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“[E]ducation is perhaps the most important function of state and local governments. . . Such an opportunity, where the state has undertaken to provide it, is a right which must be made available on equal terms.”¹

TITLE

PUBLIC SCHOOL FINANCE REFORM IN THE UNITED STATES AND
NEW JERSEY, WITH AN ANALYSIS OF THREE *ABBOTT* DISTRICTS

ABSTRACT

This paper discusses various aspects of public school funding and is divided into four sections. The first section provides the reader with a brief outline of three landmark Supreme Court cases on education, with the purpose of highlighting the root of modern public school financing issues. The second section briefly explains the past sixty years' shift in New Jersey's demographics which led to gross wealth and racial inequities in the State's public schools today. The third section discusses the State's supreme court cases brought to remedy the inequities in public school finance and educational outcomes among the various districts. The final section compares best and worst practices among three New Jersey school districts in their implementation of remedial educational programs, of which the main objective will be to determine how educational outcomes, given a climate of reform, can be improved at the margin.

INTRODUCTION

The issue of how to equalize public school educational outcomes without states having to greatly increase their inputs (e.g., financing) has influenced federal and local political discussions of the last thirty years. In this time however, there has been little substantive agreement as to which policies are most effective at remedying discrepancies in educational opportunities. Taking its own path, New Jersey has fought to narrow inequities in educational outcomes through years of, what can only be called, political trial and error. In fact, according to a fall 2004 report issued by the Washington, DC-based Education Trust, New Jersey “stands out” as having made real progress in equalizing public school funding.

¹ *Brown v. Board of Education*, 347 U.S. 483, 493 (1954).

LANDMARK SUPREME COURT CASES ON EDUCATION

In *Brown v. Board of Education*,² the Court unanimously held that segregated education was inherently unequal, thus overturning *Plessy v. Ferguson*'s "separate but equal" doctrine.³ One profound legacy of *Brown* has been a close, continuing relationship between courtrooms and classrooms.⁴ A lesson to be learned, however, from post-*Brown* integration shows that the judiciary requires support from both the executive and legislative actors.⁵ That is to say, the goal of integrating public schools could not have been realized without the cooperation of the legislative and executive branches of government. For example, in New Jersey, governors and legislators, along with teachers' unions, actively tried to prevent meaningful change in the state's system of public school financing that had started in the courts. New Jersey's story is neither unique, nor new. In fact, since the time of *Brown*, white families and local politicians have been very creative in circumventing the federal mandate calling for integration.

After years of public active resistance to integration, the Court, in *Milliken v. Bradley*,⁶ cut short the reach of *Brown*. In 1974, writing for a 5-4 majority, Chief Justice Warren Burger declared that only an inter-district violation of constitutional rights could justify an inter-district remedy.⁷ The Court ignored the growing reality of suburban-central-city segregation and left district court judges with little recourse in integrating schools on a metropolitan-wide basis.⁸ The success of *Milliken* made it easier for white parents to isolate their children from minority students

² 347 U.S. 483.

³ Douglas S. Reed, *On Equal Terms: The Constitutional Politics of Educational Opportunity*, p. 59 (2001). The "separate but equal" framework constitutionalized a system of compulsory legal segregation which thrived in the American South. *Id.*

⁴ *Id.* at xiii.

⁵ See Gerald Rosenberg, *The Hollow Hope*, pp 9-36 (1991) (stressing that it was not until the major legislative achievement of the 1964 Civil Rights Act that direct integration of schoolchildren was achieved).

⁶ 418 U.S. 717 (1974). In *Milliken*, the Court refused to impose a metropolitan remedy where only a single district engaged in de jure segregation. *Id.*

⁷ *Id.* at 718.

⁸ The continuing problems of public school segregation in our country are not due, directly, to the failings of *Brown*, but to the success of *Milliken*. Reed, *supra* note 3, at 38.

by creating “islands of immunity that relied on residential and class segregation to achieve what was no longer possible within school districts.”⁹

A year before *Milliken*, the Court held in *San Antonio Independent School District v. Rodriguez*¹⁰ that there is no fundamental constitutional right to an education, and wealth disparities among different school districts do not violate Equal Protection. In a 5-4 decision, Justice Powell asserted that a respect for federalism and the importance of local control on educational financing essentially meant that these disparities in wealth were outside the Court’s purview.¹¹ Powell’s second argument was based on the premise that the Equal Protection Clause does not require absolute equality or, precisely, equal advantages.¹² Instead, courts can only ask if the education received in property-poor districts is “adequate.”¹³

In *Rodriguez*, in his concurring opinion, Justice Stewart recognized and admitted profound financing disparities among school districts in Texas, but found no constitutional violation.¹⁴ The Court emphasized that the heart of state taxation policies was best resolved through local efforts.¹⁵ As a result of the language in *Rodriguez*, state supreme courts were left to rule on these public school finance issues.¹⁶ *Rodriguez* stands for the proposition that laws governing the administration of education may yield grossly unequal educational opportunities, as long as they do not arise from de jure segregation, such as that overruled in *Brown*.¹⁷ After

⁹ *Id.*

¹⁰ *San Antonio Independent School Dist. v. Rodriguez*, 411 U.S. 1 (1973). *Rodriguez* involved a class action suit brought on behalf of school children, who were said to be members of poor families residing in school districts having low property tax base, challenging reliance by Texas school-financing system on local property taxation. *Id.*

¹¹ *Id.* at 16. In *Rodriguez*, the Court rejected that the Fourteenth Amendment’s Equal Protection Clause defines poverty as a “suspect classification.” *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 15. The Court reasoned that students had a constitutional right, but that it did not outweigh the rights of taxpayers to create uniformity within the state. See *id.* This logic reinforced the idea that school issues would be dealt with on a more localized levels.

¹⁵ *Id.*

¹⁶ Reed, *supra* note 3, at 8. State courts “could offer the final word, free from the possibility of federal court reversal.” *Id.*

¹⁷ *Id.* “*Brown* was fundamentally different because it emerged from a lineage of slavery. [R]acially segregated institutions. . . echoed the power dynamics of slavery . . . [and] arose as a

Rodriguez, states could justify differential treatment of students by demonstrating that there was a “rational basis,” rather than a “compelling state interest,” for their action.¹⁸

In fact, the stratification of educational resources has increasingly characterized American schools since the suburban boom of the post-World War II era.¹⁹ In the United States, educational resources are generally raised from a combination of local property taxes and state aid. Differences in property values from district to district tend to create disparities among the resources available for the various areas within a state.²⁰ New Jersey’s suburbanization and system of public school financing will be elaborated upon in the following section. When reading New Jersey’s story, it will be important to keep in mind the goals of *Brown* (on a federal level) combined with the effects of *Milliken* and *Rodriguez* (on a state’s rights level).

