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May 5, 2008

Mr. Stephen W. Townsend, Esquire
Clerk
Supreme Court of New Jersey
RJ Hughes Justice Complex
25 W. Market Street
PO Box 970
Trenton, NJ 08625-0970

Re: Raymond Arthur Abbott, et al v. Fred G. Burke, et al
Docket No. 42,170

Dear Mr. Townsend:

Please accept this Letter Brief in support of the Camden City School District's motion to intervene and seek denial of the State's motion so far as the State requests to eliminate the district's present right to appeal for supplemental funding for the 2008-09 school year, as established by this Court's decision in Abbott v. Burke, 153 N.J. 480, 526-27 ("Abbott V").

In support of this motion, the Camden City School District submits the Supplemental Certification of Rafael C. Haciski. In addition, in this Letter Brief the Camden City School District adopts the statement of facts and legal argument presented by Plaintiffs', the Abbott public schoolchildren. The Camden City School District seeks leave to intervene in these proceedings under R. 4:33-1 (Intervention as of right) or R. 4:33-2 (Permissive Intervention).

CHL:410206.1/CAM149-234248

Mr. Stephen W. Townsend, Esquire
May 5, 2008
Page 2

The Camden City School District meets the criteria for intervention under both of those Court Rules, thus the Court should grant the Camden City School District's motion to intervene.

Under R. 4:33-1, there are four criteria for determining intervention as of right. The applicant must: (1) claim "an interest relating to the property or transaction which is the subject of the transaction," (2) show it is "so situated that the disposition of the action may as a practical matter impair or impeded [its] ability to protect that interest," (3) demonstrate that the "applicant's interest" is not "adequately represented by existing parties," and (4) make a "timely" application to intervene. Meehan v. K.D. Partners, L.P. and Planning Board of the Borough of Longport, 317 N.J. Super. 563, 568 (App. Div. 1998) (citation omitted). This rule has been construed liberally and "the test is whether the granting of the motion will unduly delay or prejudice the right of the original parties." Id. (citation omitted). The Camden City School District's application meets all four criteria and, therefore, intervention as of right should be granted.

As evidenced by the attached certification and the Statement of Facts as set forth in Plaintiff's brief in support of its Opposition to Defendants' motion, the Camden City School District has obvious programmatic and fiscal interests in the continued mandate of the Abbott remedial measures, so that it can continue to address the needs of its disadvantaged students. The State's application, if granted, would have a direct adverse impact on the Camden City School Districts' ability to provide the programs, services and positions needed by their disadvantaged students. Specifically, the School Funding Reform Act of 2008's ("SFRA") elimination of the Abbott districts' right to apply, in the 2008-09 school year, for supplemental funding based on a demonstration of particularized need under Abbott V and as guaranteed by

Mr. Stephen W. Townsend, Esquire
May 5, 2008
Page 3

the Commissioner's Court-mandated Abbott regulations. Abbott V, 153 N.J. at 526-27; N.J.A.C. 6A:10-2.8. As the certification of Dr. Bessie LeFra makes clear, the elimination of this remedy will force the Camden City School District to cut current programs, services, and positions in the 2008-09 school year and beyond.

Moreover, the State's application ignores Camden City School District's daily efforts to improve the educational opportunities of its students and to remedy their disadvantages. The Camden City School District should be able to fully participate in these proceedings as an interested party and the only party capable of presenting the specific impact that SFRA will have on the school children in the Camden City School District. The Camden City School District needs to actively participate in these proceedings so that the Court has an inside and ground-level view of the harm to the Camden City School District that cannot be provided by Plaintiffs who lack ready access to the critical information and data in the individual districts that needs to be presented to the Court to ensure that the Court fully understands the devastating impact SFRA's implementation would have in the Camden City School District.

The Camden City School District was not served with the State's motion and has sought to file this application shortly after the receipt of the Camden City School District's Certification. This motion will not delay these proceedings because the Camden City School District is filing this motion within mere days of Plaintiffs' response to the State's application. Therefore, the Court should approve the Camden City School District's motion under R. 4:33-1 and allow the movant, who has a vital and unique interest in these proceedings, to intervene and supplement the record with facts specific to the Camden City School District. Chesterbrooke Ltd. Partnership v. Planning Bd., 237 N.J. Super. 118, 124 (App. Div. 1989).

Mr. Stephen W. Townsend, Esquire
May 5, 2008
Page 4

The Camden City School District also meets the standards for permissive intervention under R. 4:33-2. The Camden City School District's submission should not delay or prejudice the Court's decision on the State's application. In addition, the public interest and the importance of the public issues raised by the State's motion support the strong need for the Camden City School District's active participation in these proceedings. Evesham Tp. Board of Adj. v. Evesham Tp., 85 N.J. 295 (1981). Finally, notable is the fact that the Court has previously granted intervener status to the Camden City School District in prior Abbott-related litigation. Therefore, intervention is also justified under R. 4:33-2.

For the foregoing reasons set forth in this Letter Brief, the Camden City School District respectfully requests that this Court grant its motion to intervene and seek denial of the State's motion so far as the State requests to eliminate the district's present right to appeal for supplemental funding for the 2008-09 school year.

Respectfully submitted,

Rafael C. Haciski
For WolfBlock LLP

RCH/pc

cc: Michelle Lyn Miller, Senior Deputy Attorney General
David Sciarra, Esquire
Counsel for Interveners