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Boards of Education of City of Bridgeton,
Burlington City, City of East Orange,
City of Elizabeth, Gloucester City,
Keansburg Borough, City of Passaic,
State-Operated School District of Paterson,
Pemberton Township, City of Perth Amboy,
Town of Phillipsburg and
City of Trenton

RAYMOND ARTHUR ABBOTT, ET AL.,

Plaintiffs

v.

FRED G. BURKE, ET AL.,

Defendants

SUPREME COURT OF NEW JERSEY

DOCKET NO. 42,170

CIVIL ACTION

CERTIFICATION OF DR. ROBERT HOLSTER

Dr. Robert Holster, of full age, hereby certifies as follows:

1. I am the Superintendent of the City of Passaic School District ("District"), which is designated an Abbott district under this Court's Abbott rulings. I make this Certification in support of the Motions of the Movants-Intervenors: (1) to intervene in this action in opposition to the State's motion for a Court Order declaring that the School

Reform Funding Act of 2008 ("SFRA") is constitutional and that the Abbott remedial orders are no longer required; and (2) for an immediate Order that the procedural protections established by Abbott v. Burke, 153 N.J. 480, 526-27 (1998), including the right of Abbott districts to seek on appeal additional funding based on a showing of demonstrated or particularized need, shall remain in effect pending a final decision on the State's Motion.

2. I have overall responsibility for implementing the Abbott programs and reforms in the District to enable all students to achieve the New Jersey Core Curriculum Content Standards ("NJCCCS"). This includes the submission of requests in prior years for supplemental funding, based on a demonstration of particularized need, to support existing and supplemental programs, services and positions, as well as additional, demonstrably-needed programs, services and positions. The District has also sought such additional funding through the Abbott V administrative and judicial process when the Department of Education ("DOE") denied needed funding.

3. I am familiar with the demographics of the District and our student population that support the continuation of the Abbott designation, with the features of our schools that are

very different from the hypothetical school district that provides the foundation for the SFRA's formulas, with the supplemental programs and services that have been successful in the districts, with the District's prior experience in requesting supplemental funding and appealing DOE denials of that funding, and with the impact of the SFRA on the education of our students in the coming years.

4. In past years, when the District sought supplemental funding, the District and the DOE worked collaboratively to reach agreement on a supplemental funding amount that would support the District's DOE-approved budget, which included funding for effective and efficient needs-based programs, services and positions. This process enabled the District and the DOE to engage in a constructive dialogue about the educational needs of our students and to discuss specific programs, positions and services that would be needed to help our students achieve the CCCS and to overcome their socio-economic disadvantages.

5. In those few instances when the District and the DOE could not reach agreement on the appropriate amount of supplemental funding, the District had the opportunity to seek review of DOE's decision through the administrative and judicial process established by the Court and by the DOE

regulations.

6. The opportunity to discuss with the DOE the need for supplemental funding for specific programs, services and positions needed for our students, and the ability to have full administrative and judicial due process to challenge DOE denials of that needed funding, have been integral to the District's efforts to provide our students with a thorough and efficient education. Supplemental funding has also been essential to meet important needs of our students so that they can overcome the significant impediments to education as a result of their socio-economic disadvantages and benefit from the District's educational programs.

7. Contrary to the DOE's claims in the motion, the administrative and judicial appeals process has successfully worked to facilitate a productive dialogue between the DOE and our District on supplemental funding needs for our students. The mandated funding formula dictated by the SFRA provides no opportunity for the District to seek additional funding based on the demonstrable needs of our students, no matter how substantial or compelling the needs of our students are and no matter how great the obstacles that they must still overcome to benefit from our educational program.

8. Our students will suffer if the formulaic amounts

fail to provide the needed funding for programs, services and positions that are essential for our students' success. If the SFRA will provide the needed funding, as the DOE claims, to continue all of the programs, services and positions to address the special disadvantages of our students, then there would be few, if any appeals. However, if the SFRA fails to provide that funding, then the effect of the statute is to deprive the District and its students of the fundamental right to seek additional funding to meet those needs. I do not perceive any educational justification for a curtailment in the SFRA of the due process right to seek demonstrably needed funding for our students.