NEW JERSEY, A CASE STUDY ON WHITE FLIGHT

Issues of school finance reform in New Jersey must be understood in the broader context of the transformation of New Jersey society in the years following the end of World War II. During the forties, fifties and sixties, New Jersey, like much of America, experienced a period of rapid economic growth.²¹ The rising wealth of individual households, coupled with a federal government priority on home ownership, lead many families to purchase homes in the newly emerging suburbs.²² In fact, owning a home in a quiet suburb became an icon of the American dream. Home ownership coupled with the expansion of highways allowed people to work and live in discrete communities.²³ New Jersey at one point had the distinction of being one of the nation’s most suburbanized states.²⁴

mechanism of social control. There is no historical parallel in the practice of economic or class segregation.” *Id.*

¹⁸ Paul L. Tractenberg, *The Evolution and Implementation of Educational Rights Under the New Jersey Constitution of 1947*, 29 RUTGERS L.J. 827, 830 (1998).

¹⁹ Reed, *supra* note 3, at xiv.

²⁰ *Id.*

²¹ Elizabeth Cohen, *A Consumer’s Republic*, p. 197 (2003).

²² *Id.*

²³ *Id.* In the 1950’s, the construction of 118-mile New Jersey Turnpike and 164-mile Garden Parkway facilitated a change from living in close proximity to one’s work. *Id.*

²⁴ *Id.* Seventy percent of the State’s total land area, under this rubric, qualified as suburban. *Id.*

Unfortunately, this shift in American demographics did not benefit all people equally.²⁵ This inequitable change in American society was worsened after the time of *Brown*. After that landmark Supreme Court decision to desegregate public schools, white families fled for the suburbs in even greater numbers, exponentially widening the gap between the affluent and non-affluent, often divided along racial lines.²⁶ People of color were no longer victims of Jim Crow, but were now deprived of opportunities through a more insidious form of racism, one couched in economic terms.²⁷ Race dictated where people lived, relegating African-Americans and Puerto Ricans, primarily as renters, to core urban areas.²⁸

With the rise of these communities in New Jersey came a rise in localism.²⁹ In New Jersey, political leaders trying to solve some of the social ills, such as inequitable public school financing, lamented that the State's 567 municipal units refused to give up "home rule."³⁰ For example, New Jersey boasts over 600 school districts, a third of them with fewer than 500 students.³¹ The localistic orientation of the State's citizens led to disparities in how urban and suburban residents supported state services; "urban problems seemed more acute . . . because

²⁵ *Id.* Government encouraged de facto segregation through its Federal Housing Administration's process of favoring "whiter" residential areas for investment in mortgages. *Id.* at 204 -05. Mortgage Lenders vigilantly redlined against African-American neighborhoods and African-American buyers, contributing through the withholding of their dollars to the deterioration of African-American neighborhoods and the preservation of all-white communities. *Id.* at 221.

²⁶ Tractenberg, *supra* note 18, at n.382. New Jersey public schools are well-known to be among the nation's most segregated, despite the State's constitutional commitment to racial balance wherever "feasible." *Id.* at 936-37. In the late 1960's, the racial and class chasms grew, culminating in a series of urban-centered and racially motivated riots in New Jersey and elsewhere. *Id.* at 895. See generally, NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS [KERNER COMMISSION].

²⁷ Cohen, *supra* note 21, at 105, 214.

²⁸ *Id.* By the 1970's, suburbs became even more highly stratified along socioeconomic lines with the rise of even more affluent suburbs insulated from less wealthy families by developing only more expensive homes. *Id.* at 202.

²⁹ *Id.* at 230. New Jersey has history in localism dating back to the colonial era. *Id.*

³⁰ *Id.* In New Jersey, localism has been and is reinforced through stringent zoning laws. *Id.* at 232.

³¹ *Id.* at 244. New Jersey has a population of approximately 8.5 million and is divided into 21 counties, 40 legislative districts, and 616 school districts. See Alexandra Greif, Note, *SCHOOL FINANCE LITIGATION: Politics, Practicalities, and Priorities: New Jersey's Experience Implementing the Abbott V Mandate*, 22 YALE L. & POL'Y REV. 615, 617 (2004). New Jersey has the highest per-pupil spending rate of any state in the country, with money for education consuming roughly one-third of the state budget. *Id.*

of the degree to which poor minority residents dominated their populations.”³² City schools “had to provide for heavily disadvantaged pupil populations with far fewer resources than” the more affluent suburbs.³³

NEW JERSEY SUPREME COURT CASES ON PUBLIC SCHOOL FINANCE

“The [New Jersey] legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools.”³⁴

Robinson v. Cahill

The New Jersey Supreme Court offered its ruling on school finance in *Robinson v. Cahill*;³⁵ this case was decided only thirteen days after the Supreme Court’s decision in *Rodriguez*. According to the unanimous court in *Robinson I*, through the New Jersey Constitution’s educational clause (the Education Clause), which requires the State to provide all children with a “thorough and efficient” education, the State had a commitment to equal educational opportunity.³⁶ In *Robinson I*, the court stated:

[I]t cannot be said that the 1875 [constitutional] amendments were intended to insure statewide equality among taxpayers. But we do not doubt that an equal educational opportunity for children was precisely in mind. The mandate that there be maintained and supported ‘a thorough and efficient system of free public schools for the instruction of all the children of the State . . .’ can have no other import.³⁷

However, the constitution did not specify the precise level of educational offering that is required, and heretofore, neither the legislative nor executive branch had attempted to define

³² Cohen, *supra* note 21, at 232. In the 1960’s through the 1970’s poorer urban areas “had to allocate a higher proportion of local tax revenues to [municipal overburden] . . . and a smaller proportion was left for the schools.” Tractenberg, *supra* 18, at 895.

³³ Tractenberg, *supra* 18, at 895.

