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February 18, 2011

VIA Email to: rule-comments@sec.gov

Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Securities and Exchange Commission Proposed Rule on Registration of Municipal Advisors (File No. S7-45-10)

Ladies and Gentlemen:

The New Jersey Educational Facilities Authority ("NJEF" or the "Authority") respectfully submits these comments regarding the Securities and Exchange Commission's proposed interpretation of the term "municipal advisor" under Section 975 of Title IX of the Dodd-Frank Wall Street Reform and Consumer Protection Act. NJEF is a member of the National Association of Health Care and Higher Educational Facilities Finance Authorities ("NAHEFFA") and joins in the comments submitted by NAHEFFA and is supplementing them with this submission.

NJEF agrees with NAHEFFA that board members and employees of governmental issuers and of conduit borrowers acting within the scope of their responsibilities are not giving any "advice" which the Dodd-Frank Act intended to regulate. NJEF also agrees that there should be no distinction between board members who are elected and those who are appointed. The proposal denies an exemption from "municipal advisor" status to appointed board members based on a misunderstanding that assumes appointed board members need additional standards of conduct and oversight. Whether appointed or elected, board members are subject to state imposed standards of conduct and do not require additional regulation as "municipal advisors". Finally, NJEF agrees that applying the proposed interpretation will make it more difficult to recruit future members.

NJEF Members Are Not Providing "Advice"

NJEF is an instrumentality of the State of New Jersey created by the New Jersey Educational Facilities Authority Law, N.J.S.A 72A – 1 et seq. (the "NJEF Act") for the purpose of providing low cost financing for New Jersey's public and private institutions of higher education. NJEF currently has outstanding bonds for more than 35 institutions consisting of 145 issues with a par amount of \$5,500,000,000.

The NJEFA Act provides that the Authority consists of the Chairman of the New Jersey Commission on Higher Education, *ex officio*, the State Treasurer, *ex officio* and five citizens of New Jersey appointed by the Governor with the advice and consent of the Senate; that the Members are vested with the powers of NJEFA; and that they serve without compensation. N.J.S.A. 72A-4. NJEFA's Members are the Authority. They discuss, deliberate and vote on the issuance of bonds and other actions to be taken by the Authority. They take action after receiving and discussing input but they are not providing financial or other "advice". They are not compensated and are not "municipal advisors" in any reasonable understanding of the term.

NJEFA Members Are Subject to State Standards of Conduct and Do Not Require Additional Regulation

NJEFA Members must act in accordance with standards established by the NJEFA Act, and the New Jersey Conflicts of Interest Law (N.J.S.A. 52:13D-12 et seq.) which requires continuing training in ethical standards and recusal in the event there is even an appearance of impropriety or a conflict. In the past few years, New Jersey's Governor's have imposed additional conditions and requirements on board members by Executive Orders which outline specific board responsibilities and require that personal financial information be made available to the public. See Executive Order 122 (McGreevey 2004) (requiring an audit committee); Executive Order 37 (Corzine 2006) (outlining certain board responsibilities); and Executive Order 1 (Corzine 2006) (requiring disclosure of financial and business interests). These standards obligate Members to act in the interest of the Authority. NJEFA Members do not require further oversight in the form of the SEC proposal and, although NJEFA Members are appointed, they should be exempted from treatment as a "municipal advisor".

Failing to Provide an Exemption for Board Members Will Make It More Difficult to Recruit Board Members

NJEFA Members volunteer their service without compensation and are subject to conditions and requirements, such as financial disclosure, that dissuade many citizens from accepting an appointment. NJEFA may lose current Members or fail to attract Members in the future if Members may become subject to registration and other requirements. NJEFA urges the Commission to consider the potentially disruptive effect on operations of NJEFA and other similar authorities which can only operate through a duly constituted board.

We respectfully make this submission and urge the Commission to provide a clear cut exception from "municipal advisor" status to Members of NJEFA and other issuers for the reasons outlined above.

Sincerely



James S. Poole
Executive Director