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SUPREME COURT OF NEW JERSEY
DOCKET NO. 42,170

RAYMOND ARTHUR ABBOTT, et al.,)

Plaintiffs,)

Civil Action

v.)

CERTIFICATION OF
DR. JAY DOOLAN

FRED G. BURKE, et al.,)

Defendants.)

I, Jay Doolan, of full age, hereby certify that:

1. I am the Assistant Commissioner for the Division of Educational Standards and Programs at the New Jersey State Department of Education (NJDOE). I am responsible for the development and implementation of critical elements of New Jersey's standards-based reform initiative, including: the Core Curriculum Content Standards (CCCS); the statewide assessment system; secondary education reform; the State's new focus on language arts literacy and math and science education; the professional development initiative for teachers and school leaders; the licensing of all instructional, educational services, and

administrative personnel; the approval of college teacher and administrator preparation; and programs that focus on career and technical education. I am, therefore, most knowledgeable about the State's implementation of the CCCS and the State's assessment system.

2. I have held numerous positions at the Department of Education since joining in 1976. These included director of the offices of Academic and Professional Standards, Direct Services, Urban Education, Bilingual Education, and Education for Homeless Children and Youth.

3. Prior to coming to the Department, I was a teacher, counselor and administrator in the Camden City public schools. I also served in the Peace Corps in Turkey and Ghana in West Africa as a teacher at both the high school and college levels.

4. I have a doctorate from Rutgers, the State University, in the area of educational administration. My dissertation, *Systemic Change and Standards-Based Reform: An Historical Policy Analysis of Educational Policy Formation in New Jersey*, traces the development and early implementation of the State's standards-based reform initiative.

New Jersey's Core Curriculum Content Standards

5. The State Board of Education's adoption of CCCS and aligned statewide assessments in May 1996 paved the way for New Jersey to embark upon systemic reform of its public schools. The

standards became the centerpiece of the State Board's *Strategic Plan for Systemic Improvement of Education in New Jersey*, and were heralded as the beginning of a new era for public schools in the State. The strategic plan focused the State's attention on higher expectations for all students and a standards-based reform agenda that continues today--twelve years after adoption. This reform includes the standards, more rigorous local curriculum and instruction aligned to the standards, a comprehensive statewide assessment system that gauges student achievement and district performance, professional development for teachers and school leaders to better prepare all students to achieve the standards, and an accountability system for schools and districts.

6. The 1996 adoption of New Jersey's standards also responded to 30 years of school finance litigation through Robinson v Cahill and Abbott v Burke court cases. The Comprehensive Educational Improvement and Financing Act (CEIFA) enacted into law in December 1996 mandated that the standards be implemented by New Jersey public schools and required that all students demonstrate proficiency on statewide assessments aligned to the standards.

7. New Jersey's CCCS defined what all students should know and be able to do at the end of thirteen years of public education in the areas of language arts literacy, mathematics, science, social studies, world languages, comprehensive health and physical education, and the visual and performing arts. In addition, they

included five cross-content workplace readiness standards that emphasized careers, technology, and higher level critical thinking skills. These skills needed to be integrated across all of the other content areas. The intent of the standards was not to impose a statewide curriculum. Local school districts were required to use the standards to develop and/or align curriculum and to ensure that students achieved the expectations.

8. The NJDOE coordinated task forces of educators, college professors, and representatives from business and industry to create curriculum frameworks in each content area. The frameworks included hundreds of sample teaching strategies, classroom activities, vignettes, adaptations, assessment ideas, and background information relevant to each of the content areas. The design team of each framework included a unique State partnership with a relevant entity that had some relationship to the standards area. The *Mathematics Curriculum Framework*, developed with the New Jersey Mathematics Coalition, was published in December 1996. Two frameworks were published in fall 1998: *Science*, developed with the Merck Institute for Science Education, the Mid-Atlantic Eisenhower Consortium at Research for Better Schools, the New Jersey Statewide Systemic Initiative, and the State's professional science associations; and *Language Arts Literacy*, developed with the New Jersey Network. *World Languages*, developed with Johnson & Johnson and the State's professional world language association, and the

Visual and Performing Arts, developed with the New Jersey Performing Arts Center and the State's professional arts associations, followed in winter 1999. Both *Social Studies*, developed with the New Jersey Council for the Humanities, the New Jersey Chamber of Commerce, and the State's professional social studies associations, and *Health and Physical Education*, developed with the University of Medicine and Dentistry of New Jersey and the State's professional health and physical education associations, were completed in summer 1999. *Cross-Content Workplace Readiness*, developed with input from educators, business people, and citizens, was the last to be published in 2001.

