



CW-NJ-001-004

SUPREME COURT OF NEW JERSEY  
DOCKET NO. M-622

RAYMOND ARTHUR ABBOTT, et al.,)

Plaintiffs, )

Civil Action

v. )

FRED G. BURKE, et al., )

Defendants. )

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DEFENDANTS' PROPOSED FINDINGS OF FACT

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TABLE OF REFERENCES  
SUPPLEMENTAL PROGRAMS

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- P-2 Middle School Budget from Assistant Commissioner Azzara's Work Papers
- P-4 Wiping Out Disadvantages, Education Law Center (1996).
- P-5 Temple Study of Abbott Surveys
- P-6 Slavin, R.E., Madden, N.A., Lawrence, Doolan (1996). Every Child, Every School, Success For All. Thousand Oaks: Corwin Press.
- P-7 Trenton Times 11/17/97 Newspaper Article (AP article)
- P-8 Commissioner's white paper and letter of 6/5/97 regarding parity plans/studies
- P-9 CEIFA models for elementary, middle and high schools
- P-10 Early childhood program aid 5 year operational plan (DOE instructions)
- P-11 Report to Legislature on Parity Plans dated October 1997
- P-13 Star Ledger 11/20/97 Articles
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- P-15 New Jersey Department of Education Comprehensive Educational Improvement and Financing Plan, May 1996
- P-16 Whole School Reform Matrix
- P-17 Curriculum Vitae of Dr. Gerald Demauro
- P-23 Gwen Grant's Subpoenaed documents; responsive to #1
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- P-26 Summary of Plaintiffs' Proposed Supplemental Programs and Response to the Report of the Commissioner of Education, December 1, 1997.
- P-27 Curriculum Vitae of Dr. W.S. Barnett

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- P-41 Carver School Health Services Budget
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- D-2 A Study of Supplemental Programs and Recommendations for the Abbott Districts, New Jersey State Department of Education, November 1997.
- D-3 Success For All/Evaluations Booklet
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- D-16 Kids Count Publication
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- D-22 Affidavit of Dr. Larry Leverett
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PF-1	New Jersey Department of Education Technology Plan
PF-2	May 1996 CEIFA Plan
PF-3	County Superintendent Michael Maddaluna's Summary of Surveys
PF-4	County Superintendent Maria Nuccetelli's Summary of Surveys
PF-5	Surveys (26)
PF-6	Two page Summary of Design Guidelines from Arlington, Va
PF-7	Perth Amboy Facility Evaluation; Public School No.5
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PF-9	Public Affairs Research Institute, Debt Service Chart, face sheet and p.11
PF-10	NJ Association of School Administrators, <u>Perspective</u> , Volume 14, #1
PF-11	EduFac Marketing Brochure
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## PROPOSED FINDINGS OF FACT

### SUPPLEMENTAL PROGRAMS

The Commissioner of the New Jersey Department of Education hereby submits the following as proposed findings of fact for the supplemental programs phase of the trial:

#### I. Introduction

1. The unique needs of disadvantaged students in the Abbott districts are known to the Department of Education and have been documented over the years. Tr. (11/19/97) 94:1-13.

2. Children in Abbott districts represent 21.6% of the total enrollment in New Jersey and constitute 264,070 students. The enrollment includes 119,066 African Americans (45%), 98,098 Latinos (37%), 39,355 Whites (15%) and 7,551 Native Americans and Asian/Pacific Islanders (3%). D-2 at 1.

3. Of the students enrolled in Abbott districts, 176,362 are eligible for free lunch, 68,546 students participated in Title I in 1996-1997, and 26,245 were limited English proficient students participating in bilingual and/or English as Second Language Programs. D-2 at 1, 2.

4. Students in Abbott districts have been failing to meet state standards in reading, writing, and math, as measured by the eighth

grade Early Warning Test and by the High School Proficiency Test administered in grade 11. D-2 at 2; D-14; Tr. (11/21/97) 154:12-156:9.

## II. Whole School Reform

5. To significantly improve student achievement in the Abbott districts, supplemental programs must be implemented through a whole-school reform approach. Tr. (11/17/97) 197:1-22.

6. Whole school reform is meant to fundamentally change a school and the educational program it provides. Whole school reform is not an "add-on" to what a school currently does, rather, it integrates supplemental programs and strategies with each other and with research-supported approaches to regular instruction in a coherent and concerted effort to improve student achievement. D-2 at 1, 8; Tr. (11/17/97) 34:14-34:24.

