

Abbott ruling: A return to the bad old days

WHEN I TELL colleagues from other countries that schools in most low-income neighborhoods in the United States receive significantly less funding than schools in affluent neighborhoods, they are perplexed. Why, they ask, would children with the greatest educational needs receive less than children with the greatest advantages? In most other Western democracies, it is exactly the opposite.

Because of *Abbott v. Burke*, New Jersey has defied this unfortunate and inexplicable national pattern. Students in our 31 special needs urban districts — the Abbott districts — receive funding at the levels of the state's most affluent districts, and have a variety of programs designed to overcome their poverty and educational disadvantage.

That may change, however, if the New Jersey Supreme Court were to adopt Judge Peter E. Doyne's recent recommendations.

Judge Doyne, serving as a special master, has concluded that the state's new school funding law, the School Funding Reform Act of 2008 (SFRA), should be found constitutional so long as supplemental funding continues to be available to the Abbott districts for at least three more years.

Such a decision could reverse Abbott's extraordinary gains and return New Jersey to the bad old days, when at-risk children failed to receive the resources and programs necessary for them to achieve at the levels required in the 21st century.

A national model

Abbott has led to New Jersey's recognition as a national model of fairness, equity and social justice in an educational system where family background continues to be the primary determinant of educational success. It has resulted in universal access to high-quality, full-day preschool programs for all 3- and 4- year old children in the Abbott districts, a key ingredient in reducing the achievement gap.

It has resulted in significant achievement gains at the fourth grade level, although consistent with national trends, it has not yet had similar effects at the middle and high school levels.

Abbott has eliminated the funding gap between our richest districts and our poorest urban districts. It was not focused on other poor districts with at-risk students, however, and they clearly need a level of funding and educational programs comparable to the Abbott districts.

Whether the Funding Reform Act accomplishes that is not before the courts now, but needs to be a high priority.

One thing is clear, though: Leveling down the funding of the Abbott districts is not the way to meet the needs of other students.

Doyme's recommendations rightly preserve one of the cornerstones of the Abbott mandates, the opportunity for poor urban districts to seek supplemental funding to meet the profound educational and social needs of their disadvantaged students.

The problem is that he recommends this opportunity be continued "for at least three years," and that may be interpreted as an invitation for the state to eliminate it after three years, especially if the financial crisis lingers until then.

The fact that children in the Abbott districts need such special programs was not lost on the New Jersey Supreme Court in its previous Abbott decisions, as its legal and moral foundation was simple: Equality of opportunity is absolutely essential for a meritocracy, where achievement trumps family origins in determining adult success.

This democratic ethos has evolved from Thomas Jefferson to Horace Mann to John Dewey to the goals of No Child Left Behind.

It is central to the American dream of mobility through schooling, too often out of reach to our poorest children.

Abbott, through a calibrated combination of parity funding, supplemental funding and universal preschool, has moved New Jersey closer to this ideal.

Unfortunately, the Funding Reform Act, despite its stated intention to provide equitable funding for all children under a "money follows the child" rubric, falls short on a number of counts.

First, state funding for at-risk and limited-English proficient students is allocated to school districts as part of an undifferentiated pot of state aid dollars with no statutory or regulatory systems to ensure they are actually used for these students.

Based on what we know about the politics of school funding, it is not unreasonable to predict that, in some districts, these funds will not be utilized for their intended purposes, but may instead be used for programs that tend to advantage the already advantaged, such as honors and AP courses to which at-risk children have historically had little access.

Long-term commitments

Second, arguing that in the short-term the Abbott districts will be held "harmless" because of adjustment aid and stimulus spending ignores the importance of legally enforceable long-term commitments to at-risk children.

In short order, adjustment and stimulus funds are almost certain to disappear and Abbott children will face a future that will look more like the past.

It is beyond dispute that New Jersey's at-risk students, wherever they live, are entitled to the sort of funding and programs made possible by Abbott for children in poor urban districts. A funding law can accomplish this, without leveling down over time the hard-won and necessary gains achieved by decades of Abbott litigation.

The New Jersey Supreme Court deserves respect and admiration for what it has enabled the state to accomplish. It has made a huge investment in a crucially important state program. It should not yield to the temptation to cash out now because economic times are hard.

Instead, the court should affirm the historical legacy of Abbott by requiring the state to come up with a better funding system.

Alan R. Sadovnik is Professor of Education, Sociology and Public Affairs at Rutgers University-Newark, where he co-directs its Institute on Education Law and Policy. Send comments about this story to grad@northjersey.com.