9. The frameworks are still used in 2008 by curriculum developers and teachers because they provide excellent examples of standards-based classroom activities. The NJDOE's website described, *infra* at ¶20, now provides an interactive site that allows educators to access this content in a user friendly manner. Teachers can access classroom strategies and assessment information organized by grade level and content strand.

10. In spring 2000, the State Board of Education adopted a new chapter of administrative code, which implemented the CCCS and the statewide assessment system. This occurred after two years of meetings, discussions, and unprecedented input from thousands of New Jersey citizens, both in writing and through six scheduled regional testimony sessions. The code, titled *Standards and*

Assessment for Student Achievement, established a process for fundamentally reforming public education in New Jersey. N.J.A.C. 6A:8 required districts to align their curriculum to the standards and ensure that teachers provided instruction according to them. It also mandated the implementation of a statewide assessment system at grades 4, 8, and 11-12 to measure student achievement of the standards. The new code also linked the awarding of a high school diploma to the development of the knowledge and skills contained in the CCCS. These skills would be developed through student participation in local programs of study designed to meet all of the standards, and would be measured through the statewide assessment system.

11. Subsequent amendments to this code adopted in June 2005 required attention to revised standards adopted in 2004; new high school graduation requirements, specifically in world languages, the arts, and career education, and consumer, family and life skills; and a revised State accountability system for schools and districts based on the federal No Child Left Behind Act of 2001. Pursuant to this amended code, districts were directed to ensure that curriculum and instruction are designed and delivered in such a way that all students are able to demonstrate the knowledge and skills specified by the CCCS and to ensure that appropriate instructional adaptations are designed and delivered for students with disabilities, for students with limited English proficiency,

and for students who are gifted and talented. Moreover, districts were directed to assess and publicly report on the progress of all students in developing the knowledge and skills specified by the CCCS, including content areas not currently included in the Statewide assessment program. Finally, districts were made responsible for the review and continuous improvement of curriculum and instruction based upon changes in knowledge, technology, assessment results, and any modifications to the CCCS.

12. CEIFA required the CCCS to be reviewed and revised every five years, and the 2000 CCCS regulations codified this requirement. The first revision process began in May 2001 and was completed in October 2004 with State Board adoption. The process involved teachers, school administrators, students, parents, and representatives from business, higher education, and the community. In addition, several content areas were reviewed by Achieve, Inc., and the Council of Chief State School Officers (CCSSO) and compared with standards from several exemplar states. All standards areas were compared to national content standards and experts from around the country provided critiques of the work. In response to this unprecedented review, the 2004 CCCS provide a level of specificity and depth of content in each area that improves upon the 1996 standards and better prepares students for post secondary education and employment. This is due in part to the evolution of the standards as a national movement, the State's acceptance of the

standards as the source for curriculum and instruction, and the interest of teachers and administrators in having more specific content direction and guidance materials.

13. As a result, the 2004 standards are benchmarked at more grade levels, especially in the three tested areas - language arts literacy, mathematics and science. Two new standards - technological literacy and career education and consumer, family, and life skills - were added to underscore the importance of these two areas in the 21st Century. These areas replaced the 1996 cross-content workplace readiness standards, though the focus of the earlier standards remains. In all of the new standards, workplace readiness skills were integrated into the indicators. The 2004 standards are based on the latest research in each of the content areas and identify the essential core of learning for all students. They are clear, concise, and appropriate for the benchmarked grade levels and enhance a student's capacity to access new information, problem solve, employ research methods, and ask questions across disciplines. The 2004 standards will be updated during 2008 and are scheduled for State Board adoption in 2009.

