

CHAPTER 19A
IMPLEMENTATION OF COURT DECISION
IN *ABBOTT V. BURKE*

Authority

P.L. 1997, c.131, § 32.

Source and Effective Date

R.1997 d.337, effective July 23, 1997.
See: 29 N.J.R. 3721(b).

Executive Order No. 66(1978) Expiration Date

Chapter 19A, Implementation of Court Decision in *Abbott v. Burke*, expires on June 30, 1998.

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SUBCHAPTER 1. GENERAL PROVISIONS

6:19A-1.1 Purpose of rules

These rules are adopted pursuant to P.L. 1997, c.131, in order to implement the order of the New Jersey Supreme Court in *Abbott v. Burke*, decided May 14, 1997, and govern usage of the additional State aid required by the Court and appropriated by the Legislature for the 1997-98 school year. The rules reflect the fact that the additional funds were not part of the normal school board budgeting process including approval by the voters or the Board of School Estimate, and

respond to the Court's requirement that the Commissioner of Education manage, control and supervise use of the additional funding in order to assure that such funding will be expended efficiently and in furtherance of the level of student achievement prescribed by the Core Curriculum Content Standards established pursuant to N.J.S.A. 18A:7F-34.

SUBCHAPTER 2. USE OF ADDITIONAL STATE AID

6:19A-2.1 Submission and approval of plan for use of additional State aid

(a) Each district receiving additional State aid to achieve parity under the Court Order shall submit to the Department of Education a plan describing the district's strategy for using funds received in an efficient and effective manner, and in furtherance of student attainment of the Core Curriculum Content Standards.

(b) The plan may include requests for waivers, equivalency determinations or other authorizations necessary to implement innovations which the district deems necessary to use such additional funds efficiently and effectively.

(c) The Department shall review each element of the plan and indicate whether the element is approvable, approvable with revisions or not approvable. In those instances where all elements of the plan are deemed approvable without revision, the Commissioner shall approve and file it as the final plan. In those instances where elements are identified as approvable with revision and/or additional information or not approvable, the district shall submit a revised plan containing all revisions and additional information to the Department. The revised plan and/or additional information shall again be reviewed, and, when all elements of the plan are approvable, the Commissioner shall approve and file it as the final plan, or if necessary, the district shall be directed to submit a final plan to the Commissioner. At any time during this process, the Department may also request that more information be provided by the district.

(d) No additional State aid shall be paid to any district until its plan for use of such aid is approved by the Commissioner. However, at the Commissioner's discretion, conditional approval may be given to, and aid paid to support expenditures for, certain elements of the plan, notwithstanding that other elements remain unapproved.

6:19A-2.2 Plan requirements for use of additional State aid

(a) Each plan submitted by a district pursuant to N.J.A.C. 6:19A-2.1 shall include a general introductory description of

the district's broad vision as to how it will enable each of its students to achieve the Core Curriculum Content Standards. The district shall explain in general terms how the plan for using additional aid is linked to overall educational improvement efforts, and the process by which the plan was developed including public, parental and staff participation, as applicable.

(b) The plan shall next describe in detail the specific educational purposes that additional aid will be used to support, together with an explanation as to how those purposes will contribute to the goal of enabling students to reach the Core Curriculum Content Standards.

(c) The plan then shall describe the specific ways in which additional aid will be expended in order to achieve the educational purposes identified pursuant to (b) above.

6:19A-2.3 Permissible uses of additional State aid

(a) Use of additional aid is limited to the following five categories of expenditures, all of which relate to the effective and efficient attainment of the Core Curriculum Content Standards:

1. Achievement of class sizes, professional staff to student ratios, and per-pupil expenditures for instructional materials, textbooks, supplies and equipment; expenditures for educational technology, media equipment and supplies; and expenditures for professional development directly related to the Core Curriculum Content Standards;

2. Accelerated implementation of programs targeted by N.J.S.A. 18A:7F-1 et seq. for multi-year phase-in, that is, early childhood education, distance learning, and those curricular programs related to the Core Curriculum Content Standards, such as world languages, which are scheduled for future implementation;

3. Enhanced delivery of the Core Curriculum Content Standards through improvement or rental of facilities;

4. Provision of a safe, disciplined learning environment through expenditures for safety personnel, equipment and supplies; and

5. Expanding the breadth of course offerings in the Core Curriculum Content areas.

(b) All funds provided under the Court Order shall be:

1. Used efficiently to support student achievement of the Core Curriculum Content Standards;

2. Expended during the 1997-98 school year;

3. Used for education and not used, directly or indirectly, to support property tax relief; and

4. Used to support new expenditures and not used to duplicate or replace other expenditures already funded in the district's approved budget and improvement plans.