9. I was quite surprised to learn that the DOE viewed the supplemental funding process as fostering an "adversarial relationship." I had always viewed the process as an opportunity for collaboration to determine the programs, services and positions required to meet the needs of our disadvantaged students. I am not aware of anything during this process that has impeded the ability of the District and the DOE to work together on a variety of issues to increase the opportunity for our students to receive a thorough and efficient education and to facilitate the ability of the District to operate in an efficient and fiscally responsible

manner.

10. Although the State claims changes in the Abbott districts, the District remains in District Factor Group ("DFG") A, based on 2000 data, which is the same DFG the District was in at the time of the original Abbott designation. The District's poverty concentration, according to the DOE still exceeds 60% (it is approximately 84.3%), and, as Professor Goertz explains in her Certification, the District still possesses the requisite demographic, economic and educational characteristics for Abbott designation.

11. I am not aware of any State Board, DOE or legislative study or analysis of the criteria for Abbott designation that would justify the elimination of the District from the list of poorer urban districts designated as Abbott districts. I am also not aware of any State Board, DOE or legislative study that would support the ability of the local taxpayers in this District to provide the local fair share contemplated by the SFRA without resulting in municipal overburden.

12. I examined the single model district -- the large K-12 district -- that the DOE utilized to develop the SFRA base cost amount, as well as the at-risk funding "weight." The model district that served as the basis for SFRA's adequacy budget is not representative of the actual size and

configuration of the schools in the District. There are several assumptions about the hypothetical school district that do not match the reality of our school district:

- The SFRA model salaries are not aligned with actual contractual salary costs of the district;
- The SFRA model does not allocate resources for kindergarten para-professionals, which are mandated by the NJDOE;
- The SFRA model does not address the need to provide additional instructional staff to provide co-teaching as part of the required Intensive Early Literacy Initiative
- The SFRA model allocates \$1.99 per sq ft towards the cost of utilities. Presently, the district anticipates, based on actual bills and spending projections, spending \$2.29 per sq ft in utilities in the current fiscal year. The actual sq ft of the district is 1,440,488 sq ft. At the current cost of .30 cents above the \$1.99, the district could demonstrate that the model is \$433,000 below the need at the current cost.
- The SFRA model does not clearly address the need for assistant principals at the elementary school level.
- The SFRA model assumes districts have 6.2% LEP students. At 32%, the percentage of LEP students in the district is over five times the percentage in the model. Over 20%, or about 640 of our LEP students are overage and enter Passaic schools having had sporadic or even no schooling in their home country.

13. The major differences between the SFRA model district and the District are in the student enrollment and the number of elementary, middle, and high schools within this District. These differences are as follows:

- (a) The SFRA model district assumes a total student enrollment of 5,240 students for the district. The District's total regular education

student enrollment is 10,871, High-Risk subgroups make up between 30-40% of the total District student population, 77% of the total student population comes from homes where the native language is other than English. These subgroups require additional resources, certified staff, materials, Professional Development and teacher support that are not included within the model district.

(b) The SFRA model district has six elementary schools of 400 students each. The District , has 15 elementary schools with an enrollment of 6,320. The elementary schools have the following grade configurations, which are fragmented as a result of a lack of facilities and the need to rent church schools. The number of students does not include pre-kindergarten:

School	Grade Span	Enrollment
School No. 1	1-6	364
School No. 2	K-2	220
School No. 3	K-6	739
School No. 5	4-6	268

School No. 6	K-6	861
School No. 7	K-2	279
School No. 8	K-3	464
School No. 9	3-6	564
School No. 10	K-3	672
School No. 11	1-5	1146
School No. 14	6	188
Learning Center	3-6	151
No. 15	K	219
No. 16	K	161
No. 17	K	24
Total		6,320

(c) The two middle schools of 600 students each in the SFRA model district are not reflective of the District's one middle school with grades 7 and 8 and with an enrollment of 1,614 students.

(d) The SFRA model district's one high school with 1,640 students does not resemble the one high school in the District, which has 2,682 students in grades 9-12.