14. Since New Jersey schools need to produce both excellent thinkers and excellent doers, the CCCS describe what students should know and be able to do in nine academic areas: visual and performing arts, comprehensive health and physical education, language arts literacy, mathematics, science, social studies, world

languages, technological literacy, and career education and consumer, family, and life skills. The CCCS themselves are concerned with the knowledge students should acquire and the skills they should develop in the course of their PK-12 experience. They are broad outcome statements that provide the framework for strands and cumulative progress indicators (CPIs). Strands are organizational tools that help teachers locate specific content and skills. Under each strand is a number of CPIs at specific benchmark grades. The CPIs provide the specific content or skills to be taught and are cumulative; that is, the progress indicators begin at a foundational or basic level and increase in complexity as the student matures, requiring more complex interaction with the content.

15. As in 1996, the 2004 CCCS are intended for all students. This includes students who are college-bound or career-bound, gifted and talented, those whose native language is not English, students with disabilities, and students from diverse socioeconomic backgrounds. Insistence on the core curriculum means that every student will be involved in experiences addressing all of the expectations set forth in all content areas. A core curriculum does not mean that all students will be enrolled in the same courses. Different groups of students should address the standards at different levels of depth and should complete the core curriculum according to different timetables. Depending on their

interests, abilities, and career plans, many students will and should develop knowledge and skills that go beyond the specific indicators on the CCCS. Nevertheless, all students should complete all elements of the core curriculum.

Professional Development to Support the CCCS

16. Once adopted, the NJDOE engaged in discussion with educators, business representatives, and national experts about the impact of the CCCS on classroom practices. The NJDOE coordinated hundreds of awareness and professional development sessions led by content experts from the Office of Standards and Professional Development and other content experts who had assisted in the standards development. The goal was to assist teachers and curriculum specialists in aligning curriculum with the standards and understanding how the standards should be taught.

17. Additionally, recognizing that high-quality, ongoing professional development for teachers and educational services personnel was integral to New Jersey's standards-based education reform movement, shortly after the adoption of the standards, the NJDOE established a formal professional development program.

18. In 1998 the NJDOE proposed an amendment to N.J.A.C. 6:11, Professional Licensing and Standards, adding a new subchapter concerning the professional development for active teachers. The rules required that each active educator complete 100 hours of State-approved professional development every five years. On May 6,

1998, the Professional Development for Teachers Regulations were adopted by the State Board of Education. The rules established a nineteen-member Professional Teaching Standards Board (PTSB) within the NJDOE, a fifteen-member County Professional Development Board in each county of the State, and a six-member Local Professional Development Committee in each school district in the State. These boards and committees were charged with the responsibility of creating and implementing a process for district and individual professional development opportunities. The professional development regulations provided that each individual teacher, in conjunction with district board of education policies, was responsible for fulfilling the 100-hour requirement every five years and for taking whatever steps were necessary in order to meet that requirement. The rules further specified that it was the responsibility of the local supervisor and the district administrator to monitor the educator's efforts continuously through progressive supervision. The regulations also required that district committees develop a district professional development plan which must be approved by a county board.

19. In 2007 the State Board of Education amended the current professional development regulations to strengthen them through a requirement to develop school-level professional development committees in each district. This shift from a district to a school focus will help to promote school-based and job-embedded

collaborative opportunities for teacher learning, which research indicates is the most effective form of professional development for teachers. The new initiative is also grounded in newly adopted professional development standards that are aligned to the National Staff Development Council Standards (NSDC). The regulations now also call for all teachers to be on the same five-year cycle of the 100 hour professional development requirement allowing for easier accountability for school districts of teacher compliance with the regulations. Professional development for teachers in the content areas they teach and focused on the methods needed to ensure that all students are learning continues to be at the heart of New Jersey's standards-based reform initiative.

