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By: Michelle Lyn Miller
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SUPREME COURT OF NEW JERSEY
DOCKET NO. 62,700

RAYMOND ARTHUR ABBOTT, et al.,)
Plaintiffs,) Civil Action
v.) SUPPLEMENTAL CERTIFICATION OF
FRED G. BURKE, et al.,) KATHERINE ATTWOOD
Defendants.)

I, Katherine Attwood, of full age, hereby certify that:

1. I am the Assistant Commissioner of the Division of Finance, Department of Education ("Department"). I offer this certification by way of supplement to my March 17, 2008 certification in this matter.

Budget Update Since March 2008

2. Since the State's application to the Court in March 2008, all of the Abbott district 2008-2009 budgets, with the exception of Camden, were submitted and approved by the DOE under

the provisions of the School Funding Reform Act of 2008 (SFRA), L. 2007, c.260.

3. To date, Camden has not submitted an approvable, balanced budget to the Department of Education. See Exhibit A, a true copy of letter dated May 27, 2008, from Katherine Attwood, Assistant Commissioner, Division of Finance and Rochelle Hendricks, Assistant Commissioner, Division of District and School Improvement, to Dr. Bessie LeFra Young, Superintendent, and Ms. Sarah Davis, Camden Board of Education President.

4. Camden has not accepted the suggestions of the Department and the State-appointed fiscal monitor (State Monitor) for appropriate reallocations and efficiencies that would yield a balanced budget. Moreover, Camden has missed several promised deadlines for the submission of a balanced budget to the Department.

5. As a result of Camden's inaction in adopting a balanced budget, a discretionary spending freeze has been directed by the Department. On May 27, 2008, the State Monitor was authorized to veto any discretionary spending approved by the board until such time as the budget is submitted and approved. Camden has challenged the action of the State Monitor to veto discretionary spending, and a controversy is currently pending before the Commissioner of Education pursuant to N.J.A.C. 6A:3.

6. All of the submitted 2008-2009 budgets reflect an increase in State aid over 2007-2008. Exhibit L, School State Aid Comparison of 2007-2008 with 2008-2009, of my initial certification set forth projected amounts of State aid to all of the Abbott districts. However, the 2008-2009 aid did not include SDA transition aid and charter school aid that the districts were noticed of after the filing of my certification. Attached hereto at Exhibit B is an updated School State Aid Comparison of 2007-2008 with 2008-2009 chart. Based on that chart, the increases in aid to the Abbott districts range from a 2.3% increase in Pemberton to over 26% increase in Hoboken.

7. Stated differently, the Abbott districts have increases in State aid per pupil ranging from \$298 per resident pupil in Millville to \$2,940 per resident pupil in Union City. Fifteen Abbott districts have an increase in State aid of \$1,000 per resident pupil or more over 2007-2008. See Exhibit B.

8. Twelve districts will benefit from SDA Transition Aid. See Exhibit B. Consistent with notifications recently issued, this aid is provided to Abbott districts that will be bringing new facilities on-line in 2008-2009. More than \$13 million in SDA Transition Aid will be awarded. Attached hereto as Exhibit C is a true copy of an award letter to Newark dated May 30, 2008.

9. Numerous non-Abbott districts will also enjoy substantial state aid increases over 2008-2009. There are 52 non-Abbott districts with concentrations of at-risk pupils at 40% or more. Of course, all non-Abbott, high-poverty districts will receive at least a 2% increase in aid. More critically, a significant number of these districts receive increases of 10%, 20% or higher. Thirty non-Abbott, high-poverty districts will receive aid increases of 20% or higher. Five will receive aid increases between 10% and 20% and one other will receive aid increases between 5% and 10%.

10. Moreover, of 16 districts involved in Bacon v. New Jersey Department of Education, Buena Regional, Clayton, Commercial, Egg Harbor City, Fairfield Twp, Hammonton, Lakewood Twp, Lakehurst, Lawrence (Cumberland County), Little Egg Harbor, Maurice River, Ocean (Ocean County), Quinton, Upper Deerfield, Wallington and Woodbine, eight will receive increases in State aid of approximately 20% and three other Bacon districts' state aid will increase by approximately 10%. Salem City, originally one of the Bacon districts, is not included in this analysis as it was designated an Abbott district during the course of the litigation.