14. Although the DOE claims that the resources in its SFRA formulaic model exceed the resources necessary for a district to implement the Abbott V Chart of Supplemental

Programs and Services, there are programs and services that are not identified as inputs in the SFRA model, but that are currently in place in the District. For example, the DOE failed to input early literacy reading blocks and assessment in determining the cost of providing a thorough and efficient education for at-risk students. These early literacy reading programs have been instrumental in boosting our achievement scores in the elementary grades. In the District, early literacy reading blocks and assessment are implemented in the 15 elementary schools and this program has resource requirements, which are not accounted for in the SFRA formula. In the 2008-2009 school year, federal Reading First funds for 8 elementary schools will be cut by \$800,000. In the 2009-2010 school year Reading First funds will cease altogether. In addition, the initiatives in both literacy and math are required to be research-based approaches. Co-Teachers, which are a critical component of the Intensive Early Literacy initiatives as well as the middle grades initiative, require additional funding. The Co-Teacher model during the Literacy Block has only been able to be implemented at Grade 1. In addition, the Literacy Coaches are needed to implement the initiatives.

15. The SFRA "at risk" inputs also fail to include, among others, the following positions that the District needs to serve at-risk children: community services coordinators in middle and high school; elementary level school-based social workers and counselors; school-to-work and college transition counselor(s)/program in the high school; and an enriched nutrition program for breakfast and lunch to enable our students to be ready to learn.

16. The SFRA formulaic inputs also fails to include adequate funding for the "exemplary programs" for art, music and special education in the District, which were identified by the Court in Abbott V as requiring special protection. Nor do the SFRA inputs provide funding for the technology positions and other technology needs and enhancements to help our students master the CCCS and compete with their peers in the wealthier districts.

17. The SFRA model district only allocates one non-Child Study Team social worker to an elementary, middle and high school, respectively, while the District has and needs 9 school-based social workers in the elementary schools, 2 social workers in the middle school(s), and 2 social workers in the high school.

18. The SFRA at-risk weight is based on an input of one parent liaison at the elementary, and no resources for parent involvement in middle and high schools. In the District, parent involvement is critical for recruiting parents to join parent participation programs, fostering parenting skills and career development, and increasing parental education to support student learning at home. There are currently 10 parent liaisons at the elementary level, and 1 parent liaison at the middle school. Under the SFRA, the district lacks the funds for 45 parent liaisons at the elementary school level and one parent liaison at the high school.

19. The SFRA model does not include any of the additional resources or costs related to elementary Whole School Reform ("WSR") or to the mandated 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 the District, the elementary schools have implemented whole school reform models. The SEI is implemented in both the middle and high schools in my district. However,

there is no input in the SFRA for the additional costs relating to these educational programs.

20. The implementation of required Abbott programs and reforms has already resulted in progress in the District. The District has seen gains in the NJASK 3 scores. The District attributes these gains to the pre-K program and the literacy initiatives. The general education population has also shown sustained gains in Language Arts Literacy and Math on all state tests. The high risk populations, i.e., special education and limited English proficient students, are showing growth; however, these populations still are the major cause for the district not making Adequate Yearly Progress (AYP).

21. Despite this progress, the District still requires the Abbott remedies and adequate funding to meet the special needs of our students and to overcome their severe disadvantages.

22. In addition, improvements in the more advanced grades are just beginning. 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 is starting to have a positive educational impact at these levels.

23. As a direct result of the SFRA and increases in non-discretionary expenditures in the 2008-09 school year, the District will have to cut current, approved expenditures for programs, services and positions in 2008-2009. Because of cuts made in the previous 2007-2008 school year, the baseline staffing minimally meets the needs of our general student population and the high-risk populations are seriously underserved. These cuts were required because of the flat funding provided by the State. For example, there was a need at the elementary schools for an elementary guidance counselor and a social worker; however, schools had to choose one position over another position. The district also had to reduce the number of BSI and ELL instructors, social workers and eliminate 25 teachers . The need for certified math and science teachers at the middle school and high school level coupled with the shortage of qualified staff forces the district to resort to hiring alternate route candidates. This necessitates extraordinary Professional Development and mentoring responsibilities. Additionally, the district was cited in recent DOE monitoring for non-compliance in providing a Gifted and Talented program. The district did not meet the administrative code requirements for a Gifted and Talented program in every school at every grade. The need for

additional resources such as Art, Music and Dance staff limits the number of students who can receive those educational programs. The District currently has 141 classrooms which exceed the maximum class size allowed in the regulations. This triggers the need for additional resources not accounted for in the SFRA model. Class sizes which exceed the state regulation require that districts create additional classes or if facilities are lacking, add another teacher in the classroom. Since the district lacks facilities, adding another teacher to reduce the class size is not possible under the current funding formula. Furthermore, the state funding formula does not adequately fund many of the district's unique needs based on its demographics. The SFRA model is not adequately providing needed and required staff in the following areas: special education; special education bilingual, and Native Language/BSI. In addition, there is a need for instructional materials in multiple languages and required training in the use of these materials, none of which is accounted for in the SFRA model.