6:19A-2.4 Use of additional State aid and Demonstrably Effective Program Aid

(a) Where a district receiving additional State aid has budgeted Demonstrably Effective Program Aid (DEPA) for regular education expenditures and identifies a need to use any part of such additional aid for further programs and services for students at risk, consistent with the limitation of N.J.A.C. 6:19A-2.3, the district must include in the plan submitted pursuant to N.J.A.C. 6:19A-2.1 a description and cost estimate for both the proposed new additional programs and an equal amount of regular education expenditures contained in the DEPA budget in order for the proposed additional programs to be considered for approval.

(b) No reallocation of proposed additional expenditures and budgeted regular expenditures can be made between DEPA and the additional aid. All new proposed expenditures approved as part of this process, regardless of purpose, must be recorded in the budget for the additional aid.

6:19A-2.5 Use of additional State aid for facilities purposes

(a) Additional aid may be used generally for short-term capital acquisitions and/or improvements only where:

1. All related contracts can be issued by June 30, 1998;

2. The acquired and/or improved facilities will be approved for occupancy and ready for use no later than the start of the 1998-99 school year;

3. The core facilities acquired and/or improved will have a remaining useful life of at least 10 years once acquired and/or improved;

4. Effective use of the additional funds for other purposes would be impractical or difficult given current facility conditions; and

5. The acquisitions and/or improvements are necessary for one or more of the following purposes:

i. To correct conditions which pose a health or safety risk to students and other occupants of the building;

ii. To retrofit for technology and other educational uses such as science laboratories; or

iii. To provide additional instructional space to reduce class sizes, relieve overcrowding or add new programs to meet the Core Curriculum Content Standards.

(b) If the current condition of facilities is such that use of the additional funds within the five allowable categories of expenditures is not feasible, the Commissioner may approve proposals for long-term facilities projects. In such cases, the district must describe in the plan submitted pursuant to N.J.A.C. 6:19A-2.1 its unmet needs in each of the following areas for the 1997-98 school year:

1. Classes scheduled for September 1997 that are too large to foster achievement of the Core Curriculum Content Standards;

2. Areas of the district's curriculum that will not be fully aligned with the Core Curriculum Content Standards and fully implemented at the end of the coming school year;

3. Classroom materials and/or supplies that are needed to give teachers and students adequate support in attaining the Core Curriculum Content Standards and that will be lacking in any classroom or subject during the coming year;

4. Classrooms in each school that during the coming year will lack sufficient computers and/or software to enable teachers to provide state-of-the-art instruction in the Core Curriculum Content Standards;

5. Library equipment and supplies that are essential to support student achievement of the Core Curriculum Content Standards, and that will be lacking by the end of the coming school year;

6. Professional development efforts aimed at providing teachers with the knowledge and skills to instruct students in the Core Curriculum Content Standards, and that will be unmet by the end of the coming school year;

7. Areas of instructional or educational services staffing where staff/student ratios will be inadequate to support student achievement of the Core Curriculum Content Standards during the coming school year;

8. The percentage of four and five-year olds who will be provided preschool and full-day kindergarten during the coming school year;

9. Security personnel or equipment needs that are currently unmet; and

10. Unmet needs with respect to improvement of existing district facilities.

(b) Districts shall track expenditure of the additional funds in a separate Special Revenue Fund, further identified by school location, strategy and account.

6:19A-3.2 Approval and payment of personnel expenditures

(a) The school district shall submit candidates for each salaried personnel position and the recommended salary and benefits to be funded by the budget for additional aid to the auditor assigned to the district. The auditor will review the documentation for each candidate for consistency with the approved plan as to appropriate certification or experience, as applicable, and as to salary and benefits.

(b) Within 10 days of the beginning of September, a listing of all employees, and their annual salaries and benefits as approved by the auditor and the local board of education, shall be submitted to the Assistant Commissioner for Finance for payment. Any variance from the approved plan will require submission of a request for modification and written approval by the Commissioner prior to auditor approval and inclusion in the approved payment schedule.

