

BOARD OF EDUCATION OF THE :
CITY OF PERTH AMBOY, :
MIDDLESEX COUNTY, :
PETITIONER, : COMMISSIONER OF EDUCATION
V. : DECISION
NEW JERSEY STATE :
DEPARTMENT OF EDUCATION, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioning “Abbott” Board of Education appealed the Department of Education’s determination with respect to funding for the district’s 2004-05 preschool program.

Of the two issues in dispute – funding for certain special education costs and funding for transportation, only one remained following settlement negotiations between the parties. On the remaining issue of special education costs, the ALJ concluded that petitioner failed to meet its burden of demonstrating that the Department’s calculation of funding for preschool inclusion students was arbitrary, capricious or violative of the Abbott mandates.

The Commissioner adopted the ALJ’s decision as his own.

<p>This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.</p>

April 22, 2004

OAL DKT. NO. EDU 629-04
AGENCY DKT. NO. 57-2/04

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_____	:	

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. In its exceptions, to which petitioner did not reply, the Department requested that the Initial Decision be corrected to reflect that Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Special Education Categorical Aid, Consolidated Aid and Education Opportunity Aid are calculated using a district's "resident enrollment," rather than its "modified district enrollment" as stated by the ALJ at page 3 of the Initial Decision.

Upon careful and independent review, the Commissioner fully concurs with the Administrative Law Judge (ALJ) that the Department's method of funding district preschool inclusion students is neither arbitrary and capricious nor contrary to law.

Accordingly, for the reasons expressed by the ALJ as corrected herein, the Initial Decision of the OAL, dismissing the Petition of Appeal, is adopted as the final decision in this matter.

IT IS SO ORDERED.¹

COMMISSIONER OF EDUCATION

Date of Decision: April 22, 2004.

Date of Mailing: April 22, 2004.

¹ Pursuant to *P.L. 2003, c.122*, “Abbott” determinations are final agency actions appealable directly to the Appellate Division of the New Jersey Superior Court. In accordance with the June 24, 2003 Order of the Supreme Court, such appeals must be filed within six days of the Commissioner’s decision.