

CHAPTER 19

COMPREHENSIVE EDUCATIONAL IMPROVEMENT
AND FINANCING PROGRAM

Authority

N.J.S.A. 18A:7F-34 (P.L. 1996, c.138) and 18A:7A-1 et seq.

Source and Effective Date

R.1997 d.372, effective September 2, 1997.
See: 29 N.J.R. 2591(a), 29 N.J.R. 3806(a).

Executive Order No. 66(1978) Expiration Date

Chapter 24, Comprehensive Educational Improvement and Financing Program, expires on September 2, 2002.

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SUBCHAPTER 1. GENERAL PROVISIONS

6:19-1.1 Purpose

These rules are adopted pursuant to N.J.S.A. 18A:7F-34 to effectuate the provisions of the Comprehensive Educational Improvement and Financing Act of 1996 and to integrate within the new procedures, procedures related to existing statutory provisions, such as N.J.S.A. 18A:7A-1 et seq., and the general authority conferred pursuant to the "thorough and efficient" clause of the New Jersey Constitution in order to produce a well coordinated and efficient system of rules. The Act establishes procedures for defining the substantive content of a thorough education in the form of rigorous Core Curriculum Content Standards which are uniformly required of all districts in the State. The Act also establishes procedures for setting and maintaining standards for the efficient delivery of programs and services that will accomplish these goals. In addition, the Act provides a funding mechanism to ensure that each school district has a level of financial support sufficient to provide those programs and services. Finally, it establishes an accountability system to ensure that public funds will be expended prudently and effectively to enable all students to meet the established substantive standards.

Petition for Rulemaking.

See: 31 N.J.R. 902(a), 31 N.J.R. 3532(a).

6:19-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings:

"Abbott district," as defined by N.J.S.A. 18A:7F-3, means one of the 28 urban districts in district factor groups A and B specifically identified in the appendix to *Raymond Abbott, et al. v. Fred G. Burke, et al.* decided by the New Jersey Supreme Court on June 5, 1990 (119 N.J. 287, 394) as follows: Asbury Park City, Bridgeton City, Burlington City, Camden City, East Orange City, Elizabeth City, Garfield City, Gloucester City, Harrison Town, Hoboken City, Irvington Township, Jersey City, Keansburg Borough, Long Branch City, Millville City, New Brunswick City, Newark City, City of Orange Township, Passaic City, Paterson City, Pemberton Township, Perth Amboy City, Phillipsburg Town, Pleasantville City, Trenton City, Union City, Vineland City, and West New York Town.

"Adjusted for inflation," as defined by N.J.S.A. 18A:7F-5, means the greater of the CPI or three percent.

"Base budget" means the district board of education's school budget which contains a net budget at its adjusted spending growth limitation pursuant to N.J.S.A. 18A:7F-5, but exclusive of additional spending proposals submitted to the voters or board of school estimate.

"Comparative Spending Guide" means the annual report of comparative financial statistics of school districts compiled and published for general distribution by the Commissioner pursuant to N.J.S.A. 18A:4-30.

"Core Curriculum Content Standards" means the seven academic and five workplace readiness areas adopted by the State Board of Education May 1, 1996 and as thereafter revised by the State Board. These standards communicate the common expectations for the achievement to which all New Jersey students will be held throughout their 13 year public education experience. The standards are articulated in areas including: visual and performing arts, comprehensive health/physical education, language arts literacy, mathematics, science, social studies and world languages and cross content areas for: career planning, use of technology information and other tools, critical thinking/decision making/problem solving, self management and safety principles.

"CPI," as defined by N.J.S.A. 18A:7F-3, means the average annual increase, expressed as a decimal, in the consumer price index for the New York City and Philadelphia areas during the fiscal year preceding the prebudget year as reported by the United States Department of Labor.

"Debt service," as defined by N.J.S.A. 18A:7F-3, means payments of principal and interest upon school bonds and other obligations issued to finance the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and the costs of issuance of such obligations and shall include payments of principal and interest upon bonds issued to fund or refund such obligations, and upon municipal bonds and other obligations which the Commissioner approves as having been issued for such purposes. Debt service pursuant to the provisions of P.L. 1978, c.74 (N.J.S.A. 18A:58-33.22 et seq.), P.L. 1971, c.10 (N.J.S.A. 18A:58-33.6 et seq.) and P.L. 1968, c.177 (N.J.S.A. 18A:58-33.2 et seq.) is excluded.

"Demonstrably effective programs" means those programs, strategies or services pursuant to N.J.S.A. 18A:7F-18 that are established through State resources and are research-based or have demonstrated through strong, logical, empirical, research evidence that improvement in academic performance is educationally significant. Such programs, strategies or services result in high student achievement. These programs, strategies or services are either expressly identified in N.J.S.A. 18A:7F-18 or are approved by the State Board in accordance with N.J.A.C. 6:19-4.1(a).

"Early childhood program aid" means State aid pursuant to N.J.S.A. 18A:7F-16 which is distributed to all school districts with high concentrations of low-income students, for the purpose of providing full-day kindergarten and pre-school classes and other early childhood programs and services.

"Educationally Meritorious Programs," as used in the Comprehensive Educational Improvement and Financing Act of 1996, means programs that are established through State resources and are research-based programs or services that have demonstrated effectiveness, and have been evaluated and proven successful in promoting high student achievement in any type of district regardless of socioeconomic conditions. Such programs or services directly support student achievement of the Core Curriculum Content Standards, and demonstrate fiscal and administrative efficiency.

"Efficiency standards," established pursuant to N.J.S.A. 18A:7F-4b, means the efficiency standards contained in the biennial Report on the Cost of Providing a Thorough and Efficient Education.

"GAAP," as defined by N.J.S.A. 18A:7F-3, means the generally accepted accounting principles established by the Governmental Accounting Standards Board as prescribed by the State Board pursuant to N.J.S.A. 18A:4-14.

"Lease purchase payment," as defined by N.J.S.A. 18A:7F-3, means payments of principal and interest for lease purchase agreements in excess of five years approved pursuant to subsection f of N.J.S.A. 18A:20-4.2 to finance the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and issuance costs.

"Low-income pupils," as defined by N.J.S.A. 18A:7F-3, means those pupils from households with a household income at or below the most recent Federal poverty guidelines available on October 15 of the prebudget year multiplied by 1.30.

"Net budget," as defined by N.J.S.A. 18A:7F-3, means the sum of the net T&E budget and the portion of the district's local levy that is above the district's maximum T&E budget.

"Net T&E budget," as defined by N.J.S.A. 18A:7F-3, means the sum of the T&E program budget, early childhood program aid, demonstrably effective program aid, instructional supplement aid, transportation aid, and categorical program aid received pursuant to N.J.S.A. 18A:7F-19 through 22, 28 and 29.

"Prebudget year," as defined by N.J.S.A. 18A:7F-3, means the school fiscal year preceding the year in which the school budget is implemented.