7. Experts consulted by the Department of Education, such as Dr. Robert Slavin, Co-Director of the Center for Research on the Education of Students Placed At Risk, concur with the Department's recommendation for whole school reform. Tr. (11/17/97) 32:8-10, 35:25-36:7.

8. The Department's vision for whole school reform in the Abbott districts includes an effective educational mission and philosophy, school-based leadership and decision making, a safe and conducive

school environment, and research-based curriculum and instruction wherein the elementary school employs a full-time facilitator to assist the principal in providing leadership in the area of research-based curriculum and instruction. D-2 at 26-28.

9. In addition, the Department's vision of whole school reform includes media and technology designed to support the school's research-based approach to teaching and learning, student grouping and extended reading time, organized and continuous professional development, student and family services (consisting of a Family Support Team of a parent liaison, school facilitator, school counselor, school social worker, and school nurse) and a school-based budget. D-2 at 28-30.

10. Finally, as part of a whole school approach, the Abbott districts should provide: (1) class sizes of one teacher for every 21 students in grades K-3 and 1:23 for the remaining elementary grades; (2) one-to-one tutoring for low-performing first, second and third graders; and (3) extended instructional time in reading to 90 minutes per day with a 1:15 ratio for all pupils 1-3. D-2 at 12.

### III. Success for All

11. Success For All is a program of whole school reform that shows the most promise of enabling students in the Abbott districts to achieve the Core Curriculum Content Standards. D-2 at 22.

12. Success For All is based on years of research and effective practices in beginning reading, and an appropriate use of cooperative learning. D-2 at 22.

13. Success For All and Roots and Wings is a research program directed toward "at-risk" students in high poverty schools. Tr. (11/17/97) 32:22-33:7.

14. The Success For All program was created through a process of "development and evaluation" to find the best strategies and most effective approaches to reading, classroom management, early childhood education and parental involvement -- in short, a "detailed review of what worked with children who were at risk of school failure". Those strategies and approaches were then woven into "a comprehensive plan". Tr. (11/17/97) 36:22-37:6.

15. This "comprehensive" approach to school improvement and student achievement involves changes in every aspect of elementary school organization, instruction and curriculum. D-2 at 22.

16. The dual goals of Success For All are to prevent children from falling behind and needing remediation and to intervene early and intensively if a student is experiencing difficulty in achievement. P-6 at 97; Tr. (11/17/97) 37:7-11; Tr. (12/5/97) 222:14-16.

17. Success For All is currently being implemented in about 750 schools in the United States and in five other countries. Tr. (11/17/97) 37:15- 16, 59:4-7.

18. Success For All focuses on reading, writing, and language arts, as well as preschool, kindergarten, family support, and tutoring. Roots and Wings refers to the math, science and social studies elements of the program. Tr. (11/17/97) 38:6-8, 38:13-16.

19. Music, art and programs for the gifted may be integrated into the WorldLab component of Success For All. Tr. (11/17/97) 43:10-15.

20. The prekindergarten and kindergarten programs in Success for All and Roots and Wings use a thematically based curriculum that is intended to develop oral language, literacy, listening skills, numeracy, creative expression, and positive self-esteem. P-6 at 98.

21. The Success for All program places a strong emphasis on increasing the school's capacity to relate to parents and to involve parents, as well as health and social service agencies, in solutions to any nonacademic problems students may have. Each Success for All school establishes a Family Support Team for this purpose. P-6 at 156.

22. The Family Support Team deals with issues such as attendance concerns, with children who have serious behavior problems, and, for example, children who need eyeglasses or hearing aids. In short, the goal of the Family Support Team is to ensure "that the children are in school ready to learn every day." Tr. (11/17/97) 44:15-23.

23. With individually administered test data on thousands of children in many schools in many districts, Success for All is the most extensively evaluated school wide restructuring program. P-6 at 195. See also D-3 at 12-27.

24. Results of Success For All are, on average, consistent. Children at the end of first grade read just under three months better than children in the control schools. By the end of fifth grade, they read an average of slightly more than a year ahead of the matched control schools. P-6 at 201; Tr. (11/17/97) 63:8-14; D-3 at 12-15.

25. "[I]n terms of proven effectiveness, ... Success For All is substantially better validated than any of the other models...." Tr. (11/17/97) 159:24-160:12.

26. The comparison in Baltimore, Maryland of Success for All and control students show that there is a lasting effect of the program into middle school. P-6 at 202.

27. Also, in the Maryland Roots and Wings pilot program, the four schools began the program performing substantially below the state average on statewide assessment. Within three years, those four schools caught up to the state average, and in some areas, slightly exceeded the state average. Tr. (11/17/97) 170:4-18; D-3 at 18-20.

