

Education

Introduction: New Jersey's Commitment to Public Education

Incumbent upon civilized society is an underlying obligation to provide properly for the education of its citizenry. Without such an education, members of society lack one of the only means available to social and economic advancement. The citizens of New Jersey recognize that principle, and it is incorporated into the state's 1947 Constitution. Article VIII, §4, paragraph 1 states, "The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the State between the ages of five and eighteen years."

Implementing that important public policy has proven to be challenging over the years. The New Jersey Supreme Court has revisited this issue of "thorough and efficient" education for close to fifty years. In large part the problems have been the sources of funding and quality of education provided in various school districts. The Court has been at the center of the funding issue.

The Court has also examined other issues bearing a correlation to the education of New Jersey's residents. The cases that touch on education issues are far ranging. Examples include school busing, the interplay between private and public schools, and labor relationships within the school district. The Court has also addressed quasi-criminal matters involving the rights of students. The importance of these issues is evident from the breadth and depth of the Supreme Court's involvement. The following is a sampling of key cases involving education.

Early Decisions

Yanow v. Seven Oaks Park, Inc., 11 N.J. 341 (1953): Residents in the City of Orange opposed a private school's intent to purchase property for non-profit, post-high school religious training. They argued that the municipal zoning ordinance

precluded that use. The Supreme Court reversed the trial court's finding that the zoning ordinance unlawfully discriminated between public and private school. The Court determined that the intended use was for a post-secondary institution which was reasonably classified separately, and reasonably excluded from residential districts.

Booker v. Board of Education, 45 N.J. 161 (1965): The Plainfield Board of Education proposed a plan to address the racial imbalance of its public schools. The Commissioner of Education adopted the plan, and Petitioners appealed that decision. The Supreme Court reaffirmed that New Jersey's "policy against racial discrimination and segregation in the public schools has been long standing and vigorous, and our Commissioner of Education has been vested with broad power to deal with the subject." In doing so, the Court held that the adopted plan did not achieve the goal of greatest dispersal in the school system as a whole. The case was remanded to the Commissioner for further consideration and action.

West Morris Regional Board of Education v. Sills, 58 N.J. 464 (1971): Appellants had brought suit in lower court challenging N.J.S.A. § 18A:39-1 which mandated public transportation of children within a school district to private or parochial schools if the pupils reside "remote" from any school house and subject to certain exceptions. The lower court found that the statute did not violate the establishment clause of the First Amendment, but was a violation of the 14th Amendment's equal protection clause. The Supreme Court affirmed the lower court's decision that the statute did not violate the establishment clause and reversed the lower court's decision that the statute was a violation of the equal protection clause of the Fourteenth Amendment.

Jenkins v. Morris School Dist., 58 N.J. 483 (1971): Appellants petitioned to have the Commissioner of Education take steps to prevent Morris Township from withdrawing its students from Morristown High School and to effectuate a merger

between the two school systems. The withdrawal of Morris Township students would have created a racial imbalance at the schools. The Commissioner of Education believed he did not have the authority to do so and denied both the petition and a cross-petition. The Supreme Court held that the Commissioner erred in dismissing the petition regarding the withdrawal of the students as well as the merger. The Court found that the Commissioner was empowered to entertain the proceedings and to grant such relief as warranted.

Social Justice in Education

Robinson v. Cahill, 69 N.J. 449 (1976): Supreme Court held that Public School Education Act of 1975 was facially constitutional, and that it complied with the requirement that local school districts be afforded a means of overcoming budget shortfalls. The Supreme Court held that the Court Order that the State of New Jersey and the governor disburse funds to ensure that all children would receive equal educational opportunities was not a violation of separation of powers because the Court must redress the violation of Plaintiff's fundamental right to receive an equal education opportunity.

N.J. Asso. for Retarded Citizens v. N.J. Dep't of Human Servs., 89 N.J. 234 (1982): The Plaintiffs in this case were mentally disabled children who sought declaratory and injunctive relief on the basis that their statutory and constitutional rights were being violated. The Supreme Court determined that the Developmentally Disabled Rights Act required facilities housing disabled children to provide appropriate services in a manner that is least restrictive to the child's personal liberty. This case effectively grants the right to education to disabled children.

Abbott v. Burke, 100 N.J. 269 (1985) *Abbott I*: This case involved a constitutional challenge to the Public School Education Act of 1975. The Plaintiffs were children from Camden, East Orange, Irvington, and Jersey City who attended public schools in those school districts. Their complaint challenged the plan for

funding New Jersey's Constitutional mandate for a through and efficient education through local property taxes. The Court decided that the matter should be handled first at the administrative level, and transferred it to the Commissioner of Education. In doing so the Court recognized the particular expertise afforded by the Commissioner. The ruling also determined that the constitutional claims did not preclude resort to administrative adjudication.

Collective Bargaining Issues

Bd. of Educ. v. Neptune Twp. Educ. Ass'n, 144 N.J. 16 (1996): A three-year collective bargaining agreement ended in Neptune. The respective unions requested that the Board of Education implement the salary guides providing for increments in pay for their respective members. The Board sought a declaratory judgment that it was precluded from paying the increments under the expired contracts. An Administrative Law Judge accepted the Board's position. The Commissioner of Education reversed that decision. The Appellate Division affirmed and the Supreme Court reversed the Appellate Court's decision as applied to the teachers, but not as to the other employees. The Court found that the Board of Education was prohibited from paying increments on the expired collective bargaining contracts because if they did the Board would be bound for a fourth year which was beyond the statutory term set forth in N.J.S.A. § 18A:29-4.1.

Random Drug Testing

Joye v. Hunterdon Cent. Reg'l High Sch. Bd. Of Educ., 176 N.J. 568 (2003): In response to a growing alcohol and drug use problem by students, the Hunterdon Regional High School Board of Education implemented a random drug testing program. A group of parents and students challenged the testing. A trial court determined that the program was invalid on constitutional grounds. The Appellate Court reversed that decision. The Supreme Court affirmed the Appellate Court's decision. It held that in appropriate situations schools have a right to require drug

testing to students participating in athletic and non-athletic extracurricular activities and students who possess school parking permits.

Claims Against School District by Students

L.W. ex rel. L.G. v. Toms River Regional Schools Bd. of Educ., 189 N.J. 381 (2007): L.W. was a student in the Toms River school district. His classmates repeatedly harassed him on the basis of his sexual orientation. A lawsuit was filed against the school district, seeking relief under the New Jersey Law Against Discrimination (LAD). The ruling in this case recognizes a cause of action against school districts for alleged student-on-student affectional or sexual orientation harassment when the school did not reasonably address the situation.

Besler v. Board of Educ. Of West Windsor-Plainsboro Regional School Dist., 201 N.J. 544 (2010): The Plaintiff brought his complaints about his daughter's high school basketball coach to the school administration and the Board of Education. He asserted that the coach's conduct, which included profanity laced tirades, was unprofessional and unwarranted. The President of the Board of Education would not permit the Plaintiff to address his concerns in the public portion of a meeting, violating his First Amendment right to free speech. At the conclusion of a lengthy trial the jury returned a monetary verdict in favor of the Plaintiff. The NJ Supreme Court found that the School board was liable for the Board President's actions of silencing the Plaintiff during the public comments section. In doing so the Court determined that the President violated plaintiff's 1st Amendment right to free speech. The Court found that the Board President was acting as a final policy maker while presiding over the board meeting.

Abbott Litigation: Constitutional Challenges Continue

Abbott v. Burke, 206 N.J. 332 (2011) Abbott XXI: This case was a culmination of a series of Abbott cases involving the Supreme Court's efforts to ensure the State's obligation to provide a thorough and efficient education for all its

school children. The State had created a funding formula, the School Funding Reform Act (SFRA), in 2008, and the Court found it to be constitutionally adequate in Abbott XX. In this case the issue was the State's reluctance to fully fund the SFRA, in spite of Special Master's determination that the proposed level of funding was insufficient. The Supreme Court ruled that the funding to the Abbott districts in 2012 must be calculated and provided in accordance with the SFRA formula, and estimated the costs to be about \$500 million