



NJDOE News

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For Release: June 1, 2001

Commissioner Gagliardi Issues [Decision](#) in Abbott Preschool Case

Commissioner of Education Vito A. Gagliardi, Sr. today issued a decision directing the Department of Education to modify in some cases, and expedite in others, procedures governing early childhood education programs for three- and four-year-olds in the 30 Abbott districts.

Dr. Gagliardi affirmed Administrative Law Judge Jeff Masin's conclusions that:

- Preschool is a significant legal right but has not been declared a constitutional entitlement;
- The department has not violated the court's mandates by excluding students based on parental status, and
- Facilities issues must be addressed through the mechanism established by the Legislature for this purpose.

The Commissioner also affirmed that, to the extent department assessment of district preschool curriculum plans and district enrollment/recruitment plans may not be occurring in sufficient depth, the department must revise its practices and procedures. He concurred that the department should develop rules for a uniform regulatory method of determining the projected number of eligible preschool students.

In his decision, Dr. Gagliardi pointed out that implementation of the preschool program is "a task of enormous size, complexity and urgency, a task described by the (Supreme Court) in *Abbott VI* as nothing less than 'a major transformation of the educational system serving the state's poor, urban districts.'"

He emphasized that a number of crucial formulative tasks have been successfully completed, "representing a Herculean effort of which the Commissioner is proud." Dr. Gagliardi stated that there has been "a significant improvement in the education offered in poor, urban districts," and that the department's efforts represent a good-faith commitment to the Abbott children.

"That not every goal has yet been fulfilled to its utmost - that more remains to be done - should not be allowed to detract from the magnitude of what has already been accomplished. Pervasive bad faith and violation of court directives, as alleged by petitioners, is not the same thing as a need for refinement, improvement and ongoing readjustment, based on practical experience with a vast and unprecedented undertaking."

The Commissioner rejected Judge Masin's order directing the department to issue its curriculum framework document for early childhood education by June 15. He also reversed the judge's order with regard to Head Start programs.

Dr. Gagliardi determined that quality, Court-compliant preschool programs can be implemented based upon standards set forth in the department's definitive expectations document, which has already been issued. Recognizing, though, that the framework will be a valuable supplemental tool for school districts, the Commissioner directed that it be issued as scheduled by August 2002, with no delays or extensions.

Regarding Head Start, the Commissioner stressed that identifying and contracting with community providers is a district responsibility. While districts must use community providers, including Head Start, where practical, Dr. Gagliardi stated that there is no requirement to use any particular provider. The Commissioner ruled that the state is not required to provide funds to bring Head Start, or any other willing community provider, up to Abbott standards regardless of the cost or the availability of alternative means of serving students.

In his decision, Dr. Gagliardi pointed out that under applicable rules, districts are required to provide preschool programs through existing community providers willing and able to meet Abbott standards, "whenever practical."

"Certainly, there is no independent obligation for the state to 'negotiate' with any particular provider, including Head Start, or for districts to contract with any particular provider, including Head Start," states the Commissioner's decision. "However, the Commissioner does concur that where the state determines not to supply additional funding for a particular provider, such determinations cannot be made without consideration of student needs. Therefore, the Commissioner directs that, to the extent that the department, in the formative stages of Abbott implementation, may ever have used pre-determined dollar amounts or other arbitrary standards as bases for excluding Head Start or other willing community providers from district preschool plans, this is not to

occur. Rather, plans to use community providers, including Head Start, must be evaluated based upon student needs, with considerations of cost and practicality assessed relative to other means of meeting state standards."

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