28. Most professional development is provided by Johns Hopkins University in Baltimore, or by Johns Hopkins trainers in other locations. P-6 at 169.

29. The philosophy behind the treatment of special education issues in Success for All is called "neverstreaming." Success for All schools intervene early and intensively with students who are at risk to try to keep them out of the special education system. P-6 at 212; D-3 at 27-29.

30. Empirical findings support the conclusion that Success for All both reduces the need for special education services (by raising the reading achievement of very low achievers) and reduces special education referrals and placements. P-6 at 212; D-3 at 27-29.

31. Success For All also has a bilingual program entitled "Lee Conmigo" which is built on the same principles and uses the same lesson structure and instructional processes. P-6 at 21; D-3 at 22-25.

32. In light of the proven ability of the Success For All program to increase the achievement of disadvantaged students, the Department appropriately recommends that all elementary schools in the Abbott districts be required to implement Success For All, or an alternative research-based, whole school reform model which includes the Comer School Development Program, Accelerated Schools, the Adaptive Learning Environments Model, and the Modern Red School House, or some other model of whole school reform determined to be effective in improving student achievement. D-2 at 26.

33. The Accelerated Schools Project is a K-6 comprehensive approach to school change, designed to improve schooling for children at-risk which organizes the whole school community to accelerate learning by providing all students with challenging activities traditionally reserved for students identified as gifted and talented. D-2 at 23.

34. The Adaptive Learning Environments Model (ALEM) is a K-8 whole-school reform program, currently being extended into the middle and high school which consists of a site-specific implementation plan that takes into account the school's improvement needs, the learning characteristics of the students, staff expertise and staffing patterns, the curricula and includes a school-linked, coordinated health and human service delivery system focused on health development and wellness of each student. D-2 at 24.



35. The Comer School Development Program focuses on bridging the gap between the home and the school by identifying and addressing the underlying problems of students and their families and involving all school, staff, community agencies and parents in designing plans that focus on improving school climate, instruction, collaboration with local social and health providers, parental involvement, and other appropriate solutions to identified problems. D-2 at 24.

36. The Modern Red School House (MRSB) is a K-12 program with a program philosophy articulated through six tenets of reform, which include high standards for all, transmission of a common culture and respect for diversity, school choice for students and teachers, use of advanced technology, and flexibility and accountability for teachers and principals and requires school-based management, multi-graded classes and assessments. D-2 at 25.

37. The illustrative budget and assumptions in the Department of Education's Success For All model is adequate to implement the Success For All program at a high level. Tr. (11/17/97) 78:5-7.

#### IV. Secondary School Models

38. There is a lack of compelling research on the effectiveness of secondary school models of whole school reform. Tr. (11/17/97) 78:9-17.

39. No one secondary whole school reform program appears to be sufficiently empirically validated to enable the Department to identify a model for whole school reform with proven effectiveness for ensuring student success and improving student achievement. D-2 at 35.

40. However, secondary schools should be encouraged to experiment, pilot, and evaluate secondary school models of whole school reform such as Project on High Performance Learning Centers, ATLAS, Coalition of Essential Schools and Paideia. D-2 35, 54-55, Tr. (11/17/97) 78:9-23, 200:3-8, Tr. (11/18/97) 219:14-24

41. Dr. Slavin concurs with the Department's approach of offering a range of potential secondary school models from which to choose. Tr. (11/17/97) 78:20-23.

42. Notwithstanding that the Department has not identified a model of whole school reform for the secondary schools in the Abbott districts, each Abbott district should provide remedial instruction at a reduced class size of 15 for students requiring additional assistance. D-2 at 36; Tr. (12/9/97) 111:4-15, 115:3-6.

43. Additionally, at-risk students require one or more supplemental programs, coordinated with the regular program in their middle or high school. The following are recommended by the Commissioner: alternative schools and dropout prevention, community

schools, increased security and codes of conduct, school-to-work/college, instructional technology, continuous professional development, and school-based decision making and parental involvement. D-2 at 35.

V. Supplemental Programs

44. In conjunction with whole school reform, the following supplemental programs should be implemented:

A. Half-day Preschool for Four-Year Olds

45. Well-planned, high quality half-day preschool programs help close the gap between the home and school environments and the educational expectations that lead to academic success. D-2 at 8.

46. Because it has been found that prior attendance in preschool is clearly linked to success of low-income students in school, each Abbott district should offer half-day preschool for four year olds at a class size of 15 students with one teacher and one aide. D-2 at 9.

47. There is no research which establishes that a full day of preschool is more effective than a half day of preschool, or that preschool programs that start at age three are more effective than those that begin at age four. Tr. (11/17/97) 51:6-52:3, 124:11-18; Tr. (12/2/97) 54:2-9.