"Prebudget year net budget" for the 1997-98 school year, as defined by N.J.S.A. 18A:7F-3, means the sum of the foundation aid, transition aid, transportation aid, special education aid, bilingual education aid, aid for at-risk pupils, technology aid, and county vocational program aid received by a school district or county vocational program aid received by a school district or county vocational school district in the 1996-97 school year pursuant to P.L. 1996, c.42, and the district's local levy for the general fund.

"School Report Card" means the school report card prepared and disseminated to parents and other interested taxpayers within each local school district pursuant to N.J.S.A. 18A:7E-2.

"Spending growth limitation," as defined by N.J.S.A. 18A:7F-3, means the annual rate of growth permitted in the net budget of a school district, county vocational school district or county special services school district as measured between the net budget of the prebudget year and the net budget of the budget year as calculated pursuant to N.J.S.A. 18A:7F-5d.

"T&E amount," as defined by N.J.S.A. 18A:7F-3, means the cost per elementary pupil of delivering programs and services including extracurricular and cocurricular activities that enable all students to achieve the Core Curriculum Content Standards which constitute a thorough regular education under the assumptions of reasonableness and efficiency contained in the Report on the Cost of Providing a Thorough and Efficient Education.

"T&E program budget," as defined by N.J.S.A. 18A:7F-3, means the sum of core curriculum standards aid, supplemental core curriculum standards aid, stabilization aid, designated general fund balance, miscellaneous local general fund revenue and that portion of the district's local levy that supports the district's T&E budget.

"T&E range," as defined by N.J.S.A. 18A:7F-3, means the range of regular education spending which shall be considered thorough and efficient. The range shall be expressed in terms of T&E budget spending per elementary pupil, and shall be delineated by alternatively adding to and subtracting from the T&E amount the T&E flexible amount to establish the minimum T&E budget and maximum T&E budget when applied to each district's weighted resident enrollment.

"Thoroughness standards," as referenced in N.J.S.A. 18A:7F-4a, means the Core Curriculum Content Standards as approved by the State Board on May 1, 1996 and as thereafter revised by the State Board.

"Weighted resident enrollment," as used in N.J.S.A. 18A:7F-12, means the differentials in costs based on the efficiency standards established pursuant to N.J.S.A. 18A:7F-4b of providing education at the kindergarten, elementary (grades 1 through 5), middle school (grades 6

through 8) and high school levels (grades 9 through 12) which are determined by dividing the elementary cost per pupil into each category. The weights are applied to resident enrollment in each category pursuant to N.J.S.A. 18A:7F-13.

Amended by R.2000 d.358, effective September 5, 2000.

See: 32 N.J.R. 1712(a), 32 N.J.R. 3332(b).

In "Demonstrably effective programs", updated N.J.A.C. reference.

SUBCHAPTER 2. BUDGET REVIEW AND APPROVAL

6:19-2.1 Review of budget proposals for thoroughness and efficiency

(a) The Commissioner shall prepare and distribute a budget application which shall be referred to as the School District Budget Statement and Supporting Documentation.

(b) The Commissioner shall as necessary require the submission of supplemental information such as documents, contracts, reports, and financial records and statements required by law or regulation, or other information necessary to conduct a review of the district's annual spending plan.

(c) A district board of education shall use the budget application prescribed by the Commissioner in (a) above in its submission to the county superintendent for review and approval.

(d) The county superintendent as designated by the Commissioner shall review and approve each district board of education's proposed budget prior to its advertisement. The county superintendent shall not approve any budget unless:

1. The base budget portion of the budget application and supporting documentation submitted by the district board of education provides curriculum and instruction that are designed and will be delivered in such a way that all students will have the opportunity to achieve the knowledge and skills defined by the Core Curriculum Content Standards; and

2. The base budget contains funds sufficient to meet all existing statutory and regulatory mandates.

(e) In reaching a determination, the county superintendent's review shall include, but not be limited to, the following information and records of the district board of education:

1. The thoroughness and efficiency standards established pursuant to N.J.S.A. 18A:7F-4a and b;

2. The annual report required under N.J.S.A. 18A:7A-11;

3. District curriculum guides;
4. Pupil achievement on or progress in meeting existing State assessment standards;
5. District status in the existing certification process;
6. Annual independent audits and other external reviews by a State or Federal agency or reviews required by statute and regulation;
7. Pupil transportation practices;
8. The comparative spending guide;
9. The school report card; and
10. Contractual obligations.

(f) The county superintendent shall not approve any base budget unless it has been determined that it ensures that curriculum and instruction are designed and shall be delivered in such a way that all students shall have the opportunity to achieve the knowledge and skills defined by the Core Curriculum Content Standards, and that all proposed expenditures are suitable and appropriate as school district expenditures. The county superintendent shall order any changes in expenditure proposals that are found unsuitable or inappropriate except that no modification of non-remote busing proposals shall be made, pursuant to N.J.S.A. 18A:7F-6e.

(g) The county superintendent's review of expenditures shall be conducted annually. Determinations shall not be predicated on past practices and nothing shall preclude the county superintendent from directing an increase, decrease or the elimination of expenditures contained in the prior year's approved budget.

Case Notes

School board's informational bond materials restricted from explicitly advocating affirmative message. *Schoen v. Board of Education of the Township of Edison, Middlesex County*, 97 N.J.A.R.2d (EDU) 491.

6:19-2.2 Review of Abbott district budgets

(a) In addition to the budget approval requirements for all districts, the Commissioner or his or her designee shall take additional actions during the review of an Abbott district budget, which pursuant to N.J.S.A. 18A:7F-6c must be submitted seven days prior to the normal submission date, or as necessary during the school year to ensure that funds are optimally directed to support student attainment of the Core Curriculum Content Standards.

(b) The Commissioner shall conduct an assessment of efforts in each Abbott district to reduce class sizes in furtherance of the efficiency standards established pursuant to N.J.S.A. 18A:7F-4b, increase the breadth of program offerings and direct funds to support direct instruction of students to the optimum degree.

1. The assessment shall include a review of each Abbott district's school facilities for idle or underutilized capacity, and the district's ability to reassign students to other existing school facilities in a way that maximizes the efficient and effective educational usage of existing school facilities. If the district, upon request, does not provide adequate information so that the Commissioner can perform the assessment, the Commissioner may contract with an outside consultant to compile such information and may direct that the cost of such contracts be included in the districts' budgets pursuant to the authority granted under N.J.S.A. 18A:7F-6;

2. The assessment shall include a review of the central office and school level administrative functions of each district to determine their operational effectiveness and to identify economies. If the district, upon request, does not provide adequate information so that the Commissioner can perform the assessment, the Commissioner may contract with an outside consultant to compile such information and may direct that the cost of such contracts be included in the districts' budgets pursuant to the authority granted under N.J.S.A. 18A:7F-6;

3. The assessment shall include a review of the curriculum, extracurricular and cocurricular activities and student support services existing in each district and to identify economies that would not adversely affect student achievement of the Core Curriculum Content Standards or would not address the special needs of students living in districts with high concentrations of low-income families. If the district, upon request, does not provide adequate information so that the Commissioner can perform the assessment, the Commissioner may contract with an outside consultant to compile such information and may direct that the cost of such contracts be included in the districts' budgets pursuant to the authority granted under N.J.S.A. 18A:7F-6.

