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RAYMOND ARTHUR ABBOTT, et al Plaintiff, v. FRED G. BURKE, et al, Defendant.	SUPREME COURT OF NEW JERSEY DOCKET NO. 42,170 Civil NOTICE OF MOTION TO INTERVENE PURSUANT TO R. 4:33-1
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TO: Stephen W. Townsend, Clerk
SUPREME COURT OF NEW JERSEY
25 West Market Street
Trenton NJ 08625 0970

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OFFICE OF THE ATTORNEY GENERAL
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PLEASE TAKE NOTICE that the Millville Board of Education
will move to intervene in the above-referenced litigation as a
matter of right.

In support of this motion, the movant relies on the attached Certification of Superintendent Shelly Schneider, together with Certification and Brief filed by David Sciarra, Esquire, of the Education Law Center on behalf of the other Abbott school districts.

Respectfully submitted,

ROBINSON, ANDUJAR & WEBB, LLC

DATED: April 28, 2008

By 
Arnold Robinson

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RAYMOND ARTHUR ABBOTT, et al Plaintiff, v. FRED G. BURKE, et al, Defendant.	SUPREME COURT OF NEW JERSEY DOCKET NO. 42,170 Civil CERTIFICATION OF DR. SHELLY SCHNEIDER, SUPERINTENDENT OF MILLVILLE SCHOOL DISTRICT
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DR. SHELLY SCHNEIDER, hereby certifies as follows:

1. I am the Superintendent of the Millville School District. Millville is designated an Abbott district under this Court's rulings in Abbott v. Burke. I make this Certification in support of Plaintiffs' reply and cross-motion to the State's motion to remove the Abbott remedial mandates previously ordered by this Court. This Certification has been prepared in consultation with Bryce Kell, Business Administrator.

2. As Superintendent, I have overall responsibility for implementing the Abbott programs and reforms in the Millville

school district and enabling all students to achieve the New Jersey Core Curriculum Content Standards ("NJCCCS"). This includes the application for additional funding based on a demonstration of particularized need, to support preschool, K-12 supplemental programs, services, and positions, along with needed enhancements to existing foundational education programs, such as music and art, and special education programs for students with disabilities.

3. My analysis and conclusions are informed by my knowledge of Millville School District's budget under CEIFA/Abbott, the Abbott programs and reforms currently implemented and needed in my district, and the progress that has been made in my district as a result of the Abbott programs and reforms. In addition, I have reviewed some of the available documentation and data on SFRA, including: A Formula for Success: All Children, All Communities, Department of Education (December 2007) ("2007 Cost Report"); Report on the Cost of Education, Allen Dupree and John Augenblick (December 2006) ("2006 Cost Report"), the State's Brief in support of its Motion for Review of the SFRA, and the supporting certifications of Dr. Jay Doolan, Assistant Commissioner Katherine Attwood, and Commissioner Lucille Davy.

I. Discrepancies between the SFRA Model District and Millville School District.

1. In reviewing the 2007 Cost Report, I closely examined the single model district, the large K-12 district, that the Department of Education utilized to develop the SFRA base cost amount, as well as the at-risk funding "weight." See 2007 Cost Report, 10, Appendix E. The model district that served as the basis for SFRA's adequacy budget does not resemble my district for a number of different reasons.

2. The first major discrepancy between the SFRA model district and my district is that of student enrollment and the number of elementary, middle, and high schools within the Millville school district. See 2007 Cost Report, at 9 and Appendix E, Tables 1 and 2. These differences are as follows:

- (a) The SFRA model district assumes a total student enrollment of 5,240 students for the district. My district's total student enrollment is 6,504.
- (b) The SFRA model district has six elementary schools of 400 students each; whereas, my district has six elementary schools with enrollments from 238 to 583 each.

(c) The two middle schools of 600 students each in the SFRA model district is not reflective of my district's one middle school of 1,111 students.

(d) The SFRA model district's 1 high school with 1,640 students does not resemble the split high school with 2,140 students in my district.

3. In addition to the size of the district and its configuration, the demographics of the students in the SFRA model school district differ drastically from those of my district.

(a) The SFRA model accounts for three variations of poverty concentration: 10% ("low at-risk"), 20% ("moderate at risk") and 40% ("high at-risk"). See 2007 Cost Report, Appendix E, Table 4. By contrast, my district has a low-income student concentration of 71.5%.

(b) For the SFRA formula, however, the Department did not use the at-risk weights which were developed using the SFRA model district. Instead, "the Department decided to increase the weight as the district's proportion of at-risk students increases to reflect the additional academic challenges present in districts with concentrated poverty." 2007 Cost Report, at 11. The Department also developed a sliding scale at-risk weight with a low of 0.47 and a high of 0.57. In districts

with poverty concentration of 20% or less, the weight is 0.47, but this number gradually increases to a maximum weight of 0.57 for districts with poverty concentration of 60% or greater. The weight however fails to account for districts with a poverty concentration above 60%. My district has a poverty concentration of 71.5%.

