



# Education Law Center

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## Urgent Memo

TO: Abbott Business Administrators

FROM: ELC and the Ad Hoc BA Committee of Joann Gilman, Richard Jannarone, Melvin Wyns, Henry Lee and John Donahue

RE: Budgeting for 2004-05

DATE: October 27, 2003

### Introduction

In Abbott X, for school year 2004-05 and beyond, the Supreme Court re-affirmed the “right of Abbott districts to request supplemental funding for all demonstrably needed programs, services, and positions and to appeal the denial of such requests, as provided for in *Abbott V*.”

Our experience preparing needs-based budgets as required by the Abbott decisions contains three lessons for preparation and submission of our 2004-05 budgets. The first is that the Department of Education (DOE) will carefully scrutinize requests for funding beyond current levels. Second, we must be prepared to utilize the Abbott appeals process to secure needed programs and funding. Finally, our success in advocating for budget requests both before the DOE and/or on appeal depends upon having strong, documented evidence to support our budget requests.

To assist you in the preparation, submission and defense of your 2004-05 budgets, we set forth below a series of steps and considerations that we strongly recommend be followed. Our recommendations are supported by the Abbott rulings, particularly the *Abbott V* decision and the Supreme Court’s June 24<sup>th</sup> order (*Abbott X*) amplifying *Abbott V*. The recommendations are also firmly grounded in the new Abbott regulations adopted by the DOE on September 9, 2003.

## Key Deadlines and Requirements

The key deadlines and requirements, as set forth in the Abbott regulations and *Abbott X*, are as follows:

1. **November 3<sup>rd</sup>**: the central office must present to each School Leadership Council (SLC) and principal a school-based “maintenance budget” for 2004-05, based upon the “current year line items adjusted to reflect the estimated cost of living increase for the subsequent year;” 6A:10A-3.1(a)2.i.
2. **December 12<sup>th</sup>**: the SLC, working with the central office, must submit a “revised” school-based budget. The revisions should reflect changes as well as increases and/or reductions based on “analyzing student and school needs” and “developing needed improvements,” in “standards-based reform, whole school reform, and supports for teachers, students, and parents;” 6A:10A-3.1(a)2.ii.,6.
3. **February 2<sup>nd</sup>**: the School Board “shall review and adopt” the district “2004-2005 budget submitted by the CSA,” including the “budgets adopted by each SLC;” 6A:10A-5.1(b)
4. **February 25<sup>th</sup>**: the School Board must submit a “balanced budget for the 2004-2005 school year,” to the DOE; 6A:10A-7.1(a)
5. **May 28<sup>th</sup>**: the DOE must “issue budget decisions to Districts” no later than this date; *Abbott X*, May 20<sup>th</sup> Order
6. **June 4<sup>th</sup>**: the deadline for districts “to file an appeal with the Office of Administrative Law;” *Abbott X*, May 20<sup>th</sup> Order
7. **July 23<sup>rd</sup>**: the deadline for the “Office of Administrative Law” to “determine the District Appeal;” *Abbott X*, May 20<sup>th</sup> Order
8. **August 17<sup>th</sup>**: the deadline for the “Commissioner of Education” to “issue a final decision” on District appeals; *Abbott X*, May 20<sup>th</sup> Order
9. **August 23<sup>rd</sup>**: the deadline for districts to file “any appeal from the final decision of the Commissioner . . . with the Appellate Division; *Abbott X*, May 20<sup>th</sup> Order

### A. Preparing 2004-05 School-Based “Maintenance” Budgets

By November 3<sup>rd</sup>, the central office must provide each SLC with a “maintenance” budget. This is NOT the same as the 2003-03 maintenance budget, since the DOE did not ask for and did not receive authority from the Supreme Court to impose a maintenance budget again in 2004-05. Rather, the school based maintenance budget

for next year is only the starting place for budgeting, not the end point. In other words, it is an initial budget that forms the basis for the school and district to formulate a final needs-based budget for submission to DOE on February 25<sup>th</sup>.

In preparing these initial school-budgets, we make the following recommendations. First, since these budgets are prepared before there is accurate information on budget expenditures, the base for the maintenance budget should be the **approved** line items for 2003-04. This is consistent with the regulatory language cited above. Second, cost of living increases in these budgets should reflect actual numbers, or reasonable estimates, whenever they are available. Salary increases, increased benefits costs, increased insurance costs, and even increases in materials, books, equipment, etc. can be either calculated or estimated. Thus, even here, actual school and district-specific needs should be used rather than any formulaic statewide calculations, even where the DOE tried to impose such formulas in the past.

#### B. The Chart of Supplemental Programs

(<http://www.state.nj.us/njded/code/title6a/chap10a/append.pdf>)

In the *Abbott X* order, the Supreme Court directs that in 2004-04 every Abbott school continue to implement supplemental programs, as set forth in the “Chart of Supplemental Programs,” agreed to by DOE and ELC in mediation. Further the DOE is directed to develop regulations to guide “school based and district assessment, planning and implementation of needs-driven supplemental programs as set forth in the chart.”