(c) Based on the findings of such assessments, the Commissioner shall as practicable direct modification or augmentation of the budget pursuant to N.J.S.A. 18A:7F-6a to achieve appropriate class sizes and other efficiency standards established pursuant to N.J.S.A. 18A:7F-4b and contained in the Report on the Cost of Providing a Thorough and Efficient Education. Where appropriate and necessary, the Commissioner shall also order the addition of specific programs and services for the purpose of achieving the Core Curriculum Content Standards and/or addressing the special needs of students in disadvantaged communities, accelerate the implementation of or expand early childhood programs pursuant to N.J.A.C. 6:19-3.

6:19-2.3 Commissioner to ensure achievement of the Core Curriculum Content Standards

(a) The Commissioner shall, as part of the budget approval process, take actions upon the failure of one or more schools within the district to achieve the Core Curriculum Content Standards as evidenced by existing statewide assessment methods or other statutory or regulatory methods of evaluation. The Commissioner shall:

1. Upon the initial year of failure, the Commissioner shall, minimally, direct the district board of education to prepare within 60 days an assessment of the weaknesses in the current educational program and a corrective action plan. The Commissioner shall consider that assessment as part of the district's next annual budget submission and shall also exercise as appropriate the powers granted him or her under N.J.S.A. 18A:7F-6a.

2. Upon two consecutive years of failure, the Commissioner shall, minimally, conduct an assessment of the district's curriculum and budget in addition to exercising the powers granted him or her under N.J.S.A. 18A:7F-6a and consider that assessment as part of the district's next annual budget submission. The Commissioner may contract to perform the assessment and may direct that the cost of such contracts be included in the district's budget.

(b) Upon three consecutive years of failure or for districts which have already experienced at least three consecutive years of failure under existing State assessment methods, the Commissioner shall, pursuant to the summary authority granted in N.J.S.A. 18A:7F-6b, take corrective actions as deemed appropriate including, but not limited to:

1. Directing the restructuring of curriculum or programs and the redirection or addition of expenditures consistent with the thoroughness and efficiency standards established pursuant to N.J.S.A. 18A:7F-4;

2. Directing staff retraining or reassignment and the development and implementation of a formal plan for professional development at the amount provided for in the thoroughness and efficiency standards; and

3. Reviewing the terms of collective bargaining agreements prior to final approval by the district board of education and issuing an assessment of the impact of such terms on the district's budget, educational program and the local property tax levy.

(c) The Commissioner shall report any action taken under (b) above to the State Board within 30 days.

(d) A district board of education may appeal any actions taken by the Commissioner under (b) above to the State Board.

(e) Nothing in this section shall be construed to limit such general or specific powers as are elsewhere conferred upon the Commissioner pursuant to law.

6:19-2.4 Additional spending proposals

(a) A district board of education may as appropriate submit to the voters at the annual school budget election, or to the board of school estimate, a separate proposal or

proposals, for additional general fund tax levies which may be in excess of its adjusted spending growth limitation determined pursuant to N.J.S.A. 18A:7F-5d. Such proposal or proposals shall not contain any programs or services necessary for the district to provide the opportunity for all students to achieve the thoroughness standards established pursuant to N.J.S.A. 18A:7F-4a (Core Curriculum Content Standards) nor shall it contain proposed expenditures for items which are contained in the efficiency standards established pursuant to N.J.S.A. 18A:7F-4b when the amounts contained in the base budget for those items are less than that contained in the efficiency standards established pursuant to N.J.S.A. 18A:7F-4b.

(b) The district board of education shall frame and adopt by a recorded roll call majority vote of its full membership the content of the question or questions to be submitted so that each specific purpose is submitted in a separate question, or all or any number of them are submitted in one question. A copy of any such question or questions formally adopted by a district board of education shall be submitted to the county superintendent and made a part of the legal notice of public hearing on the budget pursuant to N.J.S.A. 18A:22-28, posted at the public hearing held on the budget pursuant to N.J.S.A. 18A:22-29 and printed on the sample ballot pursuant to N.J.S.A. 19:60-10.

(c) Each question shall contain a description of the specific purpose or purposes to be achieved and the amount of general fund tax levy to be raised and expended. A statement that the proposed additional expenditures are in addition to those necessary to achieve the Core Curriculum Content Standards shall be included on the sample ballot.

(d) Each question shall request sufficient funds to carry out the specific purpose or purposes contained therein and no funds shall be included in the base budget for purposes which cannot be implemented without the approval of a separate question.

(e) Pursuant to N.J.S.A. 18A:7F-5d(10), proposed expenditures which are rejected by the local voters and which are not restored by the local governing body or bodies, or rejections by a board of school estimate, are final and no application for restoration pursuant to N.J.A.C. 6:19-5 shall be permitted.

(f) No modifications of the base budget shall be made to execute such purposes pursuant to (e) above.

(g) Amounts approved by the local voters or board of school estimate or amounts restored by the municipal governing body or bodies after rejection by the local voters shall be used exclusively for the purpose or purposes contained in the associated question.

(h) A district board of education shall maintain a separate accounting of expenditures for each question, and approved amounts which remain unexpended or unencumbered at the end of the school year shall either be anticipated as a part of the designated general fund balance of the subsequent school year budget or reserved and designated in the second subsequent school year budget.

(i) Amounts approved by the local voters or board of school estimate or amounts restored by the municipal governing body or bodies after rejection by the local voters shall be submitted to the Commissioner both separately as proposed and approved and as part of the final overall budget certified for taxes.

6:19-2.5 Designation of general fund balances

(a) Each district board of education shall at a minimum designate in the original budget certified for taxes an estimate of unreserved general fund balance at June 30 of the prebudget year in excess of the limitations contained in N.J.S.A. 18A:7F-7, less any excess amounts approved by the Commissioner for deposit in a capital reserve account, and any general fund balances reserved by law or regulation or designation.

(b) A district board of education, except as excluded in (b)1 below, which applies to the Commissioner pursuant to N.J.S.A. 18A:7F-5d(6), (7) or (8) for an adjustment to the spending growth limitation shall designate in the proposed base budget all unreserved general fund balance in excess of three percent of the general fund base budget for the budget year or \$75,000, whichever is greater, and any general fund balances reserved by law or regulation for designation. The Commissioner shall not approve the deposit of any excess unreserved general fund balance into a capital reserve account for any district board of education subject to this provision.

1. A district board of education may apply to the Commissioner pursuant to N.J.S.A. 18A:7F-5d(6), (7) or (8) for an adjustment to the spending growth limitation and maintain an undesignated, unreserved general fund balance up to the limitations contained in N.J.S.A. 18A:7F-7 provided that its net budget of the prebudget year adjusted for inflation less all State aid of the budget year accounted for in the net budget other than core curriculum standards aid, supplemental core curriculum standards aid, and all forms of stabilization aid pursuant to N.J.S.A. 18A:7F-10 results in resident per pupil spend-

ing below the bottom of the T&E range and the general fund tax levy of the base budget does not exceed that of the prebudget year. For a district board of education which provides an educational program which does not include a full kindergarten through grade 12 curriculum, but is part of a formal sending/receiving district tuition agreement, the per pupil spending shall be adjusted to exclude resident students sent out of district and the associated tuition paid for such students in order to determine the per pupil spending for resident students attending the in-district educational program.