(c) The list established pursuant to (b) above will provide a payment schedule of 10 installments for the full amount reflected on the list to be paid on the first of each month from September through June. Properly approved additions and deletions shall be reported within 10 days of each month thereafter and shall include the annual salary and benefits and the start or termination date for each employee. Salaries and benefits for properly approved staff for programs and services provided during July and August 1997 may be separately submitted for payment prior to September.

6:19A-3.3 Approval and payment of other expenditures

(a) For contracted services, purchases and other payments, a listing of the purchase orders approved by the assigned auditor and certified as to availability of funding by the district's board secretary/business administrator shall be submitted to the Assistant Commissioner for Finance for payment within 10 days of the beginning of each month.

(b) If for any reason the assigned auditor is not available to review purchase orders which are necessary to: address urgent or emergency situations which may effect the health and safety of students; prevent the delivery of educational opportunities to students; or result in additional expense to the district if payment is delayed, such purchase orders may be included in the request for payment and subsequently submitted to the assigned auditor for ratification.

(c) Any variance from the approved plan will require submission of a request for modification and written approval by the Commissioner prior to auditor approval and inclusion in the request for payment.

SUBCHAPTER 3. PAYMENT OF ADDITIONAL STATE AID

6:19A-3.1 Appointment of auditor and review of expenditures

(a) The Commissioner shall assign educational auditors reporting to the Assistant Commissioner for Finance following approval of the plan submitted pursuant to N.J.A.C. 6:19A-2.1, or any part thereof, to review each expenditure of additional funds during the coming school year to assure consistency with the approved plan. The Commissioner may appoint a special assistant to supervise the educational auditors.

SUBCHAPTER 4. OVERSIGHT BY THE EDUCATIONAL AUDITOR

6:19A-4.1 Authority and responsibilities of the educational auditor

(a) Each auditor appointed by the Commissioner pursuant to N.J.A.C. 6:19A-3.1(a) shall, in addition to the duties specified in that section, monitor the district's general finances to identify problems which might inhibit the effective and efficient use of the additional funds. Each auditor is further authorized to:

1. Provide general oversight of the district's business administration office;
2. Monitor all financial transactions of the district, including all new personnel appointments, and bring to the Commissioner's attention any that are judged ineffective, inefficient or otherwise inappropriate;
3. Review each purchase order and subsequent payment related to the Court-ordered additional aid;
4. Make recommendations on approving or not approving any expenditure of Court-ordered additional funds;
5. Monitor the programmatic implementation of each expenditure of Court-ordered additional funds, and call to the Commissioner's attention any instance in which an approved expenditure does not produce the desired programmatic effect;
6. Require the district to submit any and all information needed for fulfillment of the auditor's responsibilities;
7. Recommend that the Commissioner direct the reallocation or expenditure of funds in the district's budget as necessary to assure effectiveness, efficiency and furtherance of the levels of attainment prescribed by the Core Curriculum Content Standards; and

8. Recommend modifications of the district's accounting system, consistent with Generally Accepted Accounting Principles, in order to facilitate proper tracking of additional aid expenditures.

SUBCHAPTER 5. MISCELLANEOUS PROVISIONS

6:19A-5.1 Chargeback of expenses necessary to implement Court Order decision

(a) The Commissioner shall deduct from the State aid of any district receiving additional State aid under the Court decision the expenses required to manage, control and supervise the implementation of the additional parity funding. Allowable expenses include the cost of the auditors assigned to the district, the cost of any consultants or investigations which are necessary to develop an adequate expenditure plan, and any other costs deemed necessary to comply with the order of the court.

(b) Each district shall budget an amount equal to one percent of its additional aid for this purpose. The Commissioner shall notify the district of actual expenses incurred on a monthly basis and will retain this amount from the district's aid.

(c) The proportionate cost of shared auditors will be determined on the basis of each district's share of the additional aid.

6:19A-5.2 Participation in Court-ordered studies

Each district which is part of the Court-ordered studies shall cooperate fully with the Department of Education in conducting the studies ordered by the Court regarding the special educational needs of students in these districts, the programs required to address those needs, the costs of such programs and a plan for their implementation, and regarding the facilities needs of these districts and recommendations on how to address them. Districts shall provide all information requested by the Department in an expeditious manner.