24. There are other programs, services and positions in the Chart of Supplemental Programs that are demonstrably needed by our students, which the District had to eliminate or reduce

in the 2007-2008 school year and will not be replaced in 2008-2009 due to the new funding formula. They are as follows:

- Art and Music teachers;
- Bilingual/BSI Teachers;
- Overage Program at the High School;
- Alternative programs for high risk students for general education, bilingual overage students who come to this country with no formal education and special education students;
- Inability to meet the requirements of the Secondary Education Initiative, in particular smaller learning communities, due to split scheduling as a result of a lack of space
- 10 Child Study Team Members (Social Workers, LDTC, Psychologists), 29 Teachers of Students with Disabilities; 7 School Counselors; and 6 School Based Social Workers.

25. Under the SFRA, the cuts in the District's overall budget will be even more drastic in the next two school years, 2009-2010 and 2010-2011. As a result, more and more current approved foundational and supplemental programs, services, and positions will need to be cut.

26. I am also concerned that because our classification rate for special education students (22.3%) is above the Statewide average of 14.69% used in SFRA and because the District will be unable to raise sufficient local fair share to meet the additional special education expenses, the District will be compelled to reallocate regular education funding, at-risk funding and other SFRA revenues from our already strapped budgets to satisfy the federal and state mandates for special

education. At 22.35%, our percentage of students with disabilities is appreciably higher than the state average of 12.9% and greater even than the percentage in other Abbott districts. This translates into sizable educational expenses for the District. Professional development is also a necessity for all staff in order to be successful in teaching this population in mainstream settings.

27. In the past, the District could seek supplemental funding to address those special education needs and to avoid reallocations from the budgets for regular education and supplemental programs, services and positions. That opportunity is no longer available to the District under the SFRA.

28. Without the ability to demonstrate the need for Abbott supplemental funding, the District will likely have no alternative but to reduce and/or eliminate needed programs, services and positions/staff in 2008-09, 2009-2010 and 2010-2011 in order to address budget shortfalls under the SFRA. As the transitional "adjustment aid" decreases or is not appropriated (since there is no assurance of such aid), reliance on local fair share increases, and budget shortfalls grow, the District faces the realistic prospect of eliminating all the Abbott remedial positions, programs and services and

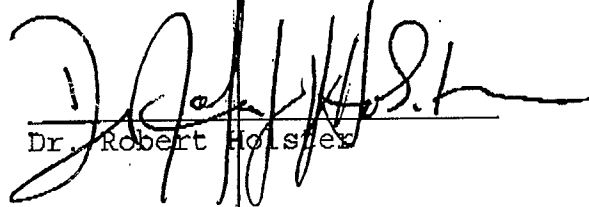
losing all the gains in educational programs, services, positions and progress obtained under the Abbott remedial mandates.

29. Since the implementation of the Abbott mandates, the DOE has never analyzed or assessed in the District the implementation, effectiveness or costs of foundational and supplemental programs, services, and positions required and demonstrably needed for our students. Therefore, I do not understand how the DOE, without actual data on the needs and realities in the Abbott districts, could have arrived at a formulaic base amount for regular education or at the formulaic weight for providing those additional programs, services and positions needed to meet our students' disadvantages with sufficient accuracy to deprive us of any right to appeal for additional, needed funding.

30. In sum, the SFRA formulaic approach requires the District to make severe and drastic cuts in programs services and positions that will prevent us from implementing the Abbott mandates, requires the abandonment or reduction of current programs, services and positions to implement the Abbott mandates, threatens the progress we have made in this District under the Abbott decisions, and precludes the District from seeking supplemental funding for demonstrably needed programs

and services for our students beyond what the SFRA formulas allow.

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.



Dr. Robert Holstey

Dated: May 12, 2008