(c) If a district's audited undesignated general fund balance at June 30 of any school year exceeds the amounts permitted in (a) and (b) above, the excess amount must be reserved and designated in the subsequent year's budget.

(d) The Commissioner shall deduct from the State aid payable to the district board of education in the subsequent budget year an amount equal to the audited excess undesignated general fund balance less any Federal impact aid received in the prebudget year for any district which fails to comply with (c) above.

Amended by R.2001 d.367, effective October 1, 2001.

See: 33 N.J.R. 1809(a), 33 N.J.R. 3482(a).

Deleted (e) and (f).

6:19-2.6 Public notice and inspection

(a) Each district board of education upon submission of its budget application to the county superintendent or by the statutory submission date, whichever is earlier, shall make available upon request for public inspection all budget and supporting documentation contained in the budget application and all other documents listed in N.J.A.C. 6:19-2.1(e) once the budget application has been submitted to the county superintendent for approval. Nothing in this section shall restrict access by the citizens of this state to documents which otherwise qualify as public records pursuant to N.J.S.A. 47:1A-1 et seq., or common law.

(b) Any district board of education which proposes a base budget which contains spending which exceeds its maximum T&E budget shall also do the following:

1. Include the full text of the statement required by N.J.S.A. 18A:7F-5d(10) in the advertised section of the budget pursuant to N.J.S.A. 18A:22-8 and 18A:22-11 and in the legal notice of public hearing, posting at the public hearing and on the sample ballot pursuant to N.J.S.A. 18A:7F-5d(10); and

2. Prepare a narrative statement based on the thoroughness and efficiency standards established pursuant to N.J.S.A. 18A:7F-4 which describes in specific detail the reasons why and to the extent that the district's proposed budget contains spending which exceeds its maximum T&E budget (that is, the maximum amount needed to deliver curriculum and instruction which will enable all students to achieve the Core Curriculum Content Standards). That statement shall be included with the budget application and other materials for public inspection.

6:19-2.7 Adjustments to spending growth limitation

(a) A district board of education shall comply with the following requirements when adjusting the spending growth limitation for capital outlay expenditures pursuant to N.J.S.A. 18A:7F-5. The district board shall:

1. Adopt and submit with the budget application a true copy of a formal board resolution which contains a narrative description of the capital purposes and the full amount to be included in the base budget, the need for and the amount of the adjustment, and a statement that said purposes must be completed by the end of the budget year and cannot be deferred or incrementally completed over a longer period of time;

2. Provide evidence that the proposed capital expenditures were the result of long term planning and deliberation and are also one of the following: directly related to classroom instruction, part of an established periodic schedule of equipment replacement, essential to the administration of necessary school level activities, required to ensure the health and safety of persons using school facilities or sites; or that the capital outlay portion of the prebudget year was an aberration in that it was the lowest of the previous three budget years;

3. If the proposed capital outlay portion of the budget includes funds to purchase, expand, renovate or construct school facilities or sites, provide a true copy of the minutes of the board meeting at which the proposal was formally introduced and discussed in public;

4. In the event that the capital outlay portion of the budget will not be or is not fully expended or encumbered by the end of the budget year, reserve and designate any balances in the subsequent budget year when determined prior to the adoption of that budget or the second subsequent budget year when determined after adoption; and

5. Use amounts for the purchase, expansion, renovation or construction of school facilities or sites or the major replacement or purchase of equipment exclusively for their intended purposes and reserve and designate any balances which will not be or are not expended or encumbered by the end of the budget year in the subsequent budget year when determined prior to the adoption of that budget or the second subsequent budget year when determined after adoption. A district board of education

may apply to the Commissioner for an exemption to this provision due to unforeseeable conditions which result in other urgent capital outlay needs. An exemption shall be granted if the existence of such conditions is demonstrated.

(b) A district board of education's adjustment to the spending growth limitation for pupil transportation costs provided pursuant to N.J.S.A. 18A:39-1.1 shall be calculated, unless the district board of education can clearly document that the actual costs of such transportation are higher, as follows:

$$\frac{(E \times 2) + (S \times 2.5)}{TEM + (E \times 2) + (S \times 2.5)} \times TPTC$$

where:

E is the elementary pupils provided transportation pursuant to N.J.S.A. 18A:39-1.1

S is the secondary pupils provided transportation pursuant to N.J.S.A. 18A:39-1.1

TEM is the total eligible miles for transportation aid

TPTC is the total pupil transportation costs contained in the proposed budget

(c) For the 1998-99 through 2001-2002 school years, the Commissioner shall not approve an application pursuant to N.J.S.A. 18A:7F-5d(7) for adjustment to the spending growth limitation because of the implementation of early childhood programs for an amount greater than the prebudget year net budget less all categorical aid adjusted for inflation pursuant to N.J.S.A. 18A:7F-5 less the sum of the net budget less all categorical aid of the budget year prior to adjustments to the spending growth limitation other than the adjustment for inflation and any adjustments granted under this provision in prior years. The prebudget year net budget less all categorical aid for the purpose of this calculation shall be the sum of local general fund tax levy, designated general fund balance, miscellaneous local general fund revenue, core curriculum standards aid, supplemental core curriculum standards aid and all forms of stabilization aid pursuant to N.J.S.A. 18A:7F-10. The net budget less all categorical aid of the budget year for the purpose of this calculation shall be the prebudget year net budget adjusted for inflation less all State aid of the budget year accounted for in the net budget other than Core Curriculum Standards aid, supplemental Core Curriculum Standards aid and all forms of stabilization aid pursuant to N.J.S.A. 18A:7F-10. In subsequent years, the adjustment shall not exceed the excess of the percentage increase in early childhood program aid over the greater of three percent or CPI, whichever is greater, multiplied by the early childhood program aid.

(d) The Commissioner shall not approve a sending district's application pursuant to N.J.S.A. 18A:7F-5d(8) for an adjustment to the spending growth limitation for increases

in receiving district tuition rates in an amount greater than that which would restore the district's per pupil net budget, adjusted for inflation and after deducting the tuition rate increase per resident pupil, to its actual prebudget year level. In determining the amount of the adjustment, the Commissioner shall consider any available reports, documents or other information which is pertinent to a determination on the application.

SUBCHAPTER 3. EARLY CHILDHOOD PROGRAM AID

6:19-3.1 (Reserved)

Recodified as N.J.A.C. 6A:8-2.4 by R.2001 d.182, effective June 4, 2001.

See: 33 N.J.R. 943(a), 33 N.J.R. 1912(a).

Section was "Requirement to establish early childhood programs".