³⁴ N.J. Const. of 1844, art. IV, s. 7, cl. 6 (Amended 1875). “The [New Jersey] legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the State between the ages of five and eighteen years.” N.J. Const., art. 8, sec. 4, para. 1.

³⁵ 303 A.2d 273 (N.J. 1973) (*Robinson I*). In the lower court’s decision, Judge Theodore Botter reasoned that “local control [of school finance decisions] could not be used ‘to justify a system that breeds substantial disparities in the quality of education.’” *Robinson v. Cahill*, 287 A.2d 187 (N.J. Law Div. 1972).

³⁶ 303 A.2d at 277. The New Jersey Supreme Court chose not to decide *Robinson I* as a violation of constitutional principles of equality. *Id.*

³⁷ *Id.* at 294.

such a level.³⁸ The court vaguely declared that the “[c]onstitution’s guarantee must be understood to embrace that educational opportunity which is needed in the contemporary setting to equip a child for his role as a citizen and as a competitor in the labor market.”³⁹ With this language, the New Jersey Supreme Court was less concerned with educational financing disparities per se, than with the outcomes.⁴⁰ The court found that, in order to provide for equality in the labor market and citizen development, the State needed to ensure that students from poorer districts were placed on an equal competitive footing.⁴¹

In *Robinson I*, the court assessed the history of public school financing disparities in New Jersey, which historically had been largely a rural phenomenon,⁴² and recognized that white middle-class abandonment of central cities, combined with a quick deindustrialization of American cities, helped create the unequal competitiveness among students.⁴³ The court expressed doubt that any funding system which relied on local taxation could satisfy the Education Clause in light of “the discordant correlations between the educational needs of the school districts and their respective tax bases.”⁴⁴

In passing, the court made several other observations about compliance with the Education Clause, three of which would come to define certain successes and failures of New Jersey’s school financing reform. First, the court referred to the municipal overburden problem that afflicted many urban districts,⁴⁵ essentially foreshadowing later reforms that established a redistributive funding system among the State’s districts. Second, it indicated that the State’s obligation under the Education Clause was not limited to current operating expenses, but

³⁸ Reed, *supra* note 3, at 84.

³⁹ 303 A.2d at 295.

⁴⁰ Reed, *supra* note 3, at 84-85.

⁴¹ *Id.* at 85.

⁴² In a nineteenth-century case that dealt with school financing, the New Jersey Supreme Court, interpreting the constitution’s Education Clause limited the ability of some students to receive “special opportunities” until the “common right of all” had been secured. *Landis v. School District Number 44*, 31 A. 1017, 1018 (N.J. Sup. Ct. 1895).

⁴³ See 303 A.2d 273.

⁴⁴ *Id.* at 297.

⁴⁵ *Id.*

extended to capital expenditures;⁴⁶ this logic is currently manifested in judicial mandates calling for construction of educational facilities. Third, it acknowledged that equality of educational opportunity did not preclude the State from recognizing "differences in area costs, or a need for additional dollar input to equip classes of disadvantaged children."⁴⁷ This last idea is found in current reforms, which allow for failing districts to customize remedial programs according to their unique needs. Although *Robinson I* was not the end of New Jersey's public school finance reform litigation, the court's language was prescient.

In the penultimate paragraph of its first *Robinson I* decision, the New Jersey Supreme Court dealt with a matter that would dominate its docket and create a series of constitutional confrontations with the other branches of state government for the next three years: remedying the Education Clause violation.⁴⁸ The court laid out State governmental obligations for the period of time necessary to establish a new statutory system.⁴⁹ The court further addressed two inter-related remedial problems: getting the legislature to adopt a constitutionally-responsive school finance statute and then, to appropriate funds necessary to implement it.⁵⁰

Initially, the main focus was on the new statute, but as the legislature failed to act promptly the court was required to deal with interim funding arrangements and its power to redirect money in a way that would move the State toward compliance with the Education Clause.⁵¹ The legislature's most difficult problem was money, given the extent of the disparities in local property wealth.⁵² Existing forms of state taxation could not be expected to generate the necessary revenues.⁵³ The only possible solution was adoption of a new broad-based state

⁴⁶ *Id.*

⁴⁷ *Id.* at 298

⁴⁸ Tractenberg, *supra* note 18, at 900.

⁴⁹ *Id.* at 901.

⁵⁰ 303 A.2d 298.

⁵¹ See, e.g., *Robinson v. Cahill*, 335 A.2d 6, 8-10 (N.J. 1975) (Robinson III) (Pashman, J., dissenting); *Robinson v. Cahill*, 351 A.2d 713 (N.J. 1975) (Robinson IV) (Pashman, J., dissenting in part and concurring in part).

⁵² Tractenberg, *supra* note 18, at 901.

⁵³ *Id.*

tax.⁵⁴

The legislature, therefore, adopted a new school funding statute and appropriated state aid required by that statute.⁵⁵ In September, 1975, the New Jersey Legislature enacted the Public School Education Act of 1975.⁵⁶

Immediately, the court was confronted with a welter of motions from various parties, all seeking relief that implicated the constitutionality of the new statute.⁵⁷ The court, however, opted for a speedy resolution of the facial constitutionality of the 1975 Act.⁵⁸ In its per curiam opinion, the court's majority stressed the obvious – that an ultimate determination about the Act's constitutionality would have to await its implementation.⁵⁹

In *Robinson V*, the court signaled its willingness to entertain a challenge to the 1975 Act as applied. In fact, such a challenge began to be developed at the Education Law Center (ELC) in Newark,⁶⁰ where lawyers had started the process of data collection and other litigation preparation.⁶¹ Although there were different parties and a new caption, *Abbott v. Burke*, this new litigation was, undeniably, the next stage of *Robinson v. Cahill*.⁶²

Abbott v. Burke

On June 5, 1990, almost fifteen years after adoption of the 1975 Act, and more than nine years after the plaintiffs' challenge to the statute was filed, a unanimous New Jersey Supreme Court concluded in *Abbott v. Burke*:

We find that under the present system the evidence compels but one conclusion: the poorer the district and the greater its need, the less the money available, and the worse the education. That system is neither thorough nor efficient. We hold

⁵⁴ *Id.*

⁵⁵ *Id.* at 902

⁵⁶ See Public School Education Act of 1975, N.J. STAT. ANN. § 18A:7A-1-20 (West 1998) [hereinafter 1975 Act]. In the first days of July, 1975, after a series of false starts, the Legislature adopted the state's first income tax, paving the way for full funding of the 1975 Act. Tractenberg, *supra* note 18, at 904.

