici" or "Applicants"), move to appear as *amici curiae* and support the position of petitioner Education Law Center ("ELC") seeking to reverse the determination of the appellate panel below.

The AFT is a National Union representing approximately 1.7 million teachers and professional employees throughout the Country. AFTNJ is a statewide umbrella organization that advocates on behalf of teachers and professional employees in New Jersey. AFTNJ is an affiliated body of the AFT. The NTU is a chartered local of the AFT and an affiliate of AFTNJ. NTU is also the collective negotiations representative for approximately 3475 teachers and professional employees employed by the Newark Board of Education.

AFT proposed amici have a significant interest in this action as these unions have long fought to protect and strengthen public schools in this State and the nation, to ensure educational equality for all students. Further, the outcome of this case will directly affect the unions' members in New Jersey, most significantly the NTU. Accordingly, AFT frequently files *amicus curiae* briefs in matters relating to

public education in New Jersey, as well as throughout the country. See, e.g., Rozenblit v. Lyles, 240 N.J. 535 (2020) (granting leave to appear as *amici curiae*); Fisher v. University of Texas at Austin, 570 U.S. 297 (2013); Brown v. Board of Educ. Of Topeka, Kan., 349 U.S. 294 (1955).

AFT proposed *amici* move for leave to appear as *amici* because the appellate panel erred in failing to require the Commissioner of Education to carefully evaluate the negative fiscal impacts and segregative effects of massive expansions of charter school enrollments in Newark. Rule 1:13-9(a) provides that the "court shall grant the motion if it is satisfied under all the circumstances that the motion is timely, the applicant's participation will assist in the resolution of an issue of public importance, and no party to the litigation will be unduly prejudiced thereby."

Our courts have long ago moved away from a more rigid conception of the role of *amici* as purely advisory, and accordingly have interpreted this Rule "as establishing 'a liberal standard for permitting *amicus* appearances.'" In re State ex rel. Essex Cty. Prosecutor's Office, 427 N.J. Super. 1, 5 (Ch. Div. 2012) (quoting Pfizer, Inc. v. Dir., Div. of Taxation, 23 N.J. Tax 421, 424 (Tax Ct. 2007)); see also Neonatology Assocs., P.A. v. Comm'n of Internal Revenue, 293 F.3d 128 (3d Cir. 2002) (Alito, J.). Relevant considerations on

amici applications include whether the matter has “broad implications” or is of “general public interest.” Id. (quoting Taxpayers Association v. Weymouth Township, 80 N.J. 6, 17 (1976) and Casey v. Male, 63 N.J. Super. 255, 259 (Cnty. Ct. 1960)).

Applicants’ motion for leave to appear as *amici* meets the standards set forth in the Rule. Applicants’ motion is timely, as it is filed within 75 days from the date that the grant of certification was posted. Further, Applicants’ participation in this matter will assist the court in resolving an indisputable issue of public importance – how to ensure that our State’s most vulnerable school systems and children do not experience greater negative financial impacts or segregation.

Finally, no party to this matter will suffer undue prejudice if Applicants’ motion for leave to appear is granted.

Accordingly, the Court should grant the motion of Applicants’ motion for leave to appear as *amici curiae*.

PROCEDURAL HISTORY

Applicants adopt the procedural history of ELC.

STATEMENT OF FACTS

Applicants adopt the statement of facts of ELC.

PRELIMINARY STATEMENT

The New Jersey Constitution mandates the State Legislature to “provide for the maintenance and support of a through and

efficient system of free public schools for the instruction of all the children in the State between the ages of five and eighteen.” N.J. Const. art. 8, § 4, ¶ 1. While this Court long ago passed upon the general constitutionality of the funding mechanisms of the Charter School Program Act of 1995, N.J.S.A. 18A:36A-1 et seq. (“CSPA”), it expressly left open the intersection of that law and its precedents under the Abbott line of cases. In re Grant of Charter School Application of Englewood on the Palisades, 164 N.J. 316, 334 (2000) (Englewood II).

Social science research from New Jersey and other states demonstrates that the expansion of charter schools often has significant deleterious effects on students in traditional public schools. These include negative fiscal impacts, depriving traditional public schools of funding required to provide students with a thorough and efficient education. The expansion of charter schools in Abbott districts, such as Newark, has had the effect of increasing the segregation and isolation of students with disabilities, students who are English Language Learners (“ELLs”), and students of color. Such segregation diminishes the educational opportunities of students and therefore impairs the provision of a thorough and efficient education.

For these reasons, this Court should require a heightened standard of review by the Commissioner of Education when reviewing of charter applications in Newark and other Abbott districts. Absent such a requirement - and relying merely on the Commissioner's assurances that his or her review included an analysis of these issues, without any articulated data-driven analysis of the financial and other impacts of charter school expansion - this Court cannot be satisfied that the State is meeting its constitutional obligation to the students in these districts.

I. Social Science Research Supports the Need to Have the Commissioner Affirmatively Analyze the Impact of Charter School Expansions in Abbott Districts such as Newark under a Heightened Standard of Review.

As we discuss below, a well-developed body of research raises significant concerns with respect to the adverse financial impact of charter school expansion on the students in traditional public schools. In a district such as Newark, charter schools siphon millions of dollars away from students attending traditional public schools and leave Newark and other Abbott districts with fewer dollars per pupil than students in charter schools. This is, in part, attributable to the higher percentage of students with disabilities and limited-English proficiency ("LEP") students enrolled in traditional public schools compared to the percentages of such students enrolled in

charter schools. Patterns of segregation are revealed with respect to Black and Latino students, with significantly higher percentages of such students enrolled in charter schools than in traditional public schools.

The AFT proposed *amici* agree with the Education Law Center that the Commissioner of Education has an affirmative duty to determine if the expansion of charter schools in poor urban districts, such as Newark, will impair the ability of students in traditional public schools to receive a constitutionally-mandated education by denying those students access to critical funding and by fostering a segregated educational system with respect to students with disabilities, limited-English proficiency students and Black and Latino students. Minimally, the Commissioner is obligated to issue findings of fact and conclusions of law based on the record evidence presented by the ELC with respect to the fiscal impact of the charter school expansion applications, as well as the effect of the proposed expansion on the disproportionate percentages of students with disabilities and LEP students attending traditional public schools, and the disproportionate numbers of Black and Latino students attending charter schools.

The social science research discussed in this brief, underscores the necessity of requiring the Commissioner to issue findings in the critical areas of fiscal impact and the effect

on segregation when approving or denying charter school applications, whether for the expansion of existing charter schools or the establishment of new charters.

A. Charter School Expansions Have a Negative Fiscal Impact on Traditional Public Schools.

Researchers studying New Jersey's charter schools have shown that charter schools generally have negative impacts on traditional public school districts' fiscal health. This research has come to similar conclusions as that conducted throughout the country.

1. New Jersey Studies

Scholars question whether reduced state aid and policies that preference charter schools "have directly undermined [Newark]'s ability to fund adequate education opportunities." Derek W. Black, Preferencing Educational Choice: The Constitutional Limits, 103 Cornell L. Rev. 1359, 1397 (2018). Looking at the period following the 2008 recession and the consequent budgetary cuts, Professor Black concluded that "[f]unding transfers to charters only made matters worse in Newark." Id. As charter school attendance rose from 9% to 28% between 2008 and 2014, Newark fell "further in the hole with each transfer." Id. This is because, as ELC demonstrated to the Commissioner below, changes to State aid calculations and other budgetary maneuvers caused Newark to transfer between more

than \$1,000 and \$2,000 per charter transfer pupil than it would have under the CSPA alone. Id. (citing Danielle Farrie, et al., Educ. L. Ctr., Newark Public Schools: Budget Impacts of Underfunding and Rapid Charter Growth, 6-7 (2015) (Aa36)). Accordingly, during that period Newark went from being in the "top 35% of districts" with respect to per-pupil spending to "the bottom 13%." Id. Professor Black concluded that such a loss is "strong evidence that Newark may no longer have been providing adequate education opportunities in its public schools (assuming that it was prior to the cuts)". Id.

More broadly, Rutgers researchers found that over a ten-year period starting in 2007, payments to charter schools statewide had risen to encompass an ever greater share of district revenues. Mark Weber & Julia Sass Rubin, New Jersey Charter Schools: A Data-Driven View, 2018 Update - Part 1, 9-10 (2018), <https://rucore.libraries.rutgers.edu/rutgers-lib/56004/PDF/1/play/>) ("Weber III"). The budgetary impact of approving an increasing number of charter school applications was extreme in Abbott districts. For the 2017-18 school year, "charter and renaissance [charter] payments were anticipated to account for 37% of Camden's total revenues, and charter payments to account for 23% of Newark's total revenues." Id. at 9. Overall, the report concluded that "[a]s of the 2017-18 school year, traditional and renaissance charter schools received \$750

million in funding from New Jersey's school districts -- more than four and a half times the \$164 million that districts transferred to charter schools in 2007-08." Id. at 26. Indeed, recent figures show that in the three school years beginning in 2017, Newark transferred more than 26% of its total operating budget to charter schools, an amount estimated for the 2019-20 fiscal year to be \$264,811,715. See 2019-2020 User Friendly Budget, Newark Board of Education at 3, 6 (available at <https://www.nps.k12.nj.us/mdocs-posts/user-friendly-budget/>).

2. National Studies on Negative Fiscal Effects

Studies from around the country likewise show that when charter schools are expanded, the resident districts experience significant negative fiscal effects. For example, in North Carolina, researchers studying several of that state's communities concluded that the substantial charter growth resulted in a loss of \$300 to \$700 per remaining student at district-operated schools. Helen F. Ladd & John D. Singleton, The Fiscal Externalities of Charter Schools: Evidence from North Carolina, 15 Education Finance and Policy 191 (Winter 2020) (available at https://www.mitpressjournals.org/doi/pdf/10.1162/edfp_a_00272). The researchers found that all six districts analyzed - one urban and six non-urban - suffered "negative fiscal externalities" from charter schools. Id. at 204. The loss of \$300 to \$700 per student invariably has a

negative impact on the education of students who remain in traditional public schools, especially in poor urban school districts, that are already hard pressed to meet the district's financial needs. Funding in Newark and similar districts is rarely sufficient to make needed capital improvements or for adequate numbers of excellent teachers, text books, computers and other educationally essential resources.

The North Carolina study was modelled after an analysis of two New York State school systems. The New York study was one of the first to examine the negative fiscal impact of charter schools on traditional public schools and their students. Robert Bifulco and Randall Reback, Fiscal Impacts of Charter Schools: Lessons from New York, 9 Education Finance and Policy 86 (2014). Examining two urban districts in Albany and Buffalo in 2011, the researchers found that districts struggle to adjust expenditures on a student-by-student basis to account for the transfer of students to charter schools.

In Pennsylvania, researchers recently projected charter school expansions in six school districts and found a negative fiscal impact on each. David Lapp, et al., The Fiscal Impact of Charter School Expansion: Calculations in Six Pennsylvania School Districts, Research For Action, (September 2017) (available at <https://8rri53pm0cs22jk3vvqnalub-wpengine.netdna-ssl.com/wp-content/uploads/2017/09/RFA-Fiscal-Impact-of-Charter->

Expansion-September-2017.pdf). And in 2013, the bond rating agency, Moody's Investor Service, warned that "charter schools pose the greatest credit challenge to school districts in economically weak urban areas." Michael D'Arcy, et al., Charter Schools Pose Greatest Credit Challenge to School Districts in Economically Weak Urban Areas, Moody's Global Credit Research (October 15, 2013).

Although the fiscal impact of charter schools may vary in degree by state based on the particular laws that govern charter school funding, it is clear that the financial consequences to traditional public schools must be expressly considered in determining whether or not to approve or deny the expansion of a charter schools' enrollment. Without the benefit of a Commissioner decision that undertakes this type of analysis and articulates record-based factual findings, it is impossible to know whether the Commissioner gave due consideration to this critical factor.

B. Charter School Expansions have Segregative Effects

In its opposition to the charter school expansion applications before the Commissioner in this matter, ELC presented a 2014 report by Rutgers University researchers. See Mark Weber & Julia Sass Rubin, New Jersey Charter Schools: A Data-Driven View, Part I, Enrollments and Student Demographics, (2014) (A56a) ("Weber I"). The report examined the reasons for

the significant enrollment imbalances in Newark's charter schools in a number of categories - students with disabilities, ELLs, and by race or ethnic groups. That data revealed segregation "that would be decried if it was occurring within public schools[,] now occurring between the traditional and charter sectors." Black, supra, at 1402.

1. Disabilities

Regardless of the cause, research consistently shows that charter schools in New Jersey and nationwide tend to enroll fewer students with disabilities - students who often cost more to educate. For example, a Rutgers researcher found that in seven Abbott districts - Newark, Jersey City, Paterson, Camden, Trenton, Plainfield and Hoboken - charter schools continue to spend far fewer dollars on support services. Mark Weber, New Jersey Charter Schools, A Data Driven View, Part II, Finances and Staffing, at 11 (June 4, 2015) (available at <http://www.saveourschoolsnj.org/save/corefiles/wp-content/uploads/2016/07/NJ-Charter-School-Report-Part2.pdf>) ("Weber II"). For instance, in the 2012-13 school year, those districts' expenditures averaged "over \$2,000 more per pupil" than the per pupil costs for charter schools. Indeed, Newark spent an average of \$3,000 more per pupil than charter schools in the City. Id. Some charters in Newark reported no spending for students with disabilities. Id. at 12.

In an update to Weber I, the Rutgers researchers looking at the aggregate data found that “there is no evidence that New Jersey’s charter schools have made progress in enrolling a more comparable share of special education students.” Weber III, supra, at 13. “In Camden, which has the largest percentage of charter school students of any district, 18.4% of district students are classified, compared to 11.5% of Camden residents who attend charter schools.” Id. at 17. The disparity is greater in other Abbott districts, such as Garfield, where 16.9% of district students are classified, but only 2.7% of charter students are classified. Id. at 16.

Again, these glaring disparities with respect to the percentage of students with disabilities attending traditional public schools, compared to the percentage attending charter schools are not unique to New Jersey. In an oft-cited study, the U.S. Government Accountability Office in 2012 found that charter schools serve a lower percentage of students with disabilities than do traditional public schools. United States Government Accountability Office, Charter Schools: Additional Federal Attention Needed to Help Protect Access for Student with Disabilities, Report to Congressional Requesters, 6-7 GAO-12-543 (June 2012), (<http://www.gao.gov/assets/600/591435.pdf>). The study found that 23 percent of charter schools had enrollments of between 8 and 12 percent of students with disabilities, while

34 percent of traditional public schools had equivalent enrollments of such students. Id. at 8. This disparity worsened where 12 to 16 percent of students had disabilities, in which case only 13 percent of charter schools had such enrollment levels compared to 25 percent of traditional public schools.

2. English Language Learners (ELLs)

Nationally, ELLs account for an ever-increasing number of new students. Gary Orfield, et al., New Jersey's Segregated Schools: Trends and Paths Forward, UCLA Civil Rights Project, at 35 (Nov. 2017). In New Jersey, researchers found that as of 2015 at the elementary level, "a higher percentage of [ELLs] attend racially segregated schools compared to overall ELLs," with a fifth "attending intensely segregated and apartheid schools that enrolled less than ten percent white students." Id. at 35-36. While nearly half of students in New Jersey are white, "ELL's exposure to white students was less than 20 percent." Id. at 36. Many ELLs are also "linguistically isolated," attending schools where twenty to twenty-five percent of the students are ELLs. Id. Thus, these researchers question "whether New Jersey schools are providing appropriate environments for English learners and especially for young ELL children who are the most isolated." Id.

Similar disparities exist between charter schools and the traditional public schools in their constituent communities, including Abbott districts. For example, Rutgers researchers found that charter schools in Plainfield had 20.2% fewer LEP students than the traditional public school. Weber III, supra, at 18. Likewise, charter schools enrolled 16.2% fewer LEP students in Trenton, 14.1% fewer in Paterson, and 10.6% fewer in Newark. Id. at 18-19; see also Jack Buckley and Carolyn Sattin-Bajaj, Are ELL Students Underrepresented in Charter schools? Demographic Trends in New York City, 2006-2008, 5 Journal of School Choice 45 (2011) (finding that New York City's charter schools served a significantly smaller proportion of ELLs than did the City's traditional public schools).

3. Students of Color

This Court has long held that "the State [must] ensure that no student is discriminated against or subjected to segregation in our public schools." Englewood II, 164 N.J. at 323. This includes elimination of de facto segregation that is not the result of formal action. Id. at 324 (citing Booker v. Board of Educ., Plainfield, 45 N.J. 161 (1965)). Accordingly, this Court confirmed that the Commissioner is required to "assess the racial impact that a charter school applicant will have on the district of residence in which the charter school will operate."

However, research shows that between 1989 and 2015, “the percentage of students in intensely segregated schools - schools serving a population with 0 to 1% white students - nearly doubled from 11.4% to 20.1%.” Orfield, supra, at 15. A review of data on a state level suggests that charter schools perpetuate and aggravate racial and ethnic segregation. Id. at 13. In 2015, charter enrollment data from the NJ DOE showed the following student demographics: 55% African-American; 31% Hispanic; 8% white; and 5% Asian. Id. However, in the state’s traditional public schools almost half of all students were white. Id. Newark’s charter and traditional public schools essentially mirror this pattern of segregation. The researchers acknowledged the possibility that this “stunning disparity” could be due in part to pockets of “frustration with poor performing traditional schools in low income areas,” but aptly observed that “trading one segregated school for another that may be even more segregated does not address the fundamental problem of segregated schooling.” Id. at 13-14.

In sum, when scholars and researchers examine the effects of charter school expansion in New Jersey school districts, most notably in Abbott districts, their conclusions track those in other states: charter schools tend to have significant negative fiscal impacts on traditional public schools and tend to worsen

the segregation and isolation of students with disabilities, ELLs and of racial minorities.

II. The Commissioner Must Conduct A Heighted Review of Charter School Expansion Applications in Abbott Districts.

This Court has long been at the vanguard of protecting the rights of all students to a thorough and efficient education. Jenkins v. Morris Sch. Dist., 58 N.J. 483 (1971). Protection of that right involves scrutinizing the effect that governmental decisions will have on the finances of a school district and on the student population. Abbott v. Burke, 149 N.J. 145, 196 (1997).

On each of these issues, the research into the impact that charter schools have on their resident districts demonstrates the need for the Commissioner to make a careful evaluation of applications to expand charter school enrollment. Each of these issues alone has the potential to jeopardize the provision of a thorough and efficient education, most critically to students in districts that this Court has long-recognized as among the State's most vulnerable.

Regarding fiscal impact, the research supports a very real concern that, left unchecked, the continued expansion of charter schools in some Abbott districts, including Newark, pose an existential threat to the city's traditional public schools. See Black, supra at 1430. The out-pouring of funds to charter

schools in Newark puts its traditional public school system at a disadvantage that increases with each year and each expansion. That concern is not unique to Newark's public schools. The economic challenges presented by charter school expansions are likely replicated in all of the State's most vulnerable districts. Under these circumstances, the Commissioner's failure to conduct a transparent and searching analysis of the financial impact of granting the expansion applications - an analysis supported by findings of fact and conclusions of law - calls into question how the Commissioner can ensure that students attending Newark's traditional public schools are receiving the education the State is obligated to provide them.

The CSPA and regulations promulgated thereunder prohibit discrimination on the basis of race or against students with disabilities. See N.J.S.A. 18A:36A-8(e) (barring charter schools from establishing admissions policies that discriminate on the basis of race and academic factors). N.J.A.C. 6A:11-2.2(c) ("On an annual basis, the Commissioner shall assess the student composition of a charter school and the segregative effect that the loss of the students may have on its district of residence."). Notwithstanding these provisions, the evidence submitted by ELC to the Commissioner, and the research illustrated herein, demonstrate that charter expansions are

correlated with increased segregation of students with disabilities, ELLs and on the basis of race.

When earlier confronted by concerns about the Commissioner's faithful adherence to his or her obligations to analyze the segregative impacts of charter schools, this Court refrained from elaborating on what standard the Commissioner should apply to expansion applications and what type of review the Commissioner is required to undertake. See Englewood II, 164 N.J. at 330. Instead, perhaps in the interest of comity to the Executive Branch, this Court has relied upon the Commissioner's representations - sometimes at oral argument - that the Commissioner takes seriously this obligation and is (or will) perform his or her constitutional duty. See id. at 327-30; In Re Proposed Quest Academy Charter Sch. of Montclair, 216 N.J. 370, 388 (2013) (accepting the Commissioner's representations to the Court that she is "exceedingly careful in the approval of charter schools").

However, it is clear that whatever degree of attention the Commissioner has given to these issues when considering charter school applications, little has been done to reverse or even curtail segregation within the State's traditional public schools and charter schools. As the data demonstrates - data specific to Newark's public schools, as well as statewide and national data - charter schools continue to enroll students with

disabilities at far lower percentages than public schools in their resident school districts. ELL students, an ever-increasing share of students, face greater social, racial and linguistic isolation, and are also enrolled in charter schools at lower percentages than in traditional public schools. Summing up these concerns, one scholar has argued that “[n]ot only does the stratification generally deprive students of adequate education opportunities, data suggests it primarily deprives students in increasingly segregated schools of that opportunity.” Black, supra, at 1429.

The evidence shows that these problems and challenges all exist in Newark. The developing research strongly suggests that the students in other Abbott districts, such as Plainfield, Camden, and Paterson, are far from immune. In the past, this Court has taken affirmative steps to ensure that the constitutional right to a thorough and efficient education continues to be vindicated for all of the State’s Abbott students. See, e.g., Abbott v. Burke, 206 N.J. 332 (2011); Abbott v. Burke, 153 N.J. 480, 527-528 (1998) (“Abbott V”) (“The lessons of the history of the struggle to bring these children a thorough and efficient education render it essential that their interests remain prominent, paramount, and fully protected”).

More than 70 years ago, AFT explained why segregation is so antithetical to educational achievement and equality:

The practice of segregation in the field of education is a denial of education itself. Education means more than the physical school room and the books it contains, and the teacher who instructs. It includes the learning that comes from free and full association with other students in the school.

[Br. of American Federation of Teachers as *Amicus Curiae*, Brown v. Bd. of Educ. of Topeka, Kan., 1952 WL 82043, at *11 (U.S. 1952).]

While those words were written in opposition to the concept of *de jure* school segregation, modern social science research shows that they are equally applicable to today's students, in charter schools or traditional public schools throughout our State.

In this case, the Court should find that the Commissioner is required to evaluate carefully the fiscal and segregative impact of a charter school expansion application in an Abbott district and to set forth findings and conclusions that support the decision to either grant or deny an expansion application.

CONCLUSION

For the foregoing reasons, the Court should find that the Commissioner failed to properly evaluate the impact that funding losses and the pattern of segregation by disability, language proficiency and race will have on traditional public schools in Newark and the ability of the Newark Board of Education to provide a thorough and efficient education to all students. Further, the Court should find that the Commissioner is required

to apply a heightened standard of review to such applications for charter school expansions in Abbott districts.

Dated: May 11, 2020

By: s/Justin Schwam
Justin Schwam

SUPREME COURT OF NEW JERSEY

IN RE RENEWAL APPLICATION OF
TEAM ACADEMY CHARTER SCHOOL

IN RE RENEWAL APPLICATION OF
ROBERT TREAT ACADEMY CHARTER
SCHOOL

IN RE RENEWAL APPLICATION OF
NORTH STAR ACADEMY CHARTER
SCHOOL OF NEWARK

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF MARIA
L. VARISCO-ROGERS CHARTER
SCHOOL

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF
UNIVERSITY HEIGHTS CHARTER
SCHOOL

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF GREAT
OAKS LEGACY CHARTER SCHOOL

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF NEW
HORIZONS COMMUNITY
CHARTER SCHOOL

DOCKET NO.: A-45-19

ON CERTIFICATION FROM A
FINAL JUDGMENT OF THE
SUPERIOR COURT OF NEW
JERSEY, APPELLATE
DIVISION DOCKET NOS.

A-3416-15T1
A-4384-15T1
A-4385-15T1
A-4386-15T1
A-4387-15T1
A-4388-15T1
A-4398-15T1

CIVIL ACTION

Sat Below: Judges Alvarez,
Nugent, and Mawla, J.J.A.D.

**CERTIFICATION BY DONNA CHIERA
IN SUPPORT OF AFT, AFTNJ AND
NTU'S MOTION FOR
LEAVE TO APPEAR AS
AMICUS CURIAE**

I, Donna Chiera, hereby certify:

1. I am the President of the American Federation of Teachers New Jersey, AFL-CIO ("AFTNJ") and I chair the National Program and Policy Council of the American Federation of Teachers, AFL-CIO ("AFT"). I make this certification in support of the motion by the AFT, AFTNJ and Newark Teachers Union, Local

481, AFT, AFL-CIO ("NTU") move to appear as amici curiae and support the position of petitioner Education Law Center ("ELC") seeking to reverse the determination of the appellate panel below.

2. The AFT is a national union representing approximately 1.7 million teachers and educational employees throughout the Country.

3. AFTNJ is a statewide umbrella organization that advocates on behalf of teachers and professional employees in New Jersey. AFTNJ is an affiliated body of the AFT. The affiliated locals of AFTNJ represent approximately 30,000 members, including pre-K to 12 teachers, faculty at Rutgers University, State Colleges and Universities, and County/Community colleges, as well as other educational employees employed by New Jersey school districts, colleges and universities.

4. The NTU is a chartered local of the AFT and an affiliate of AFTNJ. NTU is also the collective negotiations representative for approximately 3475 dues-paying teachers and professional employees employed by the Newark Board of Education.

5. AFT, AFTNJ and NTU have a significant interest in this action as these unions have long fought to protect and strengthen public schools in this State and the nation, to

ensure educational equality for all students. Further, the outcome of this case will directly affect the unions' members in New Jersey, most significantly the NTU.

I certify that the above statements made by me are true. I am aware that if any of the above statements made by me are willfully false I am subject to punishment.


Donna Chiera

Dated: April 21, 2020

SUPREME COURT OF NEW JERSEY

IN RE RENEWAL APPLICATION OF
TEAM ACADEMY CHARTER SCHOOL

IN RE RENEWAL APPLICATION OF
ROBERT TREAT ACADEMY CHARTER
SCHOOL

IN RE RENEWAL APPLICATION OF
NORTH STAR ACADEMY CHARTER
SCHOOL OF NEWARK

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF MARIA
L. VARISCO-ROGERS CHARTER
SCHOOL

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF
UNIVERSITY HEIGHTS CHARTER
SCHOOL

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF GREAT
OAKS LEGACY CHARTER SCHOOL

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF NEW
HORIZONS COMMUNITY
CHARTER SCHOOL

DOCKET NO.: A-45-19

ON CERTIFICATION FROM A
FINAL JUDGMENT OF THE
SUPERIOR COURT OF NEW JERSEY,
APPELLATE DIVISION DOCKET NOS.

A-3416-15T1
A-4384-15T1
A-4385-15T1
A-4386-15T1
A-4387-15T1
A-4388-15T1
A-4398-15T1

CIVIL ACTION

Sat Below: Judges Alvarez,
Nugent, and Mawla, J.J.A.D.

**CERTIFICATION OF FACSIMILE
SIGNATURE PURSUANT TO
R. 1:4-4(C)**

I, JUSTIN SCHWAM, Esq., hereby certify:

1. I am the attorney for Proposed *Amici Curiae* American Federation of Teachers, AFL-CIO; AFT New Jersey, AFL-CIO; Newark Teachers Union, AFT, AFL-CIO, in the above entitled civil action.

2. The signature affixed to the within Certification of Donna Chiera is a facsimile. I certify that the affiant has acknowledged to my satisfaction the genuineness of her signature and that the document or a copy with an original signature affixed will be filed if requested by the Court or a party to this action

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: May 11, 2020

s/Justin Schwam
Justin Schwam

SUPREME COURT OF NEW JERSEY

IN RE RENEWAL APPLICATION OF
TEAM ACADEMY CHARTER SCHOOL

IN RE RENEWAL APPLICATION OF
ROBERT TREAT ACADEMY CHARTER
SCHOOL

IN RE RENEWAL APPLICATION OF
NORTH STAR ACADEMY CHARTER
SCHOOL OF NEWARK

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF MARIA
L. VARISCO-ROGERS CHARTER
SCHOOL

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF
UNIVERSITY HEIGHTS CHARTER
SCHOOL

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF GREAT
OAKS LEGACY CHARTER SCHOOL

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF NEW
HORIZONS COMMUNITY
CHARTER SCHOOL

DOCKET NO.: A-45-19

ON CERTIFICATION FROM A
FINAL JUDGMENT OF THE
SUPERIOR COURT OF NEW JERSEY,
APPELLATE DIVISION, DOCKET NOS.

A-3416-15T1

A-4384-15T1

A-4385-15T1

A-4386-15T1

A-4387-15T1

A-4388-15T1

A-4398-15T1

CIVIL ACTION

Sat Below: Judges Alvarez,
Nugent, and Mawla, J.J.A.D.

**ORDER GRANTING AMERICAN
FEDERATION OF TEACHERS, AFL-
CIO, AFT NEW JERSEY, AFL-CIO,
AND NEWARK TEACHERS UNION, AFT-
AFL-CIO'S MOTION FOR LEAVE TO
APPEAR AS AMICI CURIAE**

It is ORDERED that the motion submitted by the American Federation of Teachers, AFL-CIO, AFT New Jersey, AFL-CIO, and the Newark Teachers Union, AFT, AFL-CIO, by and through counsel, pursuant to R. 1:13-9, for an Order granting leave to appear as

amici curiae in this matter, to submit their proposed *amici curiae* brief, and to appear at oral argument is hereby GRANTED.

For the Court,

Dated:

SUPREME COURT OF NEW JERSEY

IN RE RENEWAL APPLICATION OF
TEAM ACADEMY CHARTER SCHOOL

DOCKET NO.: A-45-19

IN RE RENEWAL APPLICATION OF
ROBERT TREAT ACADEMY CHARTER
SCHOOL

ON CERTIFICATION FROM A
FINAL JUDGMENT OF THE
SUPERIOR COURT OF
NEW JERSEY, APPELLATE
DIVISION DOCKET NOS.

IN RE RENEWAL APPLICATION OF
NORTH STAR ACADEMY CHARTER
SCHOOL OF NEWARK

A-3416-15T1
A-4384-15T1
A-4385-15T1
A-4386-15T1
A-4387-15T1
A-4388-15T1
A-4398-15T1

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF MARIA
L. VARISCO-ROGERS CHARTER
SCHOOL

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF
UNIVERSITY HEIGHTS CHARTER
SCHOOL

CIVIL ACTION

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF GREAT
OAKS LEGACY CHARTER SCHOOL

Sat Below: Judges Alvarez,
Nugent, and Mawla, J.J.A.D.

IN RE AMENDMENT REQUEST TO
INCREASE ENROLLMENT OF NEW
HORIZONS COMMUNITY
CHARTER SCHOOL

CERTIFICATION OF SERVICE

The undersigned certifies that on the date written below, a copy of the within Notice of Motion for Leave to Appear as Amicus Curiae, and the Brief in Support of the Motion to Appear as Amicus Curiae, Certification of Donna Chiera, Certification of Facsimile Signature, and form Order were filed with the Clerk of the Supreme Court via email at

SupremeCTBrief.mbx@njcourts.gov pursuant to instruction from the Court.

In addition, on the date written below, copies of the foregoing papers were also served by electronic mail, by consent, upon the following counsel of record.

David G. Sciarra, Esq.
Elizabeth Athos, Esq.
Jessica A. Levin, Esq.
Education Law Center
60 Park Place, Suite 300
Newark, NJ 07102
(via email by consent: DSciarra@edlawcenter.org,
EAthos@edlawcenter.org, JLevin@edlawcenter.org)
Attorneys for Appellant Education Law Center

Michael S. Stein, Esq.
Brendan N. Walsh, Esq.
Ranit Shiff, Esq.
Pashman Stein Walder Hayden
Court Plaza South
21 Main Street, Suite 200
Hackensack, NJ 07601
(via email by consent: mstein@pashmanstein.com,
bwalsh@pashmanstein.com, rshiff@pashmanstein.com)
Attorneys for Appellant Education Law Center

Lauren A. Jensen, DAG
Department of Law and Public Safety
R.J. Hughes Justice Complex
25 W. Market Street
Trenton, NJ 08625-0112
(via email by consent: Lauren.Jensen@law.njoag.gov)
Attorneys for Appellee Commissioner of Education

Thomas O. Johnston, Esq.
Johnston Law Firm LLC
151 Forest Street, Suite A

Montclair, NJ 07042
(via email by consent: tjohnston@johnstonlawfirmllc.com)
*Attorneys for Appellee TEAM Academy, Robert Treat Academy,
North Star Academy, University Heights, Great Oaks Legacy,
and New Horizons Community Charter Schools*

Adam S. Herman, Esq.
ADAMS GUTIERREZ & LATTIBOUDERE LLC
The Legal Center 1031 Raymond Boulevard Suite 900
Newark, NJ 07102
(via email by consent: aherman@asgllaw.com)
*Attorneys for Appellee Maria L. Varisco-Rogers Charter
School*

William C. Morlok, Esq.
Parker McCay P.A.
9000 Midlantic Drive, Suite 300
P.O. Box 5054
Mt. Laurel, New Jersey 08054
(via email by consent: wmorlok@parkermccay.com)
Attorneys for Amicus Franklin Twp. Board of Education

Brenda Liss, Esq.
Arsen Zartarian, Esq.
Newark Board of Education
765 Broad Street
Newark, NJ 07102
(via email by consent: bliss@nps.k12.nj.us,
azartarian@nps.k12.nj.us)
Attorneys for Amicus Newark Board of Education

Philip E. Stern, Esq.
Amy A. Pujara, Esq.
DiFrancesco, Bateman, Kuzman, Davis, Lehrer & Flaum, P.C.
15 Mountain Blvd.
Warren, NJ 07059
(via email by consent: pstern@newjerseylaw.net,
apujara@newjerseylaw.net)
Attorneys for Amicus Plainfield Board of Education

Ezra Rosenberg, Esq.
David Hinojosa, Esq.
Genevieve Bonadies Torres, Esq.
Lawyers' Committee for Civil Rights Under Law
1500 K Street NW, Suite 900
Washington, D.C. 20005
(via email by consent: erosenberg@lawyerscommittee.org,
dhinojosa@lawyerscommittee.org,
gbonadies@lawyerscommittee.org)

*Attorneys for Proposed Amici Lawyers' Committee for Civil
Rights Under Law and the Constitutional and Education Law
Scholars*

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, that I am subject to punishment.

Dated: May 11, 2020

s/Justin Schwam

Justin Schwam