

## SUPREME COURT OF NEW JERSEY

# Abbott ex rel. Abbott v. Burke, 187 N.J. 191

901 A.2d 299 (2006) · Decided May 9, 2006

### SUMMARY

The Supreme Court of New Jersey issued an order addressing the New Jersey Department of Education's proposed fiscal constraints and budget procedures for Abbott school districts for fiscal year 2007. The Court required districts to resubmit budgets consistent with specified state aid levels, preserved a limited right to appeal inadequate funding for demonstrably needed programs, ordered fiscal audits and programmatic evaluations, and required promulgation of regulations for later budget cycles.

### CASE DETAILS

|                       |                                                                                                                                                                                                                                                             |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of New Jersey                                                                                                                                                                                                                                 |
| WRITING FOR THE COURT | Chief Justice Poritz; Justice Long; Justice LaVecchia; Justice Zazzali; Justice Albin; Justice Wallace; Justice Rivera-Soto                                                                                                                                 |
| JURISDICTION          | New Jersey                                                                                                                                                                                                                                                  |
| DECIDED               | May 9, 2006                                                                                                                                                                                                                                                 |
| DISPOSITION           | other                                                                                                                                                                                                                                                       |
| PROCEDURAL POSTURE    | Original proceeding concerning the New Jersey Department of Education's motion for authority to impose fiscal and budgetary restrictions on Abbott school districts for fiscal year 2007.                                                                   |
| PRECEDENTIAL VALUE    | Published precedential opinion                                                                                                                                                                                                                              |
| 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 and other named minor plaintiffs |

### TOPICS

administrative procedure act rulemaking judicial review of agency action administrative law

### PRACTICE AREAS

administrative law education law constitutional law government funding

## QUESTIONS PRESENTED

1. Whether the Department of Education should be authorized to require Abbott districts to resubmit FY2007 budgets consistent with the Governor's proposed budget and FY2007 Abbott regulations.
2. Whether Abbott districts must be allowed to appeal inadequate funding for demonstrably needed programs, positions, or services.
3. Whether the Department of Education must complete fiscal audits and programmatic evaluations of Abbott districts.
4. Whether the Department must promulgate budget-submission regulations under the New Jersey Administrative Procedure Act for budget cycles after FY2007.

## HOLDINGS

1. The Abbott districts were ordered to comply by May 31, 2006, with the Acting Commissioner's March 23, 2006 memorandum and the FY2007 Abbott regulations by resubmitting their FY2006-2007 budgets consistent with the revenue sources in the Governor's proposed budget and their FY2007 state-aid notices.
2. An Abbott district may appeal inadequate funding for a demonstrably needed Abbott program, position, or service, but on appeal the district must prove that the identified program, position, or service will be substantially impaired because of insufficient funding.
3. The Department of Education was ordered to complete comprehensive fiscal audits of Newark, Jersey City, Paterson, and Camden by November 2006 and to complete the remaining fiscal audits and programmatic evaluations in time to inform the FY2008 budget cycle.
4. The Department of Education was ordered to promulgate regulations under the New Jersey Administrative Procedure Act governing Abbott district budget submissions after FY2007, and those regulations had to remain in effect for at least two years.

## KEY QUOTATIONS

*“On appeal, a district must prove that an identified demonstrably needed program, position, or service will be substantially impaired due to insufficient funding.”* (at 301)

*“such regulations shall remain in effect for a minimum of two years”* (at 302)

## FACTUAL BACKGROUND

The Department of Education sought to keep FY2007 state aid to Abbott districts at FY2006 levels, bar requests for additional Educational Opportunity Aid, restrict appeals of funding decisions, and require eight districts to increase their local tax rates. The opposing parties argued that the requested measures would reduce or eliminate mandated programs and services and asserted that the Department lacked authority to require certain local tax increases. The parties agreed that the Department had not completed previously ordered fiscal and programmatic audits of the Abbott districts.

## PROCEDURAL HISTORY

The Attorney General, on behalf of the Department of Education, moved for authorization to require Abbott districts to submit budgets consistent with the Governor's proposed FY2007 school-aid budget and related Abbott regulations. The Education Law Center, individual Abbott districts, intervenors, and amici opposed the requested restrictions and sought additional relief. After oral argument, the Supreme Court of New Jersey issued an order granting limited FY2007 relief and imposing audit and rulemaking requirements.

## DISPOSITION

other

## CASES CITED

- Abbott v. Burke, 149 N.J. 145, 693 A.2d 417 (1997)

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