⁵⁷ Tractenberg, *supra* note 18, at 902.

⁵⁸ *Robinson v. Cahill*, 355 A.2d 129, 131 (N.J. 1976) (*Robinson V*).

⁵⁹ *Id.*

⁶⁰ The Education Law Center is a public interest law project established under a Ford Foundation grant in 1973. See <http://www.edlawcenter.org/ELCPublic/AboutELC/History.htm>.

⁶¹ Tractenberg, *supra* note 18, at 904.

⁶² *Id.* at 905.

the Act unconstitutional as applied to poorer urban school districts. Education has failed there, for both the students and the State. We hold that the Act must be amended to assure funding of education in poorer urban districts at the level of property-rich districts; that such funding cannot be allowed to depend on the ability of local school districts to tax; that such funding must be guaranteed and mandated by the State; and that the level of funding must also be adequate to provide for the special educational needs of these poorer urban districts in order to redress their extreme disadvantages.⁶³

In *Abbott II*, funding in poor urban districts had to be at the level of property-wealthy districts, not at some assumed level of adequacy.⁶⁴ Moreover, the funding had to be sufficient to enable poor urban districts to meet the extreme educational disadvantages of their students.⁶⁵ The court, however, applied its decision only to a limited number of central city school districts, with high percentages of poor and minority students as determined by a New Jersey Department of Education (DOE) classification scheme.⁶⁶ These districts are called “special needs districts,” or *Abbott* districts.

The court, in *Abbott II*, recognized that thoroughgoing educational reform was an essential component of constitutional compliance.⁶⁷ However, in the remedial section of its opinion, the court showed a continuing deference to the legislature and left it up to the law makers to identify which districts would qualify as “poorer urban districts;” to decide as to whether or not to alter the school funding system for other districts; and to define the nature and details of a funding system under the Education clause.⁶⁸

⁶³ *Abbott II*, 575 A.2d 359, 363 (N.J. 1990). In 1990, nine years after his suit was filed, Raymond Abbott, the plaintiff in the *Abbott* litigation and a high school drop out, learned of his victory while serving time in the Camden County Jail for violating parole from a previous burglary conviction. Cohen, *supra* note 21, at 246.

⁶⁴ *Id.*

⁶⁵ *Id.* In *Abbott II*, the court stated “[i]f the educational fare of the seriously disadvantaged student is the same as the ‘regular education’ given to the advantaged student, those serious disadvantages will not be addressed, and students in the poorer urban districts will simply not be able to compete. . . All of the money that supports education is public money, local money no less than state money. The students of Newark and Trenton. . . are no less citizens. . . [and] are entitled to . . . begin at the same starting line.” *Id.* at 402-403.

⁶⁶ Reed, *supra* note 3, at 85

⁶⁷ 575 A.2d at 363

⁶⁸ *Id.* In *Abbott II*, the court stated “[w]hatever the legislative remedy, however, it must assure that these poorer urban districts have a budget per pupil that is approximately equal to the average of

In response to *Abbott II*, the legislature adopted, and Governor Jim Florio signed into law, the Quality Education Act (QEA) of 1990.⁶⁹ Governor Florio was supportive of the school finance equalization efforts and saw it as a means to help resuscitate New Jersey's urban areas.⁷⁰ Unfortunately, the QEA could not succeed because the jurisprudential logic could not be reconciled with the political logic that had created the gross inequities in educational inputs and outputs.⁷¹ That is to say, that although Democrats controlled both houses of the New Jersey legislature in 1990, the tax increase required to fund the QEA created a political backlash.⁷²

In 1993 there was a taxpayer revolt and the subsequent installation of a solid Republican majority in the legislature and a Republican governor, Christine Todd Whitman.⁷³ Whitman sought to simultaneously minimize costs and transform *Abbott II*.⁷⁴ Her scheme was to define the constitution's "thorough and efficient" requirement and to establish a funding level in-line with such a standard.⁷⁵ Whitman hoped to reign in administrative inefficiencies through a system of accountability, and thereby create cost savings.⁷⁶ In defining an educational standard, the State defined a core curriculum and would fund only this curriculum.⁷⁷ In May 1996, the New Jersey DOE released its cost estimates for the curriculum at \$8,285 per pupil.⁷⁸

In December 1996, the Legislature and Governor adopted the State's fourth new school funding law since the *Robinson* case had been filed,⁷⁹ the Comprehensive Educational

the richer suburban districts, whatever that average may be, and be sufficient to address their special needs." *Id.* at 409.

⁶⁹ N.J. STAT. ANN. §§ 18A:7D-1 to -37 (West Supp. 1998) (QEA).

⁷⁰ Tractenberg, *supra* note 18, at 911.

⁷¹ Reed, *supra* note 3, at 100. The QEA required a \$2.8 billion tax increase to eliminate the state budget deficit to pay for the school finance equalization plan – at a time of a nationwide economic downturn. *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.* at 151. "In Whitman's more memorable phrasing, the slogan was, 'Put the textbook before the checkbook.'" *Id.*

⁷⁷ *Id.* See *Abbott v. Burke*, 693 A.2d 417, 425 (N.J. 1997) (*Abbott IV*) (describing the genesis of the Core Content Curriculum Standard (CCCS)).

⁷⁸ *Id.* at 154.

⁷⁹ Tractenberg, *supra* note 18, at 914.