48. According to Dr. Slavin, it is not known if there are additive benefits of prekindergarten and full-day kindergarten, but he strives to ensure that all children at least experience one or the other in the Success For All program. P-6 at 97-98.

49. The 1990 National Education Goals have as a priority at least one year of preschool for all disadvantaged children. D-7 at 7.

50. Wiping Out Disadvantages recommends at least one level of preschool prior to a full day kindergarten program. P-4 at 8.

51. Dr. W.S. Barnett recommends that "every child in poverty in the United States ought to be provided with at least one year of quality education prior to school entry in a part-day preschool education program or a full-day developmental child care program rich in cognitive interactions between teachers and children." P-28.

52. The Child Parent Center II study, designed to study the long-term effects of variation in age of entry of preschool, "found no advantage for children who entered at age three compared with children who entered at age four." D-8 at 42.

53. Experts such as Dr. Ellen Frede have found that variations in duration and intensity across preschool programs "are not associated with striking differences in program effects, however,

it may be that even relatively limited experience of the high-quality preschool programs offered in these studies was sufficient to set the intervention children on a path toward change." D-10 at 122. See also D-9 at 14.

54. The Department of Human Services has doubled its funding for day care under the Welfare Reform Law. Tr. (12/5/97) 68:24-69:4.

55. The estimated per pupil cost for half-day preschool for 4-year olds with a class size of 15 students, one teacher and one aide is \$2,983 per pupil. Tr. (11/20/97) 34:16-22, 38:16.

B. Full day Kindergarten

56. Studies have shown that well-planned, developmentally appropriate full-day kindergarten programs for five-year olds clearly provide one of the most cost-effective strategies for lowering the dropout rate and helping children at-risk become more effective learners in elementary school, particularly in first grade. D-2 at 10.

57. Full-day kindergarten has been found to consistently increase end-of-kindergarten achievement more than half-day programs, although long-term outcomes are less well established. P-6 at 97.

58. Because full-day kindergarten is a promising approach when incorporated as part of a whole school program, Abbott districts

should provide full-day kindergarten programs for all five-year old children at a class size of 21 with one teacher and one aide. D-2 at 10, 46.

59. The estimated cost per pupil for full-day kindergarten with a class size of 21, one teacher, and one aide is \$4,108 per pupil. Tr. (11/20/97) 33:2-3, 47:16-23.

C. Reduced Class Size in Reading

60. The evidence is compelling that small classes (e.g., 1:15 ratio) for reading instruction in the early grades can be effective, and that the benefits persist when used in conjunction with other modifications to the learning environment to achieve and maintain academic achievement. D-2 at 11.

61. In light of the research-based evidence of the benefits of reducing class size in conjunction with Success For All, Abbott districts should implement the Success For All 90 minute reading periods at a reduced class size of 15. Tr. (11/17/97) 79:17-81:13.

62. According to Dr. Slavin, "To have a full 90 minutes of active, productive, instruction, having only one reading group is essential." This cross-grade grouping for reading is a form of Joplin Plan which has been found to increase student achievement. D-2 at 12.

63. When students are in small groups for concentrated reading periods, they demonstrate "progress in the areas of reading and language arts" and that ability assists students in "every area" of the educational program. Tr. (12/5/97) 232:17-233:5.

64. Additionally, students who fall behind their peers in reading benefit from the provision of tutoring by certified reading teachers for a 20-minute session during times other than reading or math. D-2 at 11.

65. As noted earlier, the results of Success For All are, on average, consistent. Children at the end of first grade read just under three months better than children in the control schools. By the end of fifth grade, they read an average of slightly more than a year ahead of the matched control schools. P-6 at 201; Tr. (11/17/97) 63:8-14; D-3 at 12-15.

66. Dr. Finn characterized the effects and benefits of reducing class size for all subjects as found in the Tennessee Star Study as "small" and he could not make a definitive recommendation to implement reduced class sizes as he considered it to be a "policy question." Tr. (12/2/97) 191:13-193:5.

67. The estimated cost per pupil for reduced class size in reading, a 90-minute reading period for grades 1 through 3 at a

size of 15 pupils per teacher, is \$361 per pupil. Tr. (11/20/97) 52:2-53:22.

68. The estimated per pupil cost for one-to-one tutoring of students reading below grade level for a twenty-minute session is estimated to be \$4,208 for each pupil receiving the tutoring. Tr. (11/20/97) 57:18-58:18.