The Chart of Supplemental Programs is incorporated in the Abbott regulations as an Appendix. It is also defined at N.J.A.C. 6A:10A-1.2 as “the Supplemental Programs in Abbott schools chart from Abbott X, incorporated herein by reference as the chapter Appendix. Some of these are programs which every Abbott school must make available, while others are based on the individual school’s needs assessment.”

Thus, the Chart of Supplemental Programs sets forth the framework for revising the initial school based maintenance budgets to meet the student and school needs under *Abbott V* and *Abbott X*. We strongly recommend that the Chart be provided to every SLC member and to every central office staff member involved in developing or approving school based-budgets for use in the revision process.

#### C. Revising the Initial Maintenance Budget

For the 2004-05 school year, we recommend that schools and districts revise the initial budget to include two items: (1) restoration of needed staff and other program expenditures that may have been reduced or removed during the two years of budget caps; and (2) additional staff and other program expenditures as needed to implement mandated or needed programs, as outlined in the Chart. Such revisions can include, for example, increased expenditures for contracts with WSR developers or other providers of technical assistance and/or professional development; expanded or exemplary

categorical programs in special education or for English language learners; and of course, for mandated or needed supplemental programs.

In the *Abbott X* order, the Supreme Court re-emphasized “the right of Abbott districts to request supplemental funding for all demonstrably needed programs, services, and positions and to appeal the denial of such requests” in 2004-05 and thereafter. As stated above, the framework for schools and districts to assess need, and develop plans and budgets is the Chart of Supplemental Programs. Again, it is critical that every central office and SLC should have sufficient copies of the Chart for all participants in the planning and budgeting processes.

Simply put, the Chart itemizes program expenditures that are (1) mandated, unless the school demonstrates that it needs less or more than the mandate; (2) required, but the particular components must be identified and driven by need; or (3) authorized, but only if assessment documents the need for the program in the first place. In this instance, the particular components, as in (2) above, are also identified and driven by need. It is essential that school and district three-year operational plans contain not only descriptions of expenditure items but reference to needs assessment data that supports the need for such expenditures.

The Chart makes clear that there are certain mandated components of supplemental programs that must be in available all schools, unless the school demonstrates the need for more or less of the program component. Even for mandated components, however, it is strongly recommended that schools and districts include a needs-based justification, since we must anticipate DOE scrutiny of supplemental funding requests even for these components. The mandated programs identified in the Chart are:

- second half of kindergarten day (critically important since the DOE provides no formulaic funding for this mandated program);
- 90 minutes of reading (elementary schools);
- regular literacy assessment of each elementary student;
- one full-time instructional facilitator (elementary schools);
- grades 1-3 reading class size limit of 15, one-to-one and small group tutoring (SFA schools);
- one full-time parent liaison (elementary schools);
- parent representation on School Leadership Councils;
- class size limits --15 (preschool); 21 (K-3); 23 ( 4&5); 24 ( 6 and above) (depending only on space availability);

- a family support team (elementary schools), consisting of a full-time nurse, one full-time counselor, a full-time social worker, as well as the parent liaison and the instructional facilitator;
- community services coordinator (middle and high schools);
- media specialist;
- technology coordinator;
- computer for every 5 students;
- alternative middle school or program;
- alternative high school or program; and
- dropout prevention specialist (middle and high schools).

The Chart also makes clear that required programs without any specific Court-mandated components include: initiatives in early math and other subject areas; professional development for staff; violence prevention and school security; and school to work and college transition programs. The detailed components of these programs must be developed in response to student and school needs assessment.

Finally, the Chart makes clear that a host of additional programs are authorized if schools and districts demonstrate the need for them. These programs include: class size reduction to 15 in grades 1-3; on-site social and health services; supplemental literacy supports for non-SFA schools; instructionally-based after school programs; instructionally-based summer programs; enriched nutrition programs; exemplary music, art, and special education programs; and funding for school-based management and budgeting.

The key to all of these programs is the identification, collection and analysis of hard data that reveals and documents need. The more central offices identify and collect these data – instead of imposing that burden on school-based personnel -- the more likely it will be that schools will be able to quickly revise their initial maintenance budgets to meet their particularized needs, and that the district will be in a strong position to defend the budget upon submission to DOE.

We, therefore, urge a strong inter-district collaboration to identify the potential kinds and sources of needs assessment data, program by program, and alternative, cost-effective ways of collecting and analyzing these data without imposing unrealistic expectations on school-based personnel.

## Conclusion

The Supreme Court in the *Abbott X* order makes clear: the two-year restriction on Abbott funding ends in 2004-05. Consequently it is urgent that we learn from our experiences over these two years and utilize the Court-directed process of needs-based planning and budgeting to support and justify all requests for supplemental funding.

We recognize that this process may require significant change from the way in which your budgets were prepared in the past. Yet the process provides your districts with critical opportunities for programs, services, and staffing, not only to meet the needs of your students and staff, but also to comply with the requirements of No Child Left Behind, the Individual with Disabilities Education Act, the state Bilingual Education Law, and other mandates.

Given the challenges posed by the process last year, it is more important than ever that districts work collaboratively with each other learn the most effective means of assuring the resources needed by our students and our staff. Education Law Center will continue to be available both to learn from district experience and to provide Abbott-specific technical assistance to continually improve assessment, planning, budgeting, and appeals.