II. Resource Inputs in the SFRA Model

1. I have reviewed the resource inputs in the SFRA model in comparison to the Court mandated programs and services in the Chart of Supplemental Programs, as well as those programs and services currently implemented or needed in my district. While DOE asserts that the resources in its enhanced SFRA model exceed "the resources necessary for a district to implement the Abbott V model," *id.* ¶ 29, there are programs and services that are not identified as inputs that are currently in place in my district, and others that are necessary to enable students in my district to achieve the NJCCCS.

(a) The DOE failed to input early literacy reading blocks and assessment in determining the cost of providing a T&E education to at-risk students. In my district early literacy reading blocks and assessment are implemented in six elementary schools and this program has resource requirements. The cost of

implementing this program in my district is approximately \$300,000. This program is necessary to prevent children in my district from falling behind and needing remediation and to intervene early and intensively with a student who is experiencing difficulty in achievement.

(b) SFRA fails to account for the employment of community services coordinators in middle and high school as the DOE neglected to include this integral position as an input during the PJP process. In my district, community services coordinators are not employed in the middle schools or the high school. The community services coordinators serve to respond to and reduce teacher time taken out to deal with problems such as significant health and social service needs stemming from poverty, substance abuse, teenage pregnancy and parenthood, inadequate housing, violence and crime.

(c) My district has three drop out prevention specialists/programs in our middle and high schools and these individuals/programs respond to an existing need as my district has a 7% drop out rate. SFRA fails to account for this particularized need in my district as drop out prevention specialists/programs

were not included in the inputs that determined the costs of the SFRA at-risk weight;

(d) The DOE's PJP process failed to input on site social and health services and the cost of implementing such a program. In my district on site social and health services are needed at the middle schools and the high schools. The implementation of this program would cost approximately \$190,000 and it responds to the need for and lack of effectively and efficiently run social and health services in the surrounding community;

(e) In my district one school-to-work and college transition counselor/program is implemented in the high school. This individual responds to the existing need to increase the basic skills of students to support themselves responsibly, provide access to information about college and employment opportunities, to match students with prospective employers, and help students become aware of their interests and strengths;

(f) The SFRA model inputs of programs to respond to the needs of at-risk youth did not included an enriched nutrition program. In my district an enriched

nutrition program is implemented. It provides provide high quality breakfast and lunch and a high quality snack to nourish our students and enable them to be ready to learn.

(g) In my district there is an existing implemented enhanced art, music and special education program to provide exemplary music, art, and special education programs beyond those recommended by the Commissioner. This supplemental program is necessary in my district to respond to implementing the CCCS. An enhanced art, music, and special education program was not included in the inputs utilized to determine the SFRA at-risk weight. The cost of this program's is approximately \$205,000.

(h) SFRA does not cost-out the inclusion of a school-based management and budgeting team in the resource inputs to calculate the SFRA at-risk weight. In my district there are school-based management and budgeting teams in six elementary schools, one middle schools, and the split high school. This team enables a team of parents, administrators, and teachers to develop a school-based budget while actively involving all stakeholders in planning, budgeting,

and governance and in turn to increase effectiveness and tenure of our school reform efforts.

- (i) Technology enhancements were not costed-out as an input in the development of the SFRA at-risk weight. Technology enhancements are necessary to help students master the basic and advanced skills necessary to reach the NJCCCS, to ensure school and classroom libraries have appropriate materials to supplement the curriculum, to facilitate the implementation and use of educational technology throughout our schools, and to increase effective use of technology in my district's classrooms. Currently we have the following technological enhancements implemented in my district's schools and classrooms:
The Millville school district currently provides 2,519 computers for staff and students. The media centers have 150 computers in ten locations and runs over 160 different software programs. There are ten smart boards in the entire district.