#### D. Social Service

69. The mission of the Department of Education is to educate students in New Jersey. Tr. (12/5/97) 116:20-25.

70. The Supreme Court directed the Commissioner to address the "special educational needs" of students in the Abbott districts. 149 N.J. 145, 224 (1997).

71. Abbott districts should provide for the social and health service needs of their students through coordination with social and health care providers, inviting the services into the school or going into the community to link students with services. Tr. (12/5/97) 92:21-93:14.

72. The Department of Education does not have expertise in the area of social service delivery and the agencies and departments of state that provide human and health services are best suited to assist children with those types of needs. Tr. (11/17/97) 217:2-9.



73. The basic mission of the Department of Human Services is to serve the disadvantaged individuals of New Jersey and to try to alleviate suffering and provide them with basic services to address their human and social service needs. The Department of Human Services is actively involved in all of the Abbott districts and has prioritized how it wants to provide those services. Providing those services through School Based Youth Services, as opposed to a more general approach, is not high on the Department of Human Services' list of priorities. The estimated cost to implement School Based Youth Services in every school in the Abbott districts would be approximately \$126 million. Tr. (12/5/97) 115:21-116:1, 116:15-19, 117:9-16, 118:10-15.

74. In light of the distinct missions between the Departments of Education and Human Services, schools should provide the space to provide social and medical services, if available, and take an active role in the referral process to provide services. At the elementary level, this would take the form of a family support team and at the secondary level, a community services coordinator. Both of these roles would constitute a link from the school to the resources and services available through the community, other agencies and departments of state. Tr. (11/17/97) 217:10-218:12. The estimated cost to implement this proposal at the elementary level is \$158 per pupil. At the middle school level, the estimated cost is \$64,500 per school; at the high school level, the estimated cost is \$69,400 per school. D-2 at 14.

E. School Based Budgeting and Decision Making

75. Studies have shown that school reform efforts are more effective and long-lasting when carried out by people who have a sense of ownership and who are closely affected by management decisions. D-2 at 14.

76. The Carnegie Corporation (1994) found that well-planned parent programs have a measurable impact on student achievement if they link parents to schools, foster the adult family members' parenting skills and career development and involve parents in governance and decision making. D-2 at 14.

77. School based budgeting is appropriate for elementary, middle and high school levels as a way of implementing site-based decision making which will provide the school with a budget to meet its needs and in allowing the principal of the school, the parents, and the faculty to make decisions about how to use that money. The school-based budget is "part and parcel of site-based decision making." Tr. (11/19/97) 71:23-72:6.

78. School-based decision making should be implemented in all Abbott schools, thus empowering and motivating principals, parents, teachers and students with a common sense of educational purpose. D-2 at 14.

79. Site-based decision making, including site-based budgeting is recommended as a way of providing meaningful school-level involvement and assuring that funds reach the secondary school level. D-2 at 36.

80. The Department's illustrative budget found in Appendix B of the Department's Study of Supplemental Programs was not designed as a suggested model for funding Abbott districts, but rather to demonstrate a school-based budget as part of a whole school reform effort. Tr. (11/18/97) 239:22-240:8.

#### F. Instructional Technology

81. Technology enables students in any community to have unlimited access to information, to the vast array of curriculum and instruction offered in the state, and to information and ideas needed to master the state's Core Curriculum Content Standards. D-2 at 15.

82. Technology can have a significant impact on the education of students from low-income households whose education has focused on basic and lower-level, repetitious rote skills with little attention to comprehension, problem-solving, mathematical reasoning and composition. D-2 at 16.

83. Every Abbott district will have one interactive television classroom provided at no cost to the district. Tr. (11/17/97) 226:16-19.

84. Every Abbott district will be connected to a high speed fiber optic network by Bell Atlantic at no cost to the district. Tr. (11/17/97) 227:6-14.

85. Every Abbott district should attain the ratio of one computer for every five students. The estimated cost for instructional technology at a ratio of one computer to every five students in addition to peripherals and software is \$267 per pupil. Tr. (11/20/97) 68:5-69:22; D-2 at 16.

G. Security and Codes of Conduct

86. To address problems of student disruption and violence, every school must clearly establish a code of conduct defining the obligations of students' acceptable and unacceptable behavior and communicate the consequences that will result from the student's success or failure in meeting their obligation. D-2 at 15.

87. Schools should also employ full-time security personnel and utilize other protective devices such as metal detectors to assist in enforcing the codes of conduct and ensuring school safety. D-2 at 15.

88. In addition to the security measures already in place in the Abbott districts, each Abbott district should establish a 1 to 225 ratio of security guards to students in the secondary schools or, if they are comfortable with their current ratio, engage other security measures such as metal detectors. D-2 at 15; Tr. (11/20/97) 53:14-65:19.