6:19-3.2 Requirements for fiscal operations and program operational plans

(a) District boards of education shall appropriate aid in a special revenue fund for early childhood programs for expenditure, but may place all or a portion of the aid in a capital reserve account during the first four years to establish facilities for early childhood programs or to enlarge existing facilities for use by pupils other than those enrolled in early childhood programs, provided the new or enlarged facilities are used for and are adequate to house the planned early childhood programs, or create adequate capacity in other existing facilities.

(b) District boards of education which demonstrate good progress toward establishing and maintaining early childhood programs may use the early childhood aid for establishing or maintaining demonstrably effective or educationally meritorious programs.

(c) A district board of education that does not intend to fully serve all four and five year-olds in the 1997-98 school year shall conduct and submit to the Commissioner or his or her designee an annual assessment, until full implementation of preschool and full-day kindergarten, of the district's school facilities for idle or underutilized capacity, and the district's ability to reassign students to other existing school facilities in a way that maximizes the efficient and effective educational usage of existing school facilities. If the assessment indicates that the district has the ability to fully implement or expedite the implementation of such programs, the district board of education shall also submit a detailed explanation as to the reasons why it chooses to implement such programs over a longer period of time and/or why the use of a capital reserve account is necessary. The Commissioner may direct the full implementation or expedited implementation of such programs as he or she deems appropriate and/or reduce or deny deposits to a capital reserve account if he or she determines that further delay in implementation is not warranted.

(d) A district board of education which has fully implemented preschool and full-day kindergarten shall continue the full operation of such programs for as long as it receives Early Childhood Program Aid. Beginning in the 2001-2002 school year, a district board of education shall only use Early Childhood Program Aid for preschool, full-day kindergarten and other early childhood programs and services.

(e) Fiscal and program operational plans for Early Childhood Program Aid shall be submitted to the county superintendent for review and approval and shall be subject to monitoring. The county superintendent shall review each line item in the district's fiscal and program operational plans to determine if it is appropriate. Fiscal and program operational plans shall be revised annually to reflect changes in program and fiscal components.

1. For the first year of this aid, district boards of education shall submit with their budget application a budget that outlines how the early childhood program aid shall be expended.

i. District boards of education who choose to appropriate aid for new or enlarged facilities for pupils other than those enrolled in early childhood programs shall demonstrate how all four and five year-olds can be housed and all operational program plan components can be met through the use of district resources and facilities (and/or other State approved community child care programs) by the 2001-2002 school year.

ii. District boards of education which appropriate aid for establishing and/or maintaining demonstrably effective or educationally meritorious programs shall demonstrate how these programs meet the established definitions and how the educational needs of all four and five year-olds will be met by the 2001-2002 school year.

(f) Early Childhood Program Aid shall be a dedicated, nonlapsing source of funds. Early Childhood Program Aid revenue which is not expended or encumbered by June 30 of the budget year shall be classified as deferred revenue in the financial accounts and statements of the district and shall either be added to the Early Childhood Program Aid revenue of the subsequent year when identified prior to the preparation of the subsequent year budget, appropriated during the subsequent year with the approval of the Commissioner or his or her designee, or retained as deferred revenue until the second subsequent year budget. A district board of education shall use all new or deferred revenues only for the purpose of early childhood programs or as otherwise permitted during the first four years pursuant to N.J.S.A. 18A:7F-16 and the provisions of this subchapter.

Amended by R.2001 d.182, effective June 4, 2001.

See: 33 N.J.R. 943(a), 33 N.J.R. 1912(a).

Deleted (e)2.

SUBCHAPTER 4. DEMONSTRABLY EFFECTIVE PROGRAMS

6:19-4.1 Required uses of Demonstrably Effective Programs Aid

(a) A district board of education receiving Demonstrably Effective Programs aid shall utilize these funds exclusively for demonstrably effective programs in the schools for which the aid eligibility and amount was determined.

1. Demonstrably effective programs shall include alternative schools, community schools, class size reduction programs, parent education programs, job training programs, training institutes to improve homework response, telephone tutorial programs, teleconference and video tutoring programs, and HSPT/Early Warning Test before school/after school preparation programs pursuant to N.J.S.A. 18A:7F-18; programs that are annually adopted by the State Board of Education in accordance with N.J.A.C. 6:19-4.2(a)2viii(2); and specific supplemental programs shown to be beneficial for districts with high concentrations of students from low-income families including health services, comprehensive guidance counseling, programs to ensure that schools are safe and drug free, summer school and outreach for dropouts.

Amended by R.2000 d.358, effective September 5, 2000.

See: 32 N.J.R. 1712(a), 32 N.J.R. 3332(b).

In (a)1, updated N.J.A.C. reference.

6:19-4.2 Requirements for fiscal operations and program operational plans

(a) A district board of education receiving Demonstrably Effective Programs Aid shall develop school level operational plans which provide a detailed budget for each program, a description of the demonstrably effective program or programs in use in the school, and a mechanism for annual program evaluation. The operational plan shall include goals, objectives, activities, annual benchmarks and an evaluation process.

1. As part of the budget review process in accordance with N.J.A.C. 6:19-2.1, a district board of education receiving Demonstrably Effective Programs Aid shall submit the school-level operational plan with the budget for each program to the county superintendent for approval.

2. The provisions of this paragraph concern educational improvement plans in special needs districts.

i. The following pertain to district educational improvement plans:

(1) Each board of education in a special needs district shall submit annually as part of the annual school district budget an educational improvement plan for the district. The plan shall be:

(A) Based on student outcome goals consistent with State educational goals pursuant to N.J.A.C. 6A:8-4.4;

(B) Responsive to recommendations made by the Department of Education, analysis of student performance, and other evaluation reports and studies of district, school and student needs, including recommendations of external review teams;

(C) Consistent with the elements and indicators required for district certification through the monitoring process pursuant to N.J.A.C. 6A:30.

(D) Designed to support comprehensive district-level planning to improve student outcomes through improvement of management, governance, finance and facilities;

(E) Designed to support and coordinate school-level planning and other reform efforts;

(F) Developed collaboratively by staff, parents, community members, and students, where appropriate;

(G) Adequately funded; and

(H) Formally adopted by the district board of education.

(2) The chief school administrator shall be responsible for developing, implementing and evaluating the district educational improvement plan.

(3) The plan shall be reviewed by the county superintendent and the staff of the Division of Urban Education and Field Services and approved by the Commissioner based on the requirements specified in (a)2i(1) above and (a)2iii below.

(4) In the case of State-operated school districts, the corrective action plan, required pursuant to N.J.A.C. 6A:30-3.2, shall substitute for the district educational improvement plan.

(5) The Commissioner shall review each line item in the district budget to determine if the expenditure is appropriate. The Commissioner shall reallocate funds from any line item to ensure that demonstrably effective programs which will improve specific educational outcomes for students are implemented in the district.

(6) For special needs districts, the district educational improvement plan shall substitute for required district-level planning objectives required pursuant to N.J.A.C. 6A:30.

ii. The following pertain to school educational improvement plans:

(1) Beginning with the 1993-94 school year, an educational improvement plan shall be developed for each school in a special needs district.