2. I also find that the SFRA model specifies a fixed, assumed level of resources for several other programs on the Chart of Supplemental Programs. Some of these resources, while

identified as a resource are currently implemented and/or necessary at a higher rate in my district:

(a) security is allocated based on a set ratio of security guards to students, with 1 guard for 400 elementary school students; 1 to 200 middle school students; 1 to 175 high school students. Currently in my district, based on need to keep students, staff, and facilities safe and secure, there is a 1 security guard to 194 student ratio in the high school, 1 security guards to 185 student ratio in the middle schools, and no security guards in the six elementary schools;

(b) a fixed per pupil cost for after school and summer school is allocated on the assumption that only half of the at-risk elementary and middle students will need such programs; whereas in my district, 1,200 number of elementary and middle school students are in after school programs while 4,406 are in need of after school programs and 130 are in summer school while 400 are need of summer school. My district's instructionally-based summer programs helps to prevent the summer learning loss of disadvantaged students and to provide structure, instruction, and recreation during the summer months. In addition, the after school programs provide to the

students who need it increased instructional time, homework and tutorial assistance, computer training, recreation opportunities, and a structured alternative to unsupervised after school hours;

(c) In my district, there are 3 social workers in 6 elementary schools, 1 in the middle school, and 0 in the high school, whereas in the SFRA model district the DOE only allotted one social worker to an elementary, middle and high school in its inputs. One social worker per elementary school, middle school, and high school is not sufficient to respond to the need of health, counseling, nutritional, tutorial, and other services existing in my district.

(d) The SFRA at-risk weight was determined based on an input of one parent liaison at the elementary, and no resources for parent involvement in middle and high schools. In my school district parent involvement is an integral resource in recruiting parents to join parent participation programs, fostering parenting skills and career development, and increasing parental education to support student learning at home. There is one parent liaison at the elementary level, zero in the middle school, and zero in the high school.

3. I also can find no evidence that the SFRA model includes any resources or costs related to elementary Whole School Reform ("WSR") or the Secondary Education Initiative ("SEI") in middle and high schools. Elementary WSR requires implementation of a model program or alternative design, and SEI consists of establishing smaller learning communities within schools; providing ongoing support to students and their families; and increasing the academic rigor of curriculum and instruction. In my district both of these programs are currently implemented and have serious resource implications.

(a) In my district, the elementary schools have implemented a district model alternative design program. The resources necessary for the implementation of this program is for professional development

(b) The SEI is implemented in both the middle and high schools in my district. Implementation of SEI in my district's middle and high school demands the following resources: articulation with high schools that work, textbooks, curriculum writing, etc..

III. Progress Made in My District Based on the Required Implementation of the Abbott Programs and Reforms.

1. The DOE set forth Abbott regulations that require Abbott schools and districts to implement preschool, the Court-

mandated K-12 supplemental programs, and elementary and secondary school reform. These regulations direct districts, schools and preschools to annually plan and budget for implementation of WSR in elementary schools and SEI in middle and high schools, and the supplemental programs set forth in the Chart of Supplemental Programs, based on particularized needs. N.J.A.C. 6A:10-2.4(b); N.J.A.C. 6A:10-2.5(f); N.J.A.C. 6A:10-2.6(e). The regulations also contain procedures for districts to demonstrate the need for supplemental funding. N.J.A.C. 6A:10-2.11.

2. I have been responsive to the Abbott regulations' mandated implementation of preschool, elementary WSR, SEI, and K-12 supplemental programs as based on existing need in my district. The opportunity to apply for additional funding based on a demonstration of particularized need has allowed my district to respond to the obstacles our high-poverty student body faces when they enter the classroom.

3. The implementation of required Abbott programs and reforms has already resulted in progress that I have witnessed in my district. This success is evident in the following ways: we have increased test scores, a decrease in discipline referrals has been noticed, increase in attendance is evident, parent satisfaction is up.

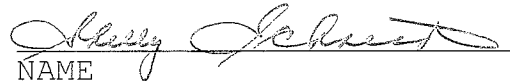
4. In addition, improvements in the more advanced grades are just beginning to surface. The DOE, in response to the Abbott X, mediation agreement, only just established the SEI in 2005 and its implementation in middle and high schools in Abbott districts like my own is finally beginning to have an impact. Examples of improvement are seen in the increased offering in AP courses, no low level courses are offered and an improvement in test scores has been noticed.

IV. Resulting Cuts in Programs, Services, and Positions if SFRA were to be Implemented in My District.

5. The current overall budget in my district under the CEIFA/Abbott remedy framework is \$99,474,746. If SFRA is implemented in the 2008-2009 school year my overall district budget will be \$96,747,208. This is a cut of \$2,727,538 in the first year of SFRA implementation. In addition to this drop in overall funding from the 2007-2008 to 2008-2009, my district already faces a rise of 4.2% in non-discretionary fixed costs next year. These increases in non-discretionary fixed costs include contracted teacher and staff salaries, health benefits, special education tuition, and charter school payments. Thus, when including the rise in non-discretionary fixed costs, the true cut in the overall budget of my district is \$6,732,227.

alternative but to reduce and/or eliminate programs, services and positions/staff in 2008-09 in order to address budget shortfalls under the SFRA. Because adjustment aid decreases, and budget shortfalls grow, my districts will no doubt have to reduce expenditures, and needed programs and services in the following two years and beyond.

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


NAME

Dated: 4/28/08