20. In addition to face to face training, the NJDOE implemented a professional development website in 2000, NJPEP. This can be found on the NJDOE's website under Academic Standards or NJPEP. This site supports teachers and the entire educational community in the understanding and implementation of the CCCS and their related statewide assessments. NJPEP also encourages interaction by, and input from, teachers and other educators. The site contains many resources related to the standards and assessments, including linked classroom activities and sample assessment items. Visitors to the site find standards-based classroom activities from New Jersey educators and professional development opportunities both face-to-face and online. A recent

partnership with Rutgers University has allowed NJPEP to provide online courses via a learning management system (LMS). Participants receive professional development hours for successful course completion. Currently, the online courses include: Online Facilitation, English Language Learners in the Mainstream (ELL) and Reading First/early literacy courses (i.e., Guided Comprehension, Fluency, Interactive Writing, Motivation and Background Knowledge, Phonics, Phonemic Awareness, and Read Aloud). Thousands of New Jersey educators, parents, and students have used this website every year, especially in the months leading up to State testing.

New Jersey's Statewide Assessment Program

21. As described above, given the cycle of review and revision, the CCCS constitute a dynamic entity, not a fixed, final set of standards. So too, New Jersey's assessment system must, of necessity, be equally dynamic in responding to continuous refinements and evolving understandings of the CCCS, even while using assessment instruments which must be highly standardized for the purposes of ensuring validity, reliability, and comparability.

22. The adoption in 1996 of the CCCS prompted the establishment of additional standards-based assessment programs at grades 4 and 8 in 1998. Contemporary with these events in New Jersey, national trends in support of standards-based education and educational accountability led to the passage of the No Child Left Behind Act of 2001 (NCLB).

23. The momentum of New Jersey's own standards-based reform movement had, by 1997, resulted in plans for a comprehensive system of assessments in grades 4 and 8 to include not only language arts, mathematics, and science, but all the content standards and content areas, including social studies, visual arts, health, and world languages, as well as additional standards within already assessed areas, such as speaking within the Language Arts Literacy Standard (LALS). The NJDOE did in fact field test speaking in 1998, and began implementation of social studies test programs at grades 5 and 8 in 2002. The grade 5 social studies test was administered operationally for the first time in October 2001, and social studies tests were field-tested in grade 8 in 2001.

24. In the meantime, both nationally and in New Jersey a reaction against the expansion of standardized educational testing was setting in, even as the NLCEB was enacted in January 2002.

25. In New Jersey, the popular reaction against standardized testing among parents and major education professional organizations, coupled with receipt of data from the initial statewide assessments of language arts literacy and mathematics that was well-below expectations, resulted in a suspension of further implementation of the comprehensive grade 4 and grade 8 testing program in all content areas as described above. Additionally, the grade 5 social studies assessment was discontinued following its first operational administration in

October 2001. This left New Jersey in 2002 with three statewide assessment programs: the Elementary School Proficiency Assessment (ESPA), testing grade 4 mathematics and language arts literacy, the Grade Eight Proficiency Assessment, covering mathematics, language arts literacy, and science, and the new High School Proficiency Assessment (HSPA), covering mathematics and language arts literacy. The development of the HSPA was a direct result of the establishment of the CCCS in 1996, replacing the High School Proficiency Test (HSPT) which had ante-dated the CCCS.

26. As previously mentioned, New Jersey was working through implementation issues with its statewide assessment program when NCLB was enacted. NCLB imposed additional testing requirements on states by mandating statewide assessments in grades 3 through 8 and in at least one high school grade in reading and mathematics, and in science in at least three benchmark grade levels. Thus, the NCLB mandates had the effect of more than doubling New Jersey's statewide system, expanding the annual testing population from about 280,000 (covering three grade levels) in 2001 to almost 700,000 (covering 7 grade levels) in 2006.

27. The scope of the federal requirements under NCLB made implementation of the State's previous comprehensive plan for grade 4 and grade 8 assessments virtually impossible, even in the absence of the social and political reaction against further standardized assessments statewide. NCLB made the assessment of reading and

mathematics federal priorities, and provided funding for these priorities. The emphasis on reading was further accentuated by NCLB's separate funding for K-3 literacy through its Reading First program.

28. Thus, New Jersey's standards-based accountability initiatives were melded with the federal NCLB standards-based accountability initiative: previous plans for expanding statewide assessments at two or three benchmark grade levels to embrace all the CCCS became a plan for expanded statewide assessments in prioritized content areas - reading, math, science - covering grades 3-8 and high school. Nevertheless, N.J.A.C. 6A:8 requires districts to assess and publicly report on the progress of all students in meeting all CCCS, including content areas not currently included in the Statewide assessment system.