Improvement and Financing Act of 1996 (CEIFA).⁸⁰ Governor Whitman's tautological explanation for how CEIFA would assure all students equal educational opportunity, notwithstanding continuing spending disparities, was that they would all be held to the same achievement standards.⁸¹

In 1997, the Education Law Center returned to the State supreme court, contending that CEIFA failed to provide substantial parity among the disparate districts.⁸² *Abbott IV* is essentially an administrative ruling doling out educational resources to particular districts, rather than a systematic evaluation of structural change in the State's school finance. In *Abbott IV*, the court not only held firm to its decisions in *Abbott II* and *III*, but also issued what, in many respects, was the most forceful decision in the entire twenty-seven year history of New Jersey's school funding litigation.⁸³ And as part of *Abbott IV*'s remedial process, the legislature appropriated additional funds, approximately \$246 million, to enable the special needs districts finally to reach full parity of regular education funding with the wealthier suburban districts.⁸⁴

On January 22, 1998, the court, after reviewing the different proposals put forth by the parties, recommended that the following programs be implemented: whole-school reform (WSR), full-day kindergarten for five-year-olds, full-day pre-kindergarten for four- and three-year olds, summer school, school-based health and social services, an accountability system, and added security.⁸⁵ Whole school reform was embodied in the slogan "Success for All," in which the goal would be for "schools that serve not just students but their families and their communities."⁸⁶

On May 21, 1998, the New Jersey Supreme Court ruled, in *Abbott V*,⁸⁷ that the State would need to spend an additional \$312 million (on top of the fall 1997 budget of \$247 million) in

⁸⁰ N.J. STAT. ANN. §§ 18A:7F-1 to -33 (West Supp. 1998) (CEIFA).

⁸¹ Tractenberg, *supra* note 18, at 915.

⁸² See 693 A.2d 417 (*Abbott IV*).

⁸³ Tractenberg, *supra* note 18, at 919.

⁸⁴ *Id.*

⁸⁵ *Abbott v. Burke*, 710 A.2d 450, 456-57 (N.J. 1998) (*Abbott V*). *Abbott V*, like *Abbott IV*, dealt elaborately with the programmatic elements of a thorough and efficient education. Reed, *supra* note 3, at 154.

⁸⁶ Reed, *supra* note 3, at 159.

⁸⁷ 710 A.2d 450.

the special needs districts to ensure substantial parity.⁸⁸ The court essentially adopted the New Jersey DOE's "Success for All" proposal for reforming the special needs districts and authorized the education commissioner to implement a variety of supplemental programs such as school-to-work, college transition, alternative schools, security measures, technology reforms, and accountability mechanisms.⁸⁹ The court directed that every Abbott elementary school adopt a proven, effective whole-school reform model.⁹⁰ The court also established an implementation timetable: fifty Abbott elementary schools were to adopt whole-school reform in 1998-99, 100 schools in the following school year, and the remaining Abbott elementary schools in the third year.⁹¹

In general, *Abbott V* has reinforced and even extended the constitutional benchmarks the court announced in its prior *Abbott* decisions. Having three times unsuccessfully ordered the commissioner of education to do the district-by-district student needs assessment that is the cornerstone of devising necessary supplemental programs and costing them out, the court reversed the process in *Abbott V*.⁹² Now it is the poorer urban districts and their individual schools to which the court is looking for that input.⁹³ The bottom up approach is likely to be more successful, because the districts have every incentive to do careful needs assessments, identify effective programs to meet those needs, and put realistic price tags on them.⁹⁴

The progression of *Abbott* litigation highlights the inability of the court to do more than pump more money through the existing institutional framework of educational governance. The twenty-eight *Abbott* districts saw increases in funding, but not a transformation in how those

⁸⁸ See Tractenberg, *supra* note 18, at 921.

⁸⁹ Reed, *supra* note 3, at 159-60.

⁹⁰ 710 A.2d at 461.

⁹¹ See Tractenberg, *supra* note 18, at 921.

⁹² *Id.*

⁹³ *Id.* Rather than imposing a single solution statewide, *Abbott* allows flexibility of supplemental program implementation based on the individual characteristics of each of the twenty-eight "special needs" district. *Id.*

⁹⁴ *Id.* Although some of the *Abbott* directives attach only if the commissioner determines that *Abbott* districts or schools have demonstrated needs beyond those that can be met from existing funding; if they do so effectively and persuasively, they should receive additional funding from the State. *Id.* at 924.

services and programs are paid for within the State.⁹⁵ The inability of the court to achieve this transformation stems from the politics of education that necessarily entrenches the interests of key districts, school administrators and educational interest groups within the policy-making process.⁹⁶ That is to say, despite general support for equalizing measures, the electorate will generally resist reforms that involve more money or other forms of sacrifice.

In polls conducted by The Eagleton Center at Rutgers University on the New Jersey electorate between 1990 and 1996, over 2,100 respondents answered the question: "In general, do you agree or disagree that spending for education must be equal in all of New Jersey's school districts."⁹⁷ Generally, respondents overwhelmingly endorsed equal funding for schools, with some changes in perception over time, accounting for different economic and political factors.⁹⁸

However, actual support for school finance reform in New Jersey became very apparent in the years of transformation between the start of Florio's term as governor to the end of Whitman's. The State seemed to divide rather quickly between the ELC on one hand and the Garden State Coalition, a conservative lobby group, on the other.⁹⁹ During these reform years, the wealthier districts were able to use their political influence to resist any significant leveling down of their spending.¹⁰⁰ For example, when under the QEA, New Jersey sought to force local districts to pay their share of teacher retirement benefits, the New Jersey Education Association (NJEA), the State's strongest interest group, rallied around the cause of affluent districts that protested the move.¹⁰¹ Such a move would have required the wealthier districts to be more cost-

⁹⁵ Reed, *supra* note 3, at 159-60. Reliance on the property tax for educational funding in New Jersey has increased over the life of the *Abbott* litigation. *Id.* at 160. In New Jersey, from 1988 to 1997, the real median per-pupil income combined state and local revenues doubled within six years, nearly tripling in nine. *Id.* at 25.

⁹⁶ *See id.*

⁹⁷ *Id.* at 100.

⁹⁸ *See id.* at 100-04.

⁹⁹ *See id.* at 151-56.

¹⁰⁰ Tractenberg, *supra* note 18, at 909.