(2) Each school shall establish and maintain a planning team to coordinate the development, implementation and evaluation of the plan.

(A) The district shall ensure that time and resources are allocated to support planning team activities.

(B) Membership on the planning team shall include, but not be limited to, the principal, teachers and parents. A majority of the planning team shall be composed of classroom teachers and 25 percent of the team shall be composed of parents.

(C) The board of education shall establish fair and reasonable policies and procedures by which teachers shall select their representatives and parents shall select their representatives.

(3) School educational improvement plans shall be approved at the district level before the beginning of the school year.

(4) Beginning with the 1994-95 school year, the district shall submit for Department approval, a review and approval process, consistent with (a)2iii below and with other State-mandated local planning requirements as per N.J.A.C. 6A:30-3.

(5) The Division of Urban Education and Field Services shall conduct an on-site review of selected school plans each year.

(6) For schools where students are not meeting minimum State requirements on student performance as per N.J.A.C. 6A:8-4.4, objectives in the areas of deficiency shall be integrated into the school educational improvement plan.

iii. District and school educational improvement plans shall be developed using a process which includes the following components:

(1) Involvement of broad-based representation from different parts of the educational community, including administrators, supervisors, teachers, parents, community members, and students, where appropriate, in the development and implementation of the plan;

(2) Input from parents and community members at a public meeting;

(3) Analysis of student performance at the district and school levels;

(4) Identification of specific student outcomes goals, indicators for the outcomes, and measurable objectives based on these indicators;

(5) Development of a school-level data base which allows analysis of needs and evaluation of success of all students in reaching targeted student outcomes;

(6) Selection of demonstrably effective improvement strategies and programs which could reasonably be expected to result in improvements in student learning based on research results. Such demonstrably effective strategies and programs include, but are not limited to, the following areas:

- (A) Early childhood;
- (B) Instructional uses of technology;
- (C) Drop-out prevention;
- (D) School-based management;
- (E) Staff development;
- (F) Enriched curricula;
- (G) Increased instructional time;
- (H) Interagency collaboration; and
- (I) Student/family support services; and

(7) Specification of activities, needed resources, staff responsibility, timelines, costs, and evaluation strategies.

iv. The following pertain to fiscal requirements for district and school educational improvement plans:

(1) Special needs districts shall at a minimum dedicate 70 percent of all permitted net budget increases above the state average cap percentage increase to the implementation and/or continuation of demonstrably effective improvement strategies and programs, identified as per (a)2viii below. Part of this minimum amount shall be allocated to schools as specified in (a)2iv(2) below.

(2) For the 1993-94 school year, the district shall allocate a minimum of \$50.00 per pupil to each school for the implementation and/or continuation of demonstrably effective improvement strategies and programs selected by the school planning team. Beginning with the 1994-95 school year, the district shall increase the amount allocated to each school to a minimum of \$100.00 per pupil. The provisions of this subsection shall apply to all special needs districts, regardless of the amount of funds dedicated pursuant to (a)2iv(1) above.

(3) If the Commissioner determines that the amount of funds dedicated to demonstrably effective improvement strategies and programs at the district or school level is insufficient to meet student needs,

the Commissioner shall order a reallocation pursuant to (a)2i(5) above.

v. Staff from the Division of Urban Education and Field Services shall assist district and school staff in developing, implementing and evaluating the district and school educational improvement plans by:

- (1) Providing technical assistance to school planning teams, task forces, and district facilitators;
- (2) Identifying exemplary programs and practices;
- (3) Providing training on school-based planning to district and school staff and parents; and
- (4) Linking districts and schools to resources.

vi. The following pertain to verification and evaluation of educational improvement plans in the special needs districts:

(1) The district educational improvement plan shall be implemented as approved. The educational improvement plan can be formally amended only upon approval of the district board of education and the Department.

(2) Staff from the Division of Urban Education and Field Services are responsible for verifying the implementation of district educational improvement plans as follows:

(A) Each special needs district shall be visited monthly by a Division liaison to assess progress and identify needs in implementing the district educational improvement plan. Each visit shall be documented by a written progress report completed by the liaison and sent to the district chief school administrator and the county superintendent.

(B) An annual verification visit shall be conducted in each special needs district. Within two weeks of completion of the visit, a findings letter shall be sent by the Department to the chief school administrator. This letter shall analyze the extent to which the district is successfully implementing each objective in the district educational improvement plan and shall include commendations, and recommendations which must be acted upon within a designated time frame.

(C) A special needs district which fails to satisfactorily implement the district educational improvement plan shall be subject to appropriate sanctions, including, but not limited to, the withholding of State aid.

(3) The district shall develop and implement a process to verify the progress of each school educational improvement plan, beginning with the 1993-94 school year. The verification process shall include the use of the school planning team in track-

ing and reporting progress at the school to the chief school administrator. During the verification visits for the district educational improvement plans, the Division of Urban Education and Field Services shall review the process and shall visit schools to ensure that the process is being implemented.

(4) Each district and each school shall communicate with the parents and community on a quarterly basis to report on the implementation and evaluation of the educational improvement plan.

(5) The district shall submit to the director of the urban assistance center on August 15 of each year an evaluation report which:

(A) Assesses district and school progress in meeting the student outcomes targeted in the educational improvement plan;

(B) Identifies specific accomplishments; and

(C) Addresses progress in implementing recommendations from the external review team, where appropriate.

(6) The evaluation report shall be distributed to parents, staff and communities in September of each year.

(7) The Department shall collect annually the data which is necessary to create comprehensive school-level profiles of each school in the special needs districts. These school profiles shall include data on:

(A) Student performance, including assessed knowledge, student attainment and participation;

(B) Student population characteristics;

(C) Programs and services; and

(D) Staff characteristics.

vii. Under no circumstances will waiver be allowed of this title or any of its subchapters in their entirety. The Commissioner may, however, on a case by case basis, recommend the approval of waivers of specific rules contained in Title 6, Education to the State Board of Education, if the application of those rules interferes with the ability of a special needs district to implement demonstrably effective programs to improve educational outcomes, as specified in the educational improvement plan.

(1) The district may request a waiver by submitting a written request signed by the chief school administrator and approved by the district board of education. Such requests shall include:

(A) Conditions or reasons for the waiver of the specific rule(s);

(B) Duration of the waiver; and

(C) Supporting documentation, including, where appropriate, notice to affected parties.

(2) Upon recommendation from the Commissioner, the State Board of Education may act to relax or waive, with or without conditions, such rules in the specific circumstance presented, if the State Board is satisfied that:

(A) The spirit and intent of Title 18A and applicable Federal laws and regulations are served by the granting of such waiver;

(B) The provision of a thorough and efficient education to the pupils in the district is not compromised as a result of the waiver; and

(C) There will be no risk to pupil welfare and safety by granting such waiver.

(3) Waivers shall not be granted for a duration of more than three years.

viii. The following pertain to demonstrably effective improvement strategies and programs:

(1) For the 1993-94 school year, the Commissioner, in consultation with experts in the field, shall develop a list of demonstrably effective improvement strategies and programs in the areas listed in (a)2iii(6) above to be used by special needs districts as per (a)2iv above in developing the 1993-94 educational improvement plans at the district and school levels.