11. Additionally, prior to the presentation of their budgets, Millville and Phillipsburg sought waivers of the statutory tax levy cap from the Department as permitted by N.J.S.A. 18A:7F-39. Millville's request was approved without adjustment.

Phillipsburg's request was approved at approximately 90% of the request. The Department approved the cap waiver for Millville to support an increase in the required PERS payment, and for Phillipsburg, to replace the loss of non-recurring revenue. The tax levy in Gloucester City was also increased more than 4% due to an automatic adjustment for enrollment increases.

12. The SFRA requires Abbott districts eligible for Educational Adequacy Aid ("EAA") in the first three years of SFRA implementation -- Bridgeton, Elizabeth, Jersey City, Orange, Passaic, Perth Amboy and Plainfield -- to raise their local school tax levies by four or six percent in 2008-2009. N.J.S.A. 18A:7F-58.

13. Based on the Department's expectation that the FY 2009 Appropriations Act will modify N.J.S.A. 18A:7F-58 to provide that an eligible district does not need to raise its local tax levy beyond what is necessary to reach adequacy, Jersey City was advised that it was only required to raise its levy by 3%. Nevertheless the district opted to increase the levy by 4%.

14. Twenty-five of the 31 Abbott districts raised their local levies. See Exhibit D, Final Tax Levy 2008-2009 Budgets.

15. Twenty-seven of the 31 Abbott districts had their budgets approved by the voters or Board of School Estimate. See Exhibit D, Final Tax Levy 2008-2009 Budgets.

16. In Neptune, Phillipsburg, Salem City, and Vineland, where the budgets were defeated, the budgets have been reviewed. No levy reductions were certified in Phillipsburg and Vineland. In Neptune and Salem City, the municipalities reduced the levy by \$25,000 and \$69,000, respectively, which in both cases is significantly less than 1% of the general fund budget. Neither of these two districts submitted an application to the Commissioner to restore the municipal levy reduction. See Exhibit D, Final Tax Levy 2008-2009 Budgets.

17. When 2008-2009 state aid is combined with local levy, it is clear that the fiscal resources available to the Abbott districts are substantial and exceed State aid and local levy of the I and J average. The Abbott average per pupil revenue is \$17,325, compared to the I and J average of \$14,046. Attached hereto as Exhibit E, Summary Of Revenues Per Pupil Comparison, is a chart that updates the data of Exhibit F of my initial certification. The data was updated to reflect actual local school tax levy information as well as to include SDA Transition Aid and Charter School Aid.

Response to Plaintiffs' Certifications

18. I have reviewed the Certification of Melvin L. Wyns and attached exhibits thereto. Upon review of the exhibits I note significant discrepancies in his calculations submitted in support of his conclusions.

19. For example, in ¶¶34 to 37 of Wyns' Certification, Mr. Wyns relies on his calculations set forth in Exhibit C attached to his Certification, Comparison of Abbott/CEIFA and SFRA T&E Budgets, to support his conclusion that SFRA provides less than the level of expenditures the State determined to provide T&E to students in Abbott districts in 2007-2008 under Abbott/CEIFA. His calculations, however, are not entirely accurate.

20. First, Mr. Wyns overstates the amount for "K-12 Supplemental Funding" in 2007-08 as \$690,622,489. The actual EOA supplemental funding for 2007-08 is \$676,412,861. Therefore, the "Total K-12 T&E Budget" for 2007-08 which he calculates as \$4,613,334,305 is incorrect.

21. Further, the second column of Exhibit C titled "SFRA (2008-09)" is also not accurate. Mr. Wyns excludes the following four aid categories from that column:

- a. Adjustment Aid, which totals \$599,417,413;
- b. Education Adequacy Aid, which totals \$8,168,000;
- c. Charter Aid, which totals \$19,179,247; and
- d. SDA Transition Aid, which totals \$13,239,657.

22. In addition, in the second column of Exhibit C, Mr. Wyns uses a projected levy increase amount of \$660,357,690. Following the April election and municipal certification of defeated budgets, the actual total tax levy for Abbott districts was slightly lower, i.e., \$658,649,903.

23. The total difference between the amount listed as the 2008-09 "Total K-12 T&E Budget" by Mr. Wyns and the actual amount allocated to Abbott districts' K-12 budgets in 2008-2009 is \$638,141,530. The accurate amount reflects an actual increase of over \$205 million in funding to Abbott districts for K-12 programs. It also represents an average state share of 86% in 2008-2009, which is the same as the average state share in 2007-2008. See Exhibit F, Comparison of Abbott/CEIFA and SFRA K-12 Budgets.