89. A ratio of one security officer to 225 students in the secondary schools is reasonable. Tr. (11/20/97) 53:14-65:19.

90. Each elementary school in the Abbott districts should have one security officer. Tr. (11/20/97) 53:14-65:19.

91. The estimated additional cost for these security measures is \$61 per pupil at the elementary level and a \$146 per pupil at the middle and high school levels. Tr. (11/20/97) 53:14-65:19.

#### H. Continuous Professional Development

92. Students who perform poorly need administrators and teachers who are experienced, well-trained and utilize a variety of classroom management and instructional strategies. D-2 at 16.

93. In Success For All, professional development is the key to the effectiveness of the program and teachers and administrators take part in workshops and in-school training with the facilitator of

the school constantly working on the professional development of staff in the school. Tr. (11/17/97) 46:13-24, 228:6-14.

94. Since the intent of professional development is to improve student performance, every Abbott district and their schools must implement a professional development program that is continuous, focuses on student achievement of the content standards, and is based on ongoing professional renewal, strengthening the knowledge base on effective practices and subject matter knowledge of teachers and administrators. D-2 at 17.

95. Utilizing the Success for All model, estimated costs for continuous professional development and curriculum materials as well as professional training and six release days for both staff and aides is \$398 per pupil. Tr. (11/20/97) 70:11-72:2.

96. At the secondary or high school level, funding for professional development should equal 2% of budgeted salaries. Tr. (11/20/97) 73:11-13.

#### I. Alternative Education/Drop Out Prevention

97. There are many different strategies and existing programs which are often used in combination with each other in the same school that address dropout prevention. D-2 at 17.

98. A drop-out prevention counselor should be established in each middle and high school in the Abbott districts who will work to prevent drop-outs prior to intervention actions being necessary, with the goal of reducing the number of students who might require alternative education programs. Tr. (11/17/97) 230:18-231:6.

99. Strategies that should be implemented in the Abbott districts to prevent dropouts include increasing the quantity and attractiveness of the secondary curriculum, alternative educational programs, whole school reforms intended to improve the achievement and social development of children, tutoring and personalizing the high school experience through mentoring strategies. D-2 at 17-18; Tr. (12/8/97) 15:18.

100. In instances where students are disaffected or disruptive to the learning of other students and to their own learning, it is sometimes necessary to remove those students from the traditional education setting into an alternative school which provides additional supports for the student. Tr. (11/17/97) 229:20-230:2; Tr. (11/18/97) 168:22-169:3; Tr. (12/8/97) 15:8-15.

101. An alternative middle school and an alternative high school should be established in each Abbott district at a estimated cost of \$275,000 per alternative school. Also at each middle and high school, there should be one dropout prevention specialist/counselor. At the middle school level, the estimated

cost is \$64,500 per school; at the high school level, the estimated cost is \$69,400 per school. D-2 at 19.

#### J. School to Work/College

102. School-to-work/college transition programs offer an opportunity to learn life skills and contribute to good citizenship and productivity in the workplace. D-2 at 19.

103. An effective, high-quality school-to-work/college transition program has the following key elements: school-based features, work-based learning, connecting activities, and career development. D-2 at 19-20.

104. School-to work/college programs that contain the four key elements outlined above should be embedded into the curriculum program through the Core Curriculum Content Standards in each of the Abbott districts, focusing both on academics and vocational preparation. D-2 at 21; Tr. (11/17/97) 233:14-20.

#### VI. IMPLEMENTATION

105. The reorganization of the Department of Education has resulted in the establishment of two new offices, the Office of Program Review/Improvement (approximately 50 persons) and the Office of Fiscal Review/ Improvement (approximately 30 persons). In addition, a Special Assistant to the Commissioner for School Improvement has been employed to coordinate department wide



participation in the process. D-2 at 32-33; Tr. (11/18/97) 227:15-23.

106. The Department of Education will assist each district in the implementation of its plans for school-level implementation. D-2 at 32.

107. The Department of Education will form teams to review the budgets and programs of each district thoroughly to identify reallocations needed to establish whole-school reform at the school level as the district's highest financial priority. D-2 at 32.

108. Each Abbott district should develop a three-to-five year schedule for phasing in whole-school reform across all of its elementary schools, identifying which elementary schools will be affected in each year. D-2 at 31.

109. A system of accountability must be implemented which will include the establishment of baseline data and the identification of progress benchmarks and standards that are linked to the core curriculum content standards. D-2 at 34.

