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By Fax and Mail

April 20, 2004

Honorable William Librera
Commissioner of Education
PO Box 500
Trenton, NJ 08625-0500

Re: Proposed Late-Year Revisions to Abbott Regulations

Dear Commissioner:

I am writing in response to your announced intention to adopt in early May substantial revisions to the regulations governing the Abbott districts, N.J.A.C. 6A:10A-1 et. seq. It is my understanding that these revised regulations will become effective immediately, and then be used by your Department (DOE) to review and determine the FY05 programs and budgets submitted last month by the Abbott districts.

The Assistant Commissioner for Abbott Implementation presented the proposed regulatory changes at a meeting of the Abbott Rulemaking Committee on April 19, 2004.

The proposed revisions significantly alter the standards for implementation of supplemental programs, services and positions, and raise substantial questions related to the DOE compliance with the Abbott V (1998) mandates and the Abbott X mediation order. In addition, the proposal makes major modification to the standards under which districts are to prepare their district-wide budgets, apply for supplemental programs and funding, and have those budgets and funding requests reviewed and determined by DOE.

We will address the substantive legal issues with the proposal in due course, and if necessary. However, I am bringing to your attention now a paramount concern pertaining the fairness of the proposed process.

It would violate basic notions of fairness and due process for your Department to change the rules for Abbott district programs, budgets and funding well after those budgets have been prepared and submitted, and while your Department has those budgets under review. Put differently, it would be fundamentally unfair and improper if the districts prepared their school-based and district-wide programs and budgets under one set of substantive standards and rules, only to have those budgets reviewed by DOE under a substantially different set of standards and rules. Yet, this is precisely what would occur if you adopted the proposed revisions in May.

Accordingly, I request your assurance that the current Abbott regulations, adopted September 2003, will continue in effect for the remainder of 2003-04 without revision, and will govern the DOE review of the districts' FY05 budgets. I further ask your assurance that the regulatory revisions released by the Assistant Commissioner on April 19th, or any other additional revisions he may be contemplating, will not be made effective until, at the earliest, July 1, 2004.

Thank you, and I look forward to your reply.

Sincerely,

David G. Sciarra
Executive Director

cc: Governor James E. McGreevey
Chair and Members, Assembly Education Committee
Chair and Members, Senate Education Committee
Joint Committee on the Public Schools
Assistant Commissioner Gordon MacInnes
Nancy Kaplen, Assistant Attorney General
Abbott Superintendents
Members, Abbott Rulemaking Committee