29. To meet the requirements of NCLB, to gauge student progress toward meeting the CCCS, and to ensure that students are prepared for the challenges and opportunities awaiting them following graduation from high school, the NJDOE began developing a comprehensive, multi-tiered State assessment program, with supporting resources to measure knowledge and skills at grades 3 through 8, and 11 in language arts literacy and mathematics, and, at three benchmark grade levels (4, 8, 11), in science.

30. To this end, the NJDOE convened an Assessment Advisory Committee in December 2005 to undertake a systematic rethinking and

redesign of the statewide assessment system, with the purpose of making it more responsive to the needs of teachers and schools and more accountable to taxpayers. The overriding priority was to develop assessment programs that shape and improve classroom instruction by providing precise, meaningful individual student and aggregate group information about educational achievement. The committee consisted of key NJDOE policy makers and representatives of stakeholders groups from the State's education and business communities, including the New Jersey Education Association (NJEA), New Jersey School Boards Association (NJSBA), the New Jersey Principals and Supervisors Association (NJPSA), the New Jersey Performance Assessment Alliance (NJPAA), the New Jersey Association of School Administrators (NJASA), and the New Jersey Chamber of Commerce. The RFP and resulting contract with Measurement Incorporated, awarded in June 2007, represented the first product of that rethinking and re-visioning.

31. As a result of its consultations with the Assessment Advisory Committee and with other stakeholder representatives during the period December 2005 through July 2006, the State developed a holistic, two-tiered assessment system that incorporates federal NCLB accountability testing with State and local diagnostic functions, supported by significant professional development components. This system design posits the evaluation and improvement of educational practice in the State as its central

concern, not the labeling of schools by performance categories. In practical terms, for grades 5-8 in 2008, expanding to grades 3-8 in 2009, this system has the features described below:

a. Two-tiered assessment programs at grades 3, 4, 5, 6, 7, and 8 in mathematics and language arts literacy, with science at grades 4 and 8.

b. Tier I will consist of local diagnostic and formative assessments approved by the State, but administered, scheduled, scored, and interpreted locally, throughout the school year. This Tier will include but not be limited to resources provided by the State contractor for grade 3-8 assessments; those resources may include formative and diagnostic assessment materials in the form of non-secure item/testlet pools for use by local districts, along with supporting test authoring/administration software. In addition, Tier I will include the administration of performance assessment tasks by local districts in cooperation with consortia of districts and/or stakeholder groups.

c. Tier II assessments will consist primarily of multiple-choice and constructed-response items, including writing prompts, with a particular focus on assessing student application, thinking process and problem solving skills; these will be administered in April-May of each year, producing scores that would feed into the federal accountability system. This is a secure test administered by the State and scored by the State's vendor.


d. Tier II assessments will form the basis for NCLB reporting, and Tier I will provide in-depth local diagnostic and formative assessment information for district use. These will be complemented by student achievement information embodied in the Tier II State assessment scores.

32. It is important to note that the introduction by the

NJDOE starting in 2008 of substantial formative assessment resources for use by local teachers throughout the school year represents a landmark broadening of New Jersey's statewide assessment program which has, heretofore, been limited to summative assessment for accountability purposes. These formative resources, provided through the Harcourt Assessment *Learnia* program, allow teachers to measure student progress with small portions of the CCCS, even at the individual CPI level, within the framework of regular classroom routines.

33. While the implementation of these new testing programs in grade 3-8 will help satisfy the State's obligations under NCLB, the NJDOE intends that these assessments serve a larger and long-term educational purpose. The NJDOE sees these assessments as vehicles for promoting higher student achievement by incrementally raising New Jersey's achievement standards at all grades. While these tests are not "high stakes" in that you are not required to pass them for graduation, they must play a role in ensuring that more New Jersey students are meeting rigorous student performance and graduation standards, and are therefore better prepared for the State's high stakes test, the High School Proficiency Assessment (HSPA), and for the challenges and opportunities of post-secondary education, employment, and adult life.

I hereby certify that the statements made by me are true.
I am aware that if any of the foregoing statements are willfully
false, I am subject to punishment.


Jay Doblin

Dated: March 6, 2008