



## **Education Law Center**

*Standing Up for Public School Children*

September 25, 2009

By Fax and Regular Mail

Hon. Lucille Davy, Commissioner  
New Jersey Department of Education  
P.O. Box 500  
Trenton, NJ 08625-0500

Re: Jersey City Preschool Program

Dear Commissioner Davy:

We write to bring to your attention a news report indicating that the Jersey City Board of Education is "out of room" for its preschool program, with a current waiting list of hundreds of students. See "Short pre-k slots in Jersey City," Jersey Journal, September 24, 2009 (copy attached). According to the report, the district has plans to place 110 of the waiting preschoolers on Monday, September 28<sup>th</sup>, and another 100 students sometime "after Wednesday," September 30<sup>th</sup>, but "do[es]n't have the room" for an additional 113 three and four-year-olds who will remain on a waiting list.

Without a doubt, the existence of a waiting list in Jersey City is contrary to the legal requirement that the State ensure all eligible children are promptly enrolled in a well planned, high quality preschool program in Jersey City and other poorer urban, Abbott districts. See Abbott v. Burke, 153 N.J. 480, 508 (1998) (requiring State to ensure that all Abbott schools have the resources and necessary funds necessary to implement preschool education); Abbott v. Burke, 170 N.J. 537, 562 (2002) (requiring DOE to approve contingency facilities plans "[t]o accommodate every child whose parents seek placement in an Abbott preschool program"). These preschool requirements were left intact by the Supreme Court's latest Abbott ruling, Abbott v. Burke, 199 N.J. 140 (2009), and, in fact, have been codified by the State in its regulations under the School Funding Reform Act of 2008. N.J.A.C. 6A:13A-2.1(a) (requiring "free access to full-day preschool for all three and four-year-old children" in universal districts such as Jersey City).

To protect the educational and legal rights of Jersey City preschoolers, we request the Department of Education undertake

an immediate investigation to verify the existence of a preschool waiting list in Jersey City; and to identify the names and number of three- and four-year old children in need of preschool and length of time on the waiting list. Further, the Department, in collaboration with the Jersey City Board of Education, should promptly develop and implement a plan to meet the need for additional preschool programs, which plan shall include the provision of funding, support and contingency facilities, as needed, to ensure the enrollment of children as promptly as possible. Finally, the Department should immediately notify any affected families of their child's entitlement to preschool and the steps that will be taken to ensure prompt placement.

We look forward to your response to this request. As always, we stand ready to assist the Department in addressing this issue. Thank you in advance for your prompt attention to this matter.

Very truly yours,



Elizabeth Athos, Esq.

Encls.

cc: Dr. Charles T. Epps, Jr., Superintendent, Jersey City BOE  
William DeRosa, President, Jersey City BOE  
Dr. Ellen Wolock, Director, Office of Preschool Education,  
NJDOE