¹⁰¹ Reed, *supra* note 3, at 147. The NJEA feared that the wealthier districts would offset the new burden by lowering wages and benefits to teachers. *Id.*

conscious in their decisions to hire more teachers, and would have also allowed the State to redirect certain monies to the “special needs” districts.¹⁰²

The struggle of how much of public educational finance should be localized is a recurrent theme in school litigation.¹⁰³ A constant conundrum involves the level at which a state’s department of education should involve itself in the functioning of each district’s affairs.¹⁰⁴ The *Abbott* decisions show that the New Jersey Supreme Court advocates strong state administrative involvement. The next section will highlight how civic life, at its best (and worst), “relies on face-to-face exchanges between individuals -- involving meetings, public speaking and group interactions.”¹⁰⁵

THREE ABBOTT DISTRICTS

It is not enough, however, that the three branches of government, sometimes working together and sometimes at apparent odds, have each responded to the challenge to carry out the Constitution’s command of a thorough and efficient education . . . Success for all will come only when the roots of the educational system – the local schools and districts, the teachers, the administrators, the parents and the children themselves – embrace the educational opportunity encompassed by these reforms.¹⁰⁶

This section details the success and failures of three *Abbott* districts, discussing each district’s discrete qualities¹⁰⁷ as to why and how the schools and community leaders were particularly successful or not in implementing *Abbott* reforms.¹⁰⁸ The notion is that these three

¹⁰² *Id.* The state’s contribution to pension costs was, in the early 1990’s, nearly \$700 million annually. *Id.*

¹⁰³ See, e.g., *San Antonio Independent School Dist. v. Rodriguez*, 411 U.S. 1 (1973).

¹⁰⁴ “Localism is paramount in American attitudes toward public education. Reforms that seek to diminish local control are much less likely to meet approval than those that do not.” Reed, *supra* note 3, at 121.

¹⁰⁵ *Id.* at 134.

¹⁰⁶ *Abbott v. Burke (Abbott V)*, 153 N.J. 480, 528.

¹⁰⁷ For the purpose of this paper, I assert that a discrete quality as any variable, such as the dynamism of one particular individual, turnover rate of special *Abbott* advisors, the availability of certified teachers/counselors within a commutable distance, the availability of buildings/land, the number of target students, discrepancies in ethnic make-up, the poverty level within a school district and the pre-existing deficiencies.

¹⁰⁸ The choice of these districts comes from a section of a note by Alexandra Greif on the topic of New Jersey public school finance reform. Greif, *supra* note 31, at 650. The districts appear as they would on a map of New Jersey from North to South. See, e.g., www.edlawcenter.org/ELCPublic/AbbottvBurke/map/AbbottDistrictsMap.htm.

districts share many similar qualities, given the overall judicial, executive and legislative response in the State – and they all qualified to be *Abbott* districts.

In advance of the breakdown by district, I would like to highlight a few statistics. Between 1999 and 2002, the gap between New Jersey fourth graders in *Abbott* and non-*Abbott* districts on the language arts portion of the Elementary School Proficiency Assessment narrowed by fifteen points.¹⁰⁹ The percentage of students in *Abbott* districts scoring at the lowest level on the test declined from 66.2% to 29.6%.¹¹⁰ On the negative side however, in July 2001, the Coalition for Our Children's Schools, a New Jersey organization that promotes policies for providing state-of-the-art educational facilities, gave New Jersey a failing grade for its lack of progress.¹¹¹ Districts have thus far proposed 532 projects, the total number needed to satisfy the court's mandate, but only one project has been completed and only 159 are in development.¹¹²

Union City

Union City is a community of 67,088 within only 1.3 square miles located directly across the Hudson River from New York City.¹¹³ Schools in the Union City district have around 10,870 students with Hispanics comprising 94% of the total enrollment, of which almost half are bilingual.¹¹⁴ Overall the high schools boast a graduation rate of 74%.¹¹⁵ Seventy-five percent of all students are eligible for free or reduced lunch.¹¹⁶ The average residential property value is \$127,994, which is 63% higher than the average *Abbott* district.¹¹⁷ Most students' families

¹⁰⁹ ELC, Achievement Data Presented to Supreme Court by Dr. Bari Erlichson and Dr. Robert Slavin (Apr. 9, 2003), at http://www.edlawcenter.org/ELCPublic/Alert_0403_DataSummary.htm.

¹¹⁰ *Id.*

¹¹¹ Greif, *supra* note 31, at 650.

¹¹² *Id.*

¹¹³ See Union City Profile, at <http://www.edlawcenter.org/ELCPublic/AbbottvBurke/AbbottProfiles/UnionCity.htm>.

¹¹⁴ See *id.*

¹¹⁵ See *id.*

¹¹⁶ *Id.* Income eligibility guidelines for free lunches are derived from the federal poverty guidelines and are updated annually. See National School Lunch Program, at <http://childnutrition.doe.state.de.us/childnutrition/lunchprog.htm> [hereinafter School Lunch].

¹¹⁷ See Union City Profile, *supra* note 113.

rent.¹¹⁸ On average, teachers earn \$53,793 per annum and have thirteen years teaching experience.¹¹⁹

Seven years before *Abbott V* was decided, Union City had a failing school district that was threatened by State takeover; as a consequence, the school district was entrenched in its own version of WSR in advance of the other *Abbott* districts.¹²⁰ Using its years of experience, Union City was able to effectively customize its relationship with post-*Abbott V* WSR developers at the school level,¹²¹ taking advantage of the more dynamic aspects of those 1997 reform measures. The Union City school district has decentralized decision-making and, through filling supplemental program positions, strengthened efforts to address student and school needs for social and health services, dropout prevention, and other WSR programs.¹²²

In February of 1996, Union City received national recognition when the President and Vice President of the United States came to acknowledge the extraordinary accomplishments of this urban school district.¹²³ The Union City school district combined *Abbott* reform measures with technological innovation and corporate sponsorship, which was cited by President Bill Clinton as a model for educational excellence and national inspiration.¹²⁴ The Bell Atlantic Corporation, in September of 1993, supplied computers to the Union City Christopher Columbus School and at the homes of all 135 seventh-grade students.¹²⁵ Students involved in the Bell Atlantic Union City trial showed marked improvement in standardized test scores and writing

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ Telephone Interview with Leititia Logan, Research Assistant, Educational Law Center (Nov. 21, 2004) [hereinafter Logan Interview (Nov. 21, 2004)].

¹²¹ See Brief in Opposition to Defendants' Motion in Support of Plaintiffs' Cross-Motion in Aid of Litigants Rights at 20, *Abbott v. Burke*, No. 42,170, 2004 WL 2429800 (N.J. Sup. Ct. Nov. 1, 2004) (*Abbott X*).

¹²² *Id.* at 19. Union City, widely regarded as the premier *Abbott* district in terms of instructional improvement and achievement growth, is known to have bright, dedicated people working in its central office. Greif, *supra* note 31 at 650.

