

SUPREME COURT OF NEW JERSEY

Abbott ex rel. Abbott v. Burke, 177 N.J. 596

832 A.2d 906 (2003) · No. M-976-02; M-996/997-02; M-1470-02 · Decided July 23, 2003

SUMMARY

The Supreme Court of New Jersey granted the New Jersey Department of Education authority to treat the 2003–2004 school fiscal year as a maintenance year for calculating additional state aid to Abbott districts. The order continued approved programs subject to maintenance-budget limits and authorized evaluation of non-instructional expenditures under an effectiveness-and-efficiency standard, with procedures for notice and administrative appeals. Justice Long dissented, arguing that no further relaxation of the Abbott remedies should be granted.

CASE DETAILS

COURT	Supreme Court of New Jersey
WRITING FOR THE COURT	Chief Justice Poritz; Justice LaVecchia; Justice Albin; Justice Wallace; Justice Long
JURISDICTION	New Jersey
DECIDED	July 23, 2003
DOCKET	M-976-02; M-996/997-02; M-1470-02
DISPOSITION	other
PROCEDURAL POSTURE	The New Jersey Department of Education sought modification of the Supreme Court's prior Abbott orders to extend for one additional year the relaxation of educational remedies during the 2003-2004 fiscal year. After mediation resolved all other issues, the Supreme Court decided the requested extension and the standards governing review of Abbott district budgets.
PRECEDENTIAL VALUE	Published New Jersey Supreme Court per curiam order; binding precedent to the extent it establishes the governing procedures and standards stated in the order.
PARTIES	Fred G. Burke, Commissioner of Education, Edward G. Hofgesang, New Jersey Director of Budget and Accounting, Clifford A. Goldman, New Jersey State Treasurer, New Jersey State Board of Education v. Raymond Arthur Abbott, a minor, by his Guardian Ad Litem, Frances Abbott, Arlene Figueroa, Frances Figueroa, Hector Figueroa, Orlando

Figueroa, and Vivian Figueroa, minors, by their Guardian Ad Litem, Blanca Figueroa, Michael Hadley, a minor, by his Guardian Ad Litem, Lola Moore, Henry Stevens, Jr., a minor, by his Guardian Ad Litem, Henry Stevens, Sr., Caroline James and Jermaine James, minors, by their Guardian Ad Litem, Mattie James, Dorian Waiters and Khudayja Waiters, minors, by their Guardian Ad Litem, Lynn Waiters, Christina Knowles, Daniel Knowles, and Guy Knowles, Jr., minors, by their Guardian Ad Litem, Guy Knowles, Sr., Liana Diaz, a minor, by her Guardian Ad Litem, Lucila Diaz, Aisha Hargrove and Zakia Hargrove, minors, by their Guardian Ad Litem, Patricia Watson, Lamar Stephens and Leslie Stephens, minors, by their Guardian Ad Litem, Eddie Stephens

TOPICS

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QUESTIONS PRESENTED

1. Whether the Department of Education should receive a one-year extension of the previously granted relaxation of Abbott educational remedies for the 2003-2004 school fiscal year.
2. What standards and procedures should govern the Department of Education's calculation and review of Additional Abbott Burke State Aid and district maintenance budgets during that year.
3. Whether the Department of Education may reduce a district's presumptive state aid based on the effectiveness and efficiency of non-instructional programs, subject to administrative appeals.

HOLDINGS

1. The Department of Education may treat the 2003-2004 school fiscal year as a maintenance year for calculating Additional Abbott Burke State Aid, with approved K-12 programs from 2002-2003 continued subject to the conditions in the order.
2. The statewide aggregate amount of Additional Abbott Burke State Aid is presumptively based on the total amount approved for Abbott districts for fiscal year 2002-2003, adjusted as necessary for a maintenance budget.
3. The Department of Education must promulgate an emergency regulation establishing the effectiveness-and-efficiency standard for evaluating Abbott districts' non-instructional programs and may reduce a district's presumptive aid based on that standard.
4. The Department of Education must provide districts preliminary maintenance-budget figures and specific explanations for deleted non-instructional expenditures; districts may appeal reductions to the Office of Administrative Law. The Department bears the initial burden of moving forward to establish

the basis for a proposed reduction, after which the district bears the burden of demonstrating that the reduction is unjustified.

5. Funds deleted from districts' non-instructional programs under the effectiveness-and-efficiency standard remain available for applications for demonstrably needed programs or services and may be awarded by the State without conflicting with the approved maintenance-budget framework.

KEY QUOTATIONS

“If that initial burden is met, the district shall bear the burden of demonstrating that any budgetary reductions are not justified under that standard.” (908)

“Although the State is facing financial difficulties, as are other states and the federal government, our constitutional mandates regarding the education of all of our children cannot be diluted in reliance thereon.” (909)

FACTUAL BACKGROUND

New Jersey faced fiscal constraints during the 2003-2004 school fiscal year while Abbott districts were operating programs approved for the preceding year. The Department of Education sought authority to treat the year as a maintenance year, calculate state aid based on the prior year's approved aid, and evaluate the effectiveness and efficiency of non-instructional programs. The Education Law Center opposed further relaxation and sought preliminary maintenance-budget figures and estimates of supplemental funding.

PROCEDURAL HISTORY

The Attorney General initiated a motion on behalf of the Department of Education to modify the Court's prior Abbott orders. The parties reached agreement on an expedited budget process and other issues, but disputed whether the relaxation of remedies should be extended for an additional year. The Supreme Court granted the application in part through the order issued in this matter and superseded an earlier scheduling order concerning budget appeals.

DISPOSITION

other

CASES CITED

- Abbott v. Burke, 153 N.J. 480, 710 A.2d 450 (1998)
- Abbott v. Burke, 172 N.J. 294, 798 A.2d 602 (2002)
- Abbott IV

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