(2) Beginning with the 1994-95 school year, special needs districts and schools shall select from a list of demonstrably effective improvement strategies and programs, in meeting the requirements in (a)2iv above, to be developed as follows:

(A) By July 15, 1993 and annually thereafter, the Commissioner shall convene an advisory panel which includes researchers and practitioners from institutions and agencies such as colleges and universities, educational laboratories, foundations, business and industry, social and human services agencies, and school districts to review and update the list of improvement strategies and programs.

(B) By October 1, 1993 and annually thereafter, the advisory panel shall present its recommendations to the Commissioner.

(C) After reviewing the recommendations of the advisory panel, the Commissioner shall present a recommended list of strategies and programs to the State Board for approval. Advanced notice(s) of the State Board meeting at which the recommended list of demonstrably effective improvement strategies and programs will be considered shall be published in the New Jersey Register.

(D) Once the list of demonstrably effective improvement strategies and programs has been approved by the State Board, the list shall be published in the New Jersey Register.

(3) Districts may request special approval from the Commissioner to implement demonstrably effective improvement strategies and programs which are not included on the recommended list.

(4) Districts may request special approval from the Commissioner to allocate some of these designated funds to address critical facilities needs.

(b) District boards of education shall maintain separate program and service accounts in the special revenue section of district budget and financial records in accordance with GAAP and N.J.A.C. 6:20-2A.

(c) Demonstrably Effective Programs Aid shall be a dedicated, nonlapsing source of funds. Demonstrably Effective Programs Aid revenue which is not expended or encumbered by June 30 of the budget year shall be classified as deferred revenue in the financial accounts and statements of the district and shall either be added to the Demonstrably Effective Programs Aid revenue of the subsequent year when identified prior to the preparation of the subsequent year budget, appropriated during the subsequent year with the approval of the Commissioner or his or her designee, or retained as deferred revenue until the second subsequent year budget. A district board of education shall use all new or deferred revenues only for approved demonstrably effective programs, strategies or services pursuant to N.J.A.C. 6:19-4.1(a)1.

Amended by R.1993 d.112, effective March 1, 1993.

See: 24 N.J.R. 4467(b), 24 N.J.R. 4419(a), 25 N.J.R. 922(a).

Public Notice: Consideration of list of improvement strategies and programs.

See: 27 N.J.R. 3634(a).

Public Notice: Consideration of list of improvement strategies and programs.

See: 28 N.J.R. 4118(b).

Amended by R.1998 d.457, effective September 8, 1998.

See: 30 N.J.R. 1479(a), 30 N.J.R. 3261(b).

Recodified former N.J.A.C. 6:8-9.1 through 6:8-9.8 as (a)2; and rewrote the provisions of the former sections.

Amended by R.2000 d.358, effective September 5, 2000.

See: 32 N.J.R. 1712(a), 32 N.J.R. 3332(b).

In (a), updated N.J.A.C. references throughout.

Law Review and Journal Commentaries

Education. Judith Nallin, 138 N.J.L.J. Nos. 2, 62 (1994).

6:19-4.3 Sanctions for failure to use aid as required

District boards of education receiving Demonstrably Effective Programs Aid that fail to use such aid as required by N.J.A.C. 6:19-4.1 shall be subject to rescission of aid and additional monetary penalties as established by the Commissioner on a case-by-case basis.

SUBCHAPTER 5. RESTORATION OF BUDGET REDUCTIONS

6:19-5.1 Authority

Unless otherwise expressly noted, the provisions of this subchapter, which establish an expedited budget review process in lieu of appeals provided for in N.J.S.A. 18A:7F-5e(1) and 5e(2), have been prescribed by the Commissioner and approved by the State Board of Education in accordance with the provisions of N.J.S.A. 18A:7F-5e(3). This subchapter shall not apply to State-operated school districts.

6:19-5.2 Procedures following voter defeat or board of school estimate reduction of proposed budget

(a) Procedures following voter defeat of the proposed budget or review of the budget by board of school estimate shall be as follows:

1. If the voters of a district reject the general fund tax levy proposed in the base budget or any amounts contained in a separate question or questions by the district board of education at the annual school election, the district board of education shall, within two days of the certification of election results, supply to the governing body or bodies comprising the district, and to the county superintendent, the following information:

- i. A complete line-item budget listing each item by code and line description, including actual expenditures for the previous school year, actual budgeted amount for the current school year, and proposed budgeted amount for the ensuing school year as proposed to the voters;

- ii. A copy of the annual report submitted to the Commissioner pursuant to N.J.S.A. 18A:7A-11 as amended by P.L. 1996, c.138;

- iii. A copy of the district's most recent annual audit;

- iv. Where applicable, the narrative explanation and documentation provided to the public pursuant to N.J.S.A. 18A:7F-5d(10) for any spending in excess of the T&E range;

- v. An explanation of any action(s) to reallocate, direct additional expenditures, and so forth, taken by the Commissioner, or the county superintendent on behalf of the Commissioner, pursuant to N.J.S.A. 18A:7F-5 through 7 or a statement to the effect that no such actions were taken;

- vi. The numbers of professional and nonprofessional staff during the current school year and projected staff for the ensuing school year, together with reasons for any increase or decrease;

- vii. Pupil enrollment by grade for the district as of the preceding June 30, the last school day prior to the

preceding October 16 and as projected for October of the ensuing school year;

viii. Salary schedules for all employees;

ix. The number of schools and classrooms in each;

x. Tuition received or paid during the previous school year, anticipated for the current school year and projected for the ensuing school year;

xi. Advertised budget for the ensuing school year;

xii. Substantiation of need for any proposed capital projects;

xiii. Any information required for submission to the county superintendent pursuant to N.J.A.C. 6:19-2.1 and not specifically enumerated above;

xiv. The comparative spending guide;

xv. The school report card; and

xvi. Any other documentary materials or records the Commissioner deems appropriate for a specific district board of education.

2. The governing body or bodies comprising the district, or a formally approved committee thereof, shall, as soon as immediately practicable, consult with the district board of education, or a formally approved committee thereof, for purposes of determining the amount of general fund tax levy sufficient to ensure provision of a T&E education or to maintain the stability of a district's programs. On or before May 19, the governing body or bodies shall certify to the county board of taxation an amount to be appropriated for this purpose, which amount shall not be less than the minimum tax levy required to meet the required local share established pursuant to N.J.S.A. 18A:7F-5. If the amount so certified for the base budget is less than proposed to the voters by the board of education, the governing body or bodies shall present to the district board of education and the county superintendent of schools a statement of the specific line-item reductions made by the governing body or bodies. Accompanying the statement shall be a certification attesting that the governing body or bodies has reviewed the budget proposed by the board of education and that it deems the revised budget sufficient for provision of a thorough and efficient system of education.