¹²³ Union City Interactive Multimedia Education Trial: 1993-1995 Summary Report (Honey & Henriquez, 1996), at http://www.edc.org/CCT/ccthome/tech_rept/CCTR3/CCTR3.html#ex.

¹²⁴ *Id.*

¹²⁵ *Id.* When these students became ninth graders at Emerson High School, Bell Atlantic continued to sponsor the home/school connections for two more years. See *id.*

skills, significant declines in absenteeism, an increase in students transferring in, and a decrease in students transferring out.¹²⁶

The Union City school district was not only effective in using the extra resources provided by *Abbott*-inspired legislation, but also reached out to the community and local private actors with the result of increasing student achievement. Much of the information provided by the school district's website focuses on how the various leaders among the schools' administrators were effective in gaining the trust and involvement of parents and other community members in an effort to push through WSR remedial measures.¹²⁷ In essence, *Abbott* reform provided a foundation and, arguably, an excuse to galvanize the various stakeholders into action after years of pre-litigation torpor.

Plainfield

Plainfield is a community of 47,829 within only one square mile located directly south of Elizabeth.¹²⁸ Schools in the Plainfield district have around 7,500 students with African-Americans comprising 71% of the total enrollment, and Hispanics 28%.¹²⁹ Overall the high schools graduate only half of the students,¹³⁰ which correlates to the number of those eligible for free or reduced lunch.¹³¹ The average residential property value is \$111,406 which is higher than the

¹²⁶ *Id.* Union City school district parents, administrators, teachers and students are using electronic mail to build bridges and break down walls. Teachers see extensive use of this medium playing an important role in supporting the development of student writing and research skills. The trial also has furthered the research orientation of the district's curriculum, prompting students to seek more information and to use resources not readily available in the past." *Id.*

¹²⁷ See Union City school districts website, at <http://www.union-city.k12.nj.us>.

¹²⁸ See Plainfield Profile, at <http://www.edlawcenter.org/ELCPublic/AbbottvBurke/AbbottProfiles/Plainfield.htm>.

¹²⁹ See *id.*

¹³⁰ See *id.*

¹³¹ *Id.* Income eligibility guidelines for free lunches are derived from the federal poverty guidelines and are updated annually. See School Lunch, *supra* note 116.

average Abbott district.¹³² About half the students' families rent.¹³³ On average, teachers earn \$52,113 per annum and have thirteen years teaching experience.¹³⁴

In the initial stages of *Abbott* litigation, Plainfield was not considered among the original twenty-eight school districts.¹³⁵ A few years later, the State's legislature chose Plainfield to receive extra monies as an *Abbott* district.¹³⁶ This status was short-lived, as Governor Whitman decided that, although Plainfield was considered on the decline, it was ineligible to receive extra aid from the State.¹³⁷ Whitman's decision had a devastating effect on the school district, as almost half of its budget was derived from *Abbott* funding.¹³⁸ Soon after losing this money, Plainfield's Superintendent, Larry Leverett, and other leaders among the local school board, along with the local assemblyman, actively lobbied Trenton for a reinstatement of its *Abbott* status.¹³⁹ After almost three years and failed litigation, the then Speaker of the House, Donald diFrancesco, succeeded in pushing through Plainfield as the thirtieth *Abbott* district.¹⁴⁰

In the Plainfield school district, this sort of local leadership was instrumental in carrying out the court's mandate. Instead of depending on the State to drive implementation efforts, the superintendent took the initiative by focusing on increased capacity at the classroom, school district and community levels.¹⁴¹ The superintendent strongly supported the WSR paradigm.¹⁴² The administrators in the Plainfield school district informed themselves of how to implement the

¹³² See Plainfield Profile, *supra* note 128.

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ Telephone Interview with Ray McCoy, Community Relations Coordinator, Plainfield School Board (Nov. 23, 2004) [hereinafter McCoy Interview (Nov. 23, 2004)].

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.* According to Ray McCoy, after Mr. diFrancesco became involved, "everything just snowballed for Plainfield." *Id.* Plainfield was the first *Abbott* district to provide the State with its five-year facility plan. *Id.*

¹⁴¹ Greif, *supra* note 31, at 650.

¹⁴² McCoy Interview (Nov. 23, 2004), *supra* note 135.

Whole School Reforms by attending national conferences and participating in educational programs at Harvard University.¹⁴³

Plainfield's administrators not only informed themselves of the reformation process, but actively enlisted the help of the community by setting up a "community planning process."¹⁴⁴ This system tore apart the pre-litigation paradigm of a top-down system, wherein administrators dictated the direction of educational programs. In Plainfield, this type of planning became integral to the success of any programs, as individuals took an active interest in carrying out the responsibilities inherent in the changes.¹⁴⁵

Plainfield helped incubate progressive changes in other ways. One of which, was to enlist the expertise of AT&T.¹⁴⁶ The Plainfield superintendent initiated contact with AT&T so that the corporation could help train the population to develop both leadership and teamwork skills.¹⁴⁷ In addition to having strong leadership, Plainfield benefited from the availability of open buildings for creating new educational facilities. The school district is currently constructing a new middle school and remodeling four other schools.

Camden

Camden is a community of 79,904 within 8.8 square miles located directly across the Delaware River from Philadelphia.¹⁴⁸ Schools in the Camden district have around 17,430 students with African-Americans comprising 56% of the total enrollment, and Hispanics 41%.¹⁴⁹ Overall the high schools graduate a paltry 43% of students,¹⁵⁰ 78% of whom are eligible for free

¹⁴³ *Id.*

¹⁴⁴ *Id.* Two committees comprised of parents, teachers, administrators and other community leaders met twice a month for a year to create a list of priorities in carrying out reform. *Id.* These committees were instrumental in making choices as to which programs should be most central to the WSR process. *Id.*

¹⁴⁵ *Id.* Community members actually developed a "beliefs system," which essentially means that "you have to believe that reform is possible and will happen in Plainfield." *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.* AT&T also provided for one year a "change agent" who was responsible for overseeing the "culture of change in the school district." *Id.*

¹⁴⁸ See Camden Profile, at <http://www.edlawcenter.org/ELCPublic/AbbottvBurke/AbbottProfiles/Camden.htm>.

