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VIA FAX

Commissioner William L. Librera
Department Of Education
100 River View Plaza
P.O. Box 500
Trenton, NJ 08625

Re: 2004-05 Abbott Regulations

Dear Commissioner Librera:

I am writing to raise concerns regarding the Abbott v. Burke regulations for 2004-05, including the regulations to govern the preparation of school and district plans and budgets for 2005-06.

The current Abbott regulations, which you first adopted in September 2003, and then amended in May 2004, expired on June 30, 2004. Further, under the FY05 Appropriations Act, you have again been given the unique authority to adopt Abbott regulations by filing them with the Office of Administrative Law, thus bypassing the State Board of Education and the notice, publication and public comment requirements of the Administrative Procedures Act.

I served on the "Abbott Rulemaking Committee," which was convened under an agreement you reached with the Education Law Center in mediation last year, and approved by the Supreme Court in the "Abbott X Mediation Order" (June 23, 2003). Although the Committee did not reach consensus, the September 2003 regulations included provisions designed to implement the mandate for K-12 supplemental programs and funding in the Abbott rulings and the Mediation Order. In adopting these regulations last September, you represented that the Committee would continue its work to improve the regulations and, hopefully, reach consensus on any remaining issues.

Unfortunately, the May 2004 amendments – which were developed without consultation or input from the Committee – removed and/or altered the key provisions in the September 2003 regulations developed to ensure compliance with the Abbott supplemental programs mandate. I attach for your review a chart recently submitted to the Supreme Court by the Abbott school districts that identifies all of the deficiencies in the May 2004 amendments.

Since the Abbott regulations expired on June 30th, I am asking that, before you adopt regulations governing the 2004-05 school years, you reconvene the Rulemaking Committee to address the fundamental problems with the May amendments, as set forth in the Chart, and revisit those issues outstanding from last September.

I believe such an effort is now critical to ensure the development of a strong regulatory framework that complies with the Abbott rulings and orders, and has the support of essential stakeholders. It will also prevent another legal challenge to these regulations, as just occurred in the Supreme Court.

I look forward to your prompt reply.

Yours in service,



Craig A. Stanley
Assemblyman 28th District

cc: Governor James McGreevey
President of the Senate
Speaker of the General Assembly
Assistant Commissioner Gordon MacInnes
Members of the Black Caucus
Members of the Latino Caucus
Attorney General Peter Harvey
David G. Sciarra, Education Law Center
Members of the Abbott Rulemaking Committee