



Education Law Center

Standing Up for Public School Children

July 25, 2011

Paula T. Dow, Esq.
Attorney General of New Jersey
Office of the Attorney General
P.O. Box 080
25 West Market St.
Trenton, New Jersey 08625-0080

Re: Abbott v. Burke XXI: FY12 SFRA Preschool Education Aid

Dear General Dow:

I write to request your assistance in ensuring the State's compliance with the Supreme Court's most recent order in Abbott v. Burke, 206 N.J. 332 (2011)(Abbott XXI). Upon our review of the relevant provisions of FY12 State Budget and the Governor's veto message, it appears that the final FY12 Budget does not include full funding of preschool education aid under the SFRA formula for the poorer urban (Abbott) districts, as required by the Court's ruling.

In issuing the Abbott XXI decision, the Court explicitly ordered "that funding to the Abbott districts in FY 2012 must be calculated and provided in accordance with the SFRA formula," after adjusting "to correct the State's failure to provide SFRA's statutory level of formula funding to those districts during FY 2011." 206 N.J. at 376. This order was premised on the Court's holding that "the plaintiff class of school children from the Abbott districts cannot be deprived of the full SFRA funding that the State offered, and received approval to exchange for the decisions and remedial orders that had previously established the funding required for such school districts." 206 N.J. at 369.

There can be no doubt that the Court's order for full funding in Abbott XXI encompasses all of the components of the SFRA formula, including preschool education aid. As you know, preschool aid is an integral part of the SFRA's statutory provisions, N.J.S.A. 18A:7F-54, and of the Court's remedial orders on behalf of the plaintiff class. See Abbott v. Burke, 153 N.J. 480 (1998) (Abbott V); Abbott v. Burke, 163 N.J. 95

(2000)(Abbott VI); Abbott v. Burke, 170 N.J. 537 (2002)(Abbott VIII).

In Abbott XX, the Court clearly recognized that funding for preschool is a critical component of SFRA formula, stating: "Henceforward, Abbott preschools will receive the greatest of three preschool funding allocations: 1) per-pupil allocation under SFRA, 2) the district's per pupil allocation in its approved 08-09 early childhood plan, or 3) the district's total 08-09 preschool aid amount with an enrollment adjustment." 199 N.J. at 226.

I am requesting that you investigate promptly whether the FY12 State budget includes full funding of preschool education aid in accordance with the calculations contained in the relevant provision of the SFRA, N.J.S.A. 18A:7F-54, and that are based on an appropriate adjustment to the FY11 level of funding, as required by the Court, Abbott XXI, 206 N.J. at 376. We are available to provide additional information, if necessary, and to assist in expediting this matter. If, as appears to be the case, the preschool programs in the Abbott districts are not fully funded in accordance with the SFRA, then please let me know immediately what steps will be taken to ensure such compliance.

Thank you for your prompt attention to this matter.

Respectfully yours,



David G. Sciarra, Esq.

By Fax and Regular Mail

cc: Jeffrey S. Chiesa, Esq., Chief Counsel to the Governor