110. Where there is a demonstrated unwillingness on the part of a district or school to implement whole-school reform or to make the required organizational, programmatic or fiscal changes, the

Department of Education must exercise its essential and affirmative responsibility by directly ordering such changes. D-2 at 33.

111. Schools should utilize revenues from various funding streams regardless of how those funding streams are conceived originally so that they work together to support a unified approach at the school level. D-2 at 33; Tr. (11/19/97) 132:9-21.

112. Success For All urges schools implementing the program to go through a process of "zero-based budgeting" wherein all of a school's resources, including Title I, compensatory education, bilingual and special education funds are scrutinized to make effective use of those resources. Tr. (11/17/97) 59:14-60:12.

113. The illustrative budget assumes that, in addition to other available resources, parity resources are available to support the school-based budget. Tr. (11/18/97) 235:16-20; D-2 at Appendix B.

114. The illustrative budget also provides a basis upon which the Department can make a preliminary determination as to the amount of additional funds necessary to implement supplemental programs through whole school reform. Based on the illustrative budget, it appears that sufficient resources currently exist to fund the Commissioner's recommended programs. D-2 at 46-47.

115. Components of any school based budget will vary depending upon the models of whole school reform (Modern Red School House, ALEM, Accelerated Schools, Comer Development Program) which a school selects due to component and assumption variations among the selected models, thus it is not possible to arrive at an exact cost in any particular school. Tr. (11/18/97) 241:8-12.

116. The Commissioner will request additional appropriations for the Abbott district schools, if needed, after a review of the school and district budgets and after all available funds have been reallocated. Tr. (11/19/97) 7:16-23.

#### VII. Comprehensive Needs Study

117. In response to the Supreme Court's order regarding a comprehensive needs study, the Department of Education did not again compile existing statistics of the disadvantages of students in the Abbott districts, but focused on solutions and programs that would actually improve the academic achievement of students premised upon substantive research. Tr. (11/19/97) 95:16-23.

118. In so doing, the Commissioner and Department of Education turned to experts in educating students at-risk of school failure such as Dr. Robert Slavin and Dr. Margaret Wang who have extensively studied the special needs of students at risk of school failure and developed programs to meet those needs. Tr. (11/18/97) 82:13-25.

119. Dr. Slavin testified that to study, yet again, the needs of those students as they are associated with poverty would be superfluous. Tr. (11/17/97) 163:15-22.

120. Plaintiffs approved the Commissioner's plan and timetable for his Supplemental Programs Study with the knowledge that the plan did not include a comprehensive needs assessment of students in every school in the Abbott districts but, rather, focused on the research and programs dealing with students at risk of school failure. P-73.

121. There was confusion between plaintiffs' experts with regard to their understanding of the needs assessment directed by the Supreme Court. Dr. Steven Barnett indicated he could not tell from the Court's opinion the level of detail of the needs assessment to be completed. Dr. Gary Natriello testified that a needs assessment was to be conducted at the school level and within the subpopulations of students in individual schools. Tr. (12/2/97) 82:11-1; Tr. (12/8/97) 98:9-99:1.

#### VIII. Plaintiffs' Additional Proposals

122. Research indicates that there is minimal benefit in lengthening school days and terms. Tr. (11/17/97) 84:2-17.

123. There is no research which demonstrates that summer school improves student achievement, yet the estimated cost of such a

program (as calculated by defendants) would be in excess of \$178.4 million dollars should all students in the Abbott districts participate. Tr. (11/17/97) 182:15- 183:2, Tr. (12/8/97) 117:9.

124. Similarly, while the benefits for reducing class size are "small," plaintiffs propose to reduce class size to 15 in all subjects, kindergarten to grade 3, at an estimated cost of \$107 million which does not include costs for additional facilities. Tr. (12/2/97) 191:13-193:5; Tr. (12/8/97) 111:25.

125. Plaintiffs' early childhood proposal of extended day, year-round education for 3, 4, and 5 year olds was estimated by plaintiffs' expert, Dr. Barnett, to cost between \$320 and \$400 million, yet Dr. Barnett could reference no research which concludes full-day pre-school programs are better than half-day and his own research indicates that there is no significant advantage to starting children in preschool at age three as compared to age four. Tr. (12/2/97) 44:3-25, 54:2-9, 68:20-21; Tr. (12/8/97) 106:22-107-2. Moreover, his proposed program has never been implemented. Tr. (12/2/97) 33:2-11.

#### IX. Conclusion

126. The Commissioner's proposed recommendations regarding supplemental programs are reasonable, will result in true reform in the Abbott districts, and should result in increased academic achievement for the students in the Abbott districts. D-2.

## PROPOSED FINDINGS OF FACT

### FACILITIES

The Commissioner of the New Jersey Department of Education hereby submits the following as proposed findings of fact for the facilities phase of the trial:

1. The Commissioner reviewed the facilities needs of the twenty-eight Abbott districts and provided recommendations on how the State could address those needs. DF-1.

2. The Vitetta Group completed a comprehensive assessment of the current facilities in the Abbott districts and estimated the cost of correcting deficiencies in functionality, life cycle and current code. DF-2.

3. The Vitetta Group also analyzed and estimated the cost of the number of new classrooms that would be necessary in the Abbott districts to house all the students at class size ratios of 15 per class for pre-kindergarten, 21 per class for grades K-3, 23 per class for grades 4-8 and 24 per class for grades 9-12. Tr. (12/10/97) 53:17-59:4; DF-2 at 2, Attachment II.

4. The classroom sizes that the Vitetta Group used to calculate the construction costs for meeting capacity needs are consistent

with generally accepted standards for new construction. Tr. (12/12/97) 70:8-16; DF-2, Attachment II.

5. The classroom sizes that the Vitetta Group used to calculate capacity needs at the elementary level provide adequate space for computers and for the type of activities that normally occur in an elementary school classroom including art and music activities. Tr. (12/10/97) 107:23-108:8; DF-2, Attachment II.

6. The estimated cost for correcting all deficiencies and meeting the capacity of all students at the pre-determined class sizes is \$1.8 billion. Tr. (12/10/97) 66:9; DF-1 at 13.

7. The \$1.8 billion estimate does not include "soft costs" such as design and engineering expenses, site acquisition costs, legal and administrative expense, or any special project requirements. DF-1 at 12.

8. The \$1.8 billion also does not include the costs for general conditions of construction contracts such as performance bonds and insurance, temporary facilities and other special project requirements. DF-1 at 12.

9. The \$1.8 billion estimate includes the cost of bringing all buildings up to code requirements currently in place even though it

would not be necessary to correct all of those code deficiencies.  
Tr. (12/10/97) 42:8-12, 66:19-67:6.

10. Additional review is needed on a district by district and school by school basis to determine the best means of addressing the capacity needs of the Abbott districts. This review should include looking at the restructuring or "best" use of existing space, potential grade reconfigurations, school sending areas, school sizes and replacement of existing buildings versus renovation of those buildings. DF-2 at 4.

11. The Vitetta study was the first component of a detailed assessment of the facilities needs in the Abbott districts, addressing current capacity and current infrastructure deficiencies in the Abbott districts. Two other components need to be completed -- an educational adequacy survey and a five-year enrollment projection. Tr. (12/10/97) 183:2-9.

12. All of the components could not be completed within the timeframe provided for this study. Tr. (12/10/97) 14:22-15:2, 90:23-91:8.

13. The first step in completing the educational adequacy survey is to develop criteria that can be uniformly applied to each Abbott district to determine if the facilities in these districts are



capable of allowing the students to achieve the core curriculum content standards. Tr. (12/10/97) 183:12-20.

14. There is no empirical research that directly establishes a cause and effect relationship or correlation between academic performance and the presence, absence or configuration of specialized instructional spaces, provided that these facilities provide a clean, safe and functional environment which is conducive to learning. Tr. (12/12/97) 22:1-9; DF-11 at 1.

15. The facilities standards in the Commissioner's Study of School Facilities and Recommendations for the Abbott Districts incorporate the views of experts consulted by the Department of Education as to the instructional spaces needed for students to achieve the Core Curriculum Content Standards. Tr. (12/12/97) 38:24-39:3; D-1 at 17-19.

16. Specialized spaces in elementary schools for art and music are not necessary to meet the core curriculum content standards. Tr. (12/12/97) 30:18-31:12, 32:7-12.

17. Specialized spaces for art and music are not in all I and J district elementary schools. Tr. (12/10/97) 128:14-20.

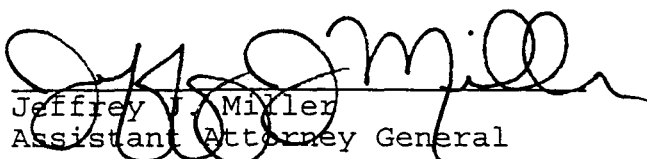
18. Many districts have "art-on-a-cart" and art is brought into the classroom. More and more districts are bringing activities

23. While facilities management plans are being developed in each Abbott district, the legislative and executive branches should explore options for financing a facilities improvement program in the Abbott districts. DF-1 at 32-33, 37.

Respectfully submitted,

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By:

  
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