¹⁴⁹ See *id.*

¹⁵⁰ See *id.*

or reduced price lunch.¹⁵¹ The average residential property value is \$24,456, which is 30% lower than the average Abbott district.¹⁵² Two-thirds of students' families rent.¹⁵³ On average, teachers earn \$50,653 per annum and have fourteen years teaching experience.¹⁵⁴

The Camden school district is widely considered to have fallen far short of successfully implementing *Abbott* reforms. Gordon MacInnes, Assistant Commissioner of the New Jersey DOE, described a district like Camden as “apathetic; . . . happy to take the money and increase . . . salaries, but . . . [not] show any drive.”¹⁵⁵ Camden suffers not only from weak leadership, but also institutional corruption. Although there is no documented proof, there is strong anecdotal evidence suggesting that local leaders inflated their salaries or funneled funds for personal use, rather than applying *Abbott* money towards implementing WSR.¹⁵⁶ In fact, Camden has done little to create a rational long-range facilities plan and, to date, has failed to actually construct any new educational buildings.¹⁵⁷

Along with its failure to construct new buildings, the Camden school district has fallen behind on attracting properly certified teachers for all levels, but most specifically for the head start program.¹⁵⁸ Currently, almost 79% of Camden’s pre-Kindergarten students are instructed by non-certified teachers who were “grandfathered” into the program.¹⁵⁹ In addition to lacking real certified teachers, the school district lacks, until recently, a strong community commitment to becoming involved in the reforms. Unlike in Union City and Plainfield, Camden’s school board

¹⁵¹ *Id.* Income eligibility guidelines for free lunches are derived from the federal poverty guidelines and are updated annually. See School Lunch, *supra* note 116.

¹⁵² See Camden Profile, *supra* note 148.

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ Greif, *supra* note 31, at 650.

¹⁵⁶ A Plainfield representative suggested that some districts were hostile to implementing WSR because administrators felt threatened; either, they did not want to share power or feared losing their jobs. See McCoy Interview (Nov. 23, 2004), *supra* note 135.

¹⁵⁷ Logan Interview (Nov. 21, 2004), *supra* note 120. Unlike other *Abbott* districts that lack open land in which to construct, Camden has suffered from a lack of direction. *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ See Camden Profile, *supra* note 141. See also, Logan Interview (Nov. 21, 2004), *supra* note 120.

has been unable to enlist parental, community, or corporate cooperation in formulating and carrying out a viable reform plan.¹⁶⁰

Camden, as a city, suffers from greater levels of crime than even its peers among the poorest New Jersey urban areas.¹⁶¹ This paper did not detail with specificity the history of Camden, but it is one that has created a nine-mile wide area full of gross poverty¹⁶² and all the problems surrounding a lack of economic opportunities.¹⁶³ Despite greater funding opportunities and a potential for stronger leadership under *Abbott V*, the children in the Camden school district live in a toxic and violent community with a sewage plant, cement factory, lead-contaminated water, open-air drug deals and homicides.¹⁶⁴ Given the current environment for Camden children outside of their schools' walls, it seems that the school district faces problems that not even the WSR system can adequately alleviate.

CONCLUSION

According to the Assistant Commissioner of the New Jersey DOE, MacInnes, people running successful districts "focused on coherence . . . had an idea of how things should work from age three through grade twelve, and they had an idea of how you integrate and get people working towards the acceptance of literacy goals."¹⁶⁵ In addition, successes accrued to school districts that took advantage of entitlements under *Abbott V* by aggressively pushing past

¹⁶⁰ On the more positive side, Camden, like Plainfield, appealed decisions by the DOE to reduce their 2003-04 budgets, which suggests some level of understanding and response to the importance of staying on top of the State for monies. See www.edlawcenter.org/ELCPublic/Alert_Press%20ReleaseBudgetJune10.htm.

¹⁶¹ Camden has become the nation's most dangerous city. *Camden: Most Dangerous U.S. City*, N.Y. Times, Nov. 22, 2004, at B3.

¹⁶² See *Camden Kids Count: A City Profile of Child Well Being*, at <http://www.acnj.org/admin.asp?uri=2081&action=15&di=437&ext=pdf&view=yes>. Camden City claims the highest percentage of children growing up in poverty. See *id.* In 2000, 45 percent of the city's total child population lived in families that lacked the resources to provide their basic needs. See *id.* Births to unmarried mothers represented 80 percent of total births in the city in 2002, compared to 29 percent statewide. See *id.*

¹⁶³ See, e.g., *Southern Burlington NAACP v. Mount Laurel Township*, 456 A.2d 390 (1983); Howard Gillette, *The Wages of Disinvestment: How Money and Politics Aided the Decline of Camden, New Jersey*, in *Beyond the Ruins: The Meanings of Deindustrialization*, eds. Jefferson Cowie & Joseph Heathcott (Ithaca and London: Cornell University Press, 2003), pp. 139-158.

¹⁶⁴ Personal Interview with Dr. Stella Horton, Director, Camden Center for Youth Development (Nov. 15, 2004).

¹⁶⁵ Greif, *supra* note 31, at 650.

bureaucratic inaction in hiring consultants who “stayed totally on top” of the State’s DOE.¹⁶⁶ In the end, the conclusion requires little analysis: greater improvements in student achievement occur in school districts where there is strong leadership and community involvement. Strong leadership and involvement, in New Jersey, are more dominant in school districts with fewer social ills.

New Jersey has made strides in equalizing school funding. Since the time of *Abbott V*, quantifiable improvements have been documented. My unstated hypothesis before researching and writing this paper was that real wholesale progress would only occur with wholesale changes in peoples’ attitudes towards race and class; otherwise, the system that created the institutional framework of educational governance and stratification of resources would be self-perpetuating. Fortunately, I come away from the process with a less cynical bent. I now understand that this fatalistic mentality is a more powerful deterrent to progress than racial and social segregation.¹⁶⁷

¹⁶⁶ *Id.* at 651, *quoting* Joan Ponessa, former Director of Research, Education Law Center.

¹⁶⁷ Looking ahead, in September 2004, the State announced that a pilot program creating “small learning communities” within existing ones will be implemented in *Abbott* districts. John Mooney, *Raising Expectations in Urban Schools While Cutting Class Sizes*, *Star-Ledger*, Sept. 13, 2004, at A4. This program would establish small schools of around 250 students that would provide for more personalized education and counseling. *Id.*

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