3. If the budget resulting from such review is below the minimum T&E budget prescribed by N.J.S.A. 18A:7F-5, the governing body or bodies shall concurrently present to the district board of education, and to the county superintendent, a specific written explanation as to how it was determined that each item reduced would not adversely affect the ability of the district to provide a thorough and efficient education or the stability of the district given the need for long term planning and budgeting.

4. In the case of districts having boards of school estimate, at the time of the board of education's submission of its proposed budget to the board of school estimate, it shall also provide to the board of estimate, the governing body or bodies and the county superintendent, the documents enumerated in (a)1 above. If the amount of money appropriated by the board of school estimate for general fund purposes for the ensuing year, which amount may not be less than the minimum tax levy required to meet the required local share established pursuant to N.J.S.A. 18A:7F-5b, is less than the amount proposed by the board of education, the board of estimate shall present to the board of education, the governing body or bodies and the county superintendent a statement of the specific line-item reductions made by the board of estimate. Accompanying the statement shall be a certification that the board of school estimate has reviewed the budget proposed by the board of education and that it deems the revised budget sufficient for provision of a thorough and efficient system of education.

5. The governing body of each municipality comprising the district shall appropriate the amount certified by the

board of school estimate. Should the amount of money appropriated by the governing body or bodies for general fund purposes for the ensuing year pursuant to N.J.S.A. 18A:22-17, which amount may not be less than the minimum tax levy required to meet the required local share established pursuant to N.J.S.A. 18A:7F-5b, be less than the amount certified by the board of school estimate, the governing body or bodies shall present to the board of estimate, the board of education and the county superintendent a statement of the specific line-item reductions made by the governing body or bodies. Accompanying the statement shall be a certification that the amount appropriated for school purposes is sufficient for provision of a thorough and efficient system of education.

6. If the budget resulting from board of school estimate review or subsequent governing body certification is below the minimum T&E budget pursuant to N.J.S.A. 18A:7F-5e(2) the board of school estimate and/or governing body or bodies, as the case may be, shall concurrently present a specific written demonstration as to why such reductions will not adversely affect the ability of the district to provide a thorough and efficient education or the stability of the district given the need for long term planning and budgeting.

7. In those instances where the governing body or bodies or the board of school estimate has certified an amount of tax levy less than that proposed by the district board of education as a result of reductions eligible for restoration through application to the Commissioner as set forth in N.J.A.C. 6:19-5.3 through 5.6, the county superintendent shall schedule a conference between the district board of education, or a formally approved committee thereof, and the governing body or bodies or the board of school estimate, as the case may be, or a formally approved committee thereof, for the purpose of assisting the respective bodies in reaching agreement on the amount of tax levy sufficient to ensure provision of a T&E education consistent with the requirements of N.J.S.A. 18A:7F-1 et seq. Should such agreement be reached, any resultant adjustment in tax levy shall be certified forthwith to the county board of taxation. Should agreement not be reached, where tax levy has already been certified pursuant to N.J.S.A. 18A:22-37, the levy will stand as originally certified and application to the Commissioner for restoration of reductions may be made in accordance with the provisions of this section.

8. The provisions of (a)6 above shall not apply to any instance where governing body or bodies or board of school estimate reductions are not eligible for restoration through application to, or automatic review by, the Commissioner as set forth in N.J.A.C. 6:19-5.3 through 5.6, in which cases the amount certified by the governing body or bodies or the board of school estimate shall remain final without further review or consultation.

6:19-5.3 Application to Commissioner for restoration of reductions; automatic review of budgets below minimum T&E amount

(a) Application to the Commissioner for restoration of reductions and/or automatic review of budgets below the minimum T&E amount shall be made as follows:

1. A district board of education which has proposed to the voters or the board of school estimate, as the case may be, a general fund budget in excess of the maximum T&E budget prescribed by N.J.S.A. 18A:7F-5 may apply for restoration of reductions made pursuant to N.J.S.A. 18A:7F-5e(1) by the governing body or bodies following voter defeat, or by the board of school estimate, only on grounds that such reductions will negatively impact on the stability of the district given the need for long term planning and budgeting. No application may be made on grounds that restorations are necessary for provision of a thorough and efficient education.

2. A district board of education which has proposed to the voters or the board of school estimate, as the case may be, a general fund budget at or below the maximum T&E budget prescribed by N.J.S.A. 18A:7F-5 may apply for restoration of reductions made pursuant to N.J.S.A. 18A:7F-5e(2) by the governing body or bodies following voter defeat, or by the board of school estimate, on grounds that such reductions are necessary for provision of a thorough and efficient education or will negatively impact on the stability of the district given the need for long term planning and budgeting.

3. A district board of education which has proposed to the voters or the board of school estimate, as the case may be, a general fund budget below the minimum T&E budget prescribed by N.J.S.A. 18A:7F-5 or a district board of education which has had its general fund budget reduced to a level below the minimum T&E budget prescribed by N.J.S.A. 18A:7F-5 shall submit any reductions made pursuant to N.J.S.A. 18A:7F-5e(2) by the governing body or bodies following voter defeat, or by the board of school estimate, for review by the Commissioner to determine whether such reductions will adversely affect the ability of the district to provide a thorough and efficient education or the stability of the district given the need for long term planning and budgeting.

6:19-5.4 Procedures for submission of application or budget subject to automatic review

(a) Procedures for submission of application or budget subject to automatic review shall be as follows:

1. Within 10 days after the certification of general fund tax levy by the governing body or bodies, or the board of school estimate, a district board of education eligible for restoration or budget reductions pursuant to N.J.A.C. 6:19-5.3(a)1 or 2 may submit to the Commissioner an application for such restoration. Such application shall be submitted in the form deemed appropriate by the district, but shall address each line-item reduction made by the governing body or bodies or the board of estimate, and shall provide a specific written explanation supported by attached documentation, or specific reference to information contained in materials submitted pursuant to N.J.A.C. 6:19-5.2(a)1, as to why each reduction will adversely affect the ability of the district to provide a thorough and efficient education or the stability of the district given the need for long term planning and budgeting, whichever criterion or criteria will apply under N.J.A.C. 6:19-5.3.

2. Applications for restoration shall be submitted to the appropriate county superintendent, and a copy of the complete application shall concurrently be provided to the governing body or bodies, or the board of school estimate, as the case may be.

3. Within 10 days of receipt of the district board of education's application, the governing body or bodies, or the board of school estimate, may submit to the county superintendent any comments it may wish to make on the board's application. A copy of such comments shall concurrently be provided to the board of education.

4. Within 10 days of delivery to the district board of education and the county superintendent, pursuant to N.J.A.C. 6:19-5.2, of a budget below the minimum T&E budget established by N.J.S.A. 18A:7F-5 so as to be subject to automatic review by the Commissioner, a district board of education may submit to the county superintendent any comments it may wish to make in response to the demonstration provided at the time of certification by the governing body or bodies, or the board of school estimate, that the specific reductions made will not adversely affect the ability of the district to provide a thorough and efficient education or the stability of the district given the need for long term planning and budgeting. A copy of such comments shall concurrently be provided to the governing body of bodies, