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June 28, 2017

Via Regular Mail

Joseph Cortico
Local President
Elizabeth Education Association
One Union Square
Elizabeth, New Jersey 07201

**Re: Elizabeth Board of Education & Elizabeth EA
Docket No. AR-2011-221, Grv. 08-10-03**

**Elizabeth Board of Education & Elizabeth EA
Docket No. AR-2011-585, Grv. 12-10-01**

**Elizabeth Board of Education & Elizabeth EA
Docket No. AR-2012-291, Grv. 10-11-02**

**Elizabeth Board of Education & Elizabeth EA
Docket No. AR-2013-353, Grv. 10-12-03**

**Elizabeth Board of Education & Elizabeth EA
Docket No. AR-2014-295, Grv. 09-13-01**

Dear Mr. Cortico:

As you know, it has been our honor to represent the Elizabeth Education Association during the arbitration of the above-referenced grievances before PERC's arbitrator, Barbara Zausner. Although Wolodymyr P. Tyshchenko and Paul W. Tyshchenko of our firm astutely and assiduously handled the day-to-day work of the arbitration, including certain related litigation, as a partner in our firm, I have overseen every aspect of their work. As such, I have been asked to express my opinion concerning the terms and conditions of the proposed settlement of the above-referenced grievances. Accordingly, please accept the instant correspondence as my professional opinion concerning the terms and conditions of the proposed settlement agreement:

- Absent a settlement, the arbitration of the above-referenced grievances would, in all likelihood, have continued for quite some time. While it is impossible to predict precisely how long the arbitration would have lasted, I think it would have been reasonable to expect that, at minimum, it would have been a number of years before the arbitration of the above-referenced grievances reached a conclusion. This estimate is based on the pace of the current arbitration, the complexity of the issues involved, as well as the significant dollar amounts involved. And, given the nature of arbitration generally, the outcome thereof would have been far from certain. At best, it may have been several years before the EEA's members would have received any compensation from the Board of Education as a result of the arbitration of the grievances. At worst, the arbitration could have been resolved in favor of the Board.
- Even if the arbitrator had ruled in favor of the EEA, absent a settlement, the certainty of the resolution of the arbitration of the above-referenced grievances would have remained in question for a number of years thereafter. While we believe that the facts and applicable law weighed in favor of the EEA's position, as is the case with all legal matters, there are always a number of variables that are unpredictable and have the potential to impact either the success of a case, or the amount of the award, if any, or both. Furthermore, given the significant dollar amounts involved, an appeal of the arbitrator's decision would have been a near certainty. Such appeal, or appeals, would undoubtedly delayed final resolution of this matter for several more years, during which period the finality of the arbitrator's award would have continued to remain in doubt.
- Although there is a degree of uncertainty inherent in any litigation or arbitration and I cannot be certain of how Ms. Zausner would have resolved this matter had the arbitration continued until its conclusion, I have no reason to doubt that, given the totality of the circumstances, Ms. Zausner will find the terms and conditions of the settlement agreement between the Board and the EEA to be reasonable and that she will approve the terms and conditions thereof.
- Finally, the proposed settlement guarantees the affected members considerable payouts in the immediate future. Thus, the proposed settlement eliminates the cost and uncertainty of protracted arbitration and litigation, including elimination of potential appeals; and, provides members with immediate compensation for their losses.

For all of the foregoing reasons, I recommend your approval of the terms and conditions of the proposed settlement.

If you have any questions or concerns, please do not hesitate to contact.

Respectfully,
CARUSO SMITH PICINI, P.C.
Attorneys for the Elizabeth Education Association

By: 
TIMOTHY R. SMITH, ESQ.

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