24. The ELC's comparison of the CEIFA T&E amount with the SFRA base amount to support its claim that the SFRA is constitutionally deficient as applied to the Abbott districts is misleading. The SFRA adequacy model provides for significantly more resources for high poverty districts to meet the needs of their students. If the additional resources such as DEPA/at-risk, Bilingual/LEP and SFRA security aid are included in the comparison, the picture is quite different.

25. Inflated to 2008-2009, CEIFA would generate a bilingual per pupil amount of \$1,444 and a DEPA per pupil amount at 20-40% concentration of \$404; and at 40% and above of \$572. Thus, for example, the adequacy model for an "at-risk" student in a district with a 60% concentration under the SFRA would generate \$15,625 while the same student under CEIFA (inflated to 2008-2009) in a school with a high concentration of at-risk students would generate only \$10,356. Attached hereto as Exhibit G, CEIFA and

SFRA Per Pupil Comparison for 2008-09, is a chart that compares the resources for an at-risk elementary student under CEIFA and SFRA.

26. Mr. Wyns also compares the level of expenditures the SFRA determines as "essential to provide T&E to students in Abbott districts" with the 2007-2008 expenditures in those districts. Wyns Certification, ¶37. In doing so, he erroneously concludes that the SFRA finds \$447 million "in current-year, DOE approved expenditures as excessive and not necessary to provide T&E for Abbott students." Ibid. The proper measure of the level of resources that the SFRA determines is essential to provide T&E to students in Abbott districts, however, is reflected in each Abbott district's Adequacy Budget plus special education and security categoricals (ADBUD CAT). The actual difference between the 2007-2008 Abbott district expenditures and their ADBUD CAT is \$30 million out of \$4.617 billion in expenditures -- the amount of Abbott district expenditures over adequacy. See Exhibit H, K-12 2007-2008 Budget Comparison To Adequacy Budget Plus Categoricals.

27. I have also reviewed the Certification of Dr. Margaret Goertz and attached exhibits thereto. With particular regard to Exhibit C, Table 1 of the Goertz Certification, it appears that rounding as well as the lack of actual levy data results in a presentation of Abbott tax rates relative to the State average that is not entirely accurate. Attached hereto as Exhibit I, Abbott Tax Rates Relative to the State Average, is a chart that

sets forth the Abbott total equalized tax rates relative to the State average. Using this information, only 13 Abbott districts are over 120% of the State average rather than the 15 reflected in Dr. Goertz' Exhibit C, Table 1.

Additional Data and Chart

28. Exhibit B attached hereto includes the resident enrollment of the Abbott districts. That data may be utilized to determine the model district derived from the PJP process each Abbott district would be reflected by the Abbott district's size, i.e., very large, large, moderate and small. Based on the most updated enrollment data, one district would be a small district (less than 1,300 students), 8 moderate (1,300-3,999 students), 11 large (4,000-7,999 students) and 11 very large (8,000+ students).

29. In my initial certification, various charts were appended that establish the types and amounts of State aid for the Abbott districts from fiscal year 1999 to 2008. Exhibit J, Annual Increase in State Education Aid 1998 to 2009, identifies the increases in State aid over the previous fiscal year. It also sets forth the percentage portion of that increase that went to the Abbott districts. Without exception, the Abbott districts received the largest share of state aid increase in the years presented.

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.

Katherine Attwood
Katherine Attwood

Dated: June 9, 2008



Exhibit A

State of New Jersey
DEPARTMENT OF EDUCATION
PO Box 500
TRENTON, NJ 08625-0500

JON S. CORZINE
Governor

LUCILLE E. DAVY
Commissioner

May 27, 2008

Dr. Bessie LeFra Young
Superintendent

Ms. Sarah Davis
Board President
Camden School District
201 North Front Street
Camden, NJ 08102-1935

Dear Dr. Young and Ms. Davis:

This is to advise that the Department of Education continues to have serious concern with the Camden School District's failure to submit a balanced budget for 2008-2009. It is our understanding that the district has missed a number of agreed upon submission dates, with the latest extended deadline set for June 11, 2008.

The lack of an approvable 2008-09 budget is a serious matter and one that needs to be remedied immediately. It is critical that the district submit a balanced budget consistent with the revenues available. Department staff have met with the district's administration on numerous occasions and presented several options for the district's consideration for more efficient operations. These discussions have focused on those efficiencies in the administration and noninstructional areas that will not impact the district's ability to provide a thorough and efficient education.

Of particular concern is how much the district exceeds the statutorily established administrative cost limit when actual enrollments are used in the calculation, as well as its continued approval of travel and funding of discretionary programs beyond Pre-K through 12 when it cannot balance its Pre-K through 12 budget. Notwithstanding any separate action being pursued by the board of education to seek additional funds from the state, there is no mechanism for the district to request additional funds in its 2008-09 budget submission. It is the administration's statutory responsibility to present a balanced budget to the board of education, and the board of education's statutory responsibility to approve a balanced budget consistent with the School Funding Reform Act.


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Dr. Bessie LeFra Young
Ms. Sarah Davis
May 27, 2008
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While we recognize that essential staff needs to be rehired and necessary instructional materials and supplies ordered for summer and fall academic programs, expenditures for discretionary activities cannot continue until the 2008-09 budget is submitted to the department and approved. Therefore, after careful consideration and numerous efforts to work with the district to resolve this matter, the State monitor will act to freeze all current year spending regardless of the funding source and review all personnel appointments, purchase orders and other commitments to verify only essential appointments and expenditures are approved for 2008-09. This approach is consistent with the department's prior policies and practices regarding districts that had not submitted a balanced budget at this time. Discretionary expenditures, including all conferences and workshops, will not be approved regardless of the funding source. Grant monies used for discretionary expenditures, unless specifically awarded for said purpose, will not be approved. Further, the State monitor will disapprove any purchase order and overturn any board action in which he determines that the appointment is not critical or the expenditure to be discretionary in nature. Payment of any invoice that was not properly approved by the district and/or State monitor will be the responsibility of the issuer. Pursuant to N.J.S.A. 18A:11-12, under no circumstances will the board be permitted to approve or ratify a travel event after the event has occurred.

As soon as a balanced budget is presented and approved, the district will be able to resume travel and other discretionary activities consistent with the approved budget. We anticipate that a balanced budget will be presented for approval by June 11, 2008 which will allow the district to continue to plan for the upcoming school year.


Katherine Attwood
Assistant Commissioner
Division of Finance

Sincerely,

Rochelle Hendricks
Assistant Commissioner
Division of District and School Improvement

LED/KPA/Camden spending freeze.doc
c: Lucille E. Davy
Willa Spicer
William King
James McBee
Joan Saylor
Nick Puleio
Sharon Price-Cates
Reuben Mills
Camden Board of Education
H. Mark Starwood



Exhibit C

State of New Jersey
 DEPARTMENT OF EDUCATION
 PO Box 500
 TRENTON, NJ 08625-0500
 May 30, 2008

JON S. CORZINE
Governor

LUCILLE E. DAVY
Commissioner

Ms. Marion Bolden, State District Superintendent
 Newark Public Schools
 2 Cedar Street
 Newark, NJ 07102-3015

Dear Ms. Bolden:

Your district is awarded 2008-2009 new school facility funding in the amount of \$2,336,760 for New Central High School. This award is based on square footage and projected 2008-2009 opening dates for new schools from the School Development Authority. This funding is transitional aid awarded at a rate of nine dollars per square foot to assist in moving to the School Funding Reform Act of 2008. Funding for this purpose was included in the Governor's budget.

The award is required to be recorded as other unrestricted state aid on budget line 360 and explained on supporting documentation item 8a in the district-wide budget software and accounted for on line 10-3198 in the district's accounting software. The budget containing this additional award is required to be resubmitted and retransmitted to the department.

If you have any questions regarding your new school facility funding approval, please call Joan Nesenkar Saylor, director, Office of Budget Review and Fiscal Monitors at 609-777-4484.

Sincerely,

Katherine P. Attwood

Katherine P. Attwood, Assistant Commissioner
 Division of Finance

c: John Hart
 Willa Spicer
 William King
 Kathryn Forsyth
 Donna Arons
 James McBee
 Joan Nesenkar Saylor
 Executive County Superintendent
 Budget Manager
 Lisa Williams
 School Business Administrator

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