

JOSHUA KEAVENEY, minor, by and through his guardian ad litem, SANDRA KEAVENEY; SHAWN RILEY, by and through his guardian ad litem, EDIE RILEY; CHRISTOPHER RIDGEWAY, ANTHONY RIDGEWAY, JONATHAN GLASS, FEASHAL GLASS AND DANIELLE GLASS, by their guardian ad litem, ARNETTA RIDGEWAY AND CHRISTOPHER GLASS; LOUIS GRACIA, TINA GRACIA AND ZACHARY GRACIA, by and through their guardian ad litem, DAWN GRACIA; on behalf of themselves and all the children in a class of very poor "A" and "B" non-Abbott, special needs districts listed below: BUENA REGIONAL, CLAYTON, COMMERCIAL TOWNSHIP, EGG HARBOR CITY, FAIRFIELD TOWNSHIP, HAMMONTON, LAKEHURST, LAKEWOOD, LAWRENCE TOWNSHIP, LITTLE EGG HARBOR, LOWER TOWNSHIP, LOWER CAPE MAY REGIONAL, MAURICE RIVER TOWNSHIP, OCEAN TOWNSHIP, QUINTON, SALEM CITY, SOUTH RIVER, UPPER DEERFIELD, WALLINGTON AND WOODBINE SCHOOL DISTRICTS, which are also Plaintiffs in their own right, except for the constitutional allegations in Counts ONE AND TWO,

: STATE BOARD OF EDUCATION
: DECISION

PETITIONERS-APPELLANTS,

V.

NEW JERSEY DEPARTMENT OF EDUCATION, LEO KLAGHOLZ, COMMISSIONER OF THE NEW JERSEY DEPARTMENT OF EDUCATION, ELIZABETH L. PUGH, NEW JERSEY DIRECTOR OF MANAGEMENT AND BUDGET, JAMES DIELEUTORIO, NEW JERSEY STATE TREASURER AND CHRISTINE TODD WHITMAN, GOVERNOR,

RESPONDENT-RESPONDENT.

For the Petitioners-Appellants, Jacob & Ferrigno (Frederick A. Jacob, Esq., of Counsel)

For the Respondent-Respondent, Arlene G. Lutz, Deputy Attorney General (John J. Farmer, Attorney General of New Jersey)

In a petition filed with the Commissioner of Education, 20 school districts and ten students attending school in those districts sought to have the Comprehensive Educational Improvement and Financing Act of 1996 ("CEIFA") declared unconstitutional as applied to them. The petitioning districts, characterizing themselves as "very poor DFG 'A' or 'B' non-Abbott 'special needs' districts," alleged that CEIFA did not provide them with sufficient funds so as to enable them to provide a thorough and efficient education.

On or about July 8, 1998, the respondent filed a motion with the Commissioner seeking dismissal of that petition. The petitioners filed a response thereto on or about July 24, 1998.

On November 19, 1999, the petitioners filed the instant motion with the State Board of Education, seeking an order compelling the Commissioner to issue a decision on the respondent's motion. Shortly thereafter, the petitioners requested that their motion be placed in abeyance.

On February 24, 2000, the Commissioner issued a letter decision denying the respondent's motion to dismiss with respect to those petitioners not previously addressed in his previous decision in this matter and directing that the case be transmitted to the Office of Administrative Law for further proceedings.

By letter dated May 17, 2000, the Director of the State Board Appeals Office, observing that the Commissioner had issued his decision on the respondent's motion to

dismiss, advised the petitioners that “in view of this fact and in the absence of objection from the parties, the Legal Committee intends to recommend that the State Board dismiss the matter as moot.” The petitioners did not respond or otherwise object to the Legal Committee’s recommendation.

In view of the fact that the Commissioner has now issued a decision on the respondent’s motion to dismiss the petition, we dismiss the petitioners’ motion to compel such a decision as moot.

Arnold G. Hyndman abstained.

July 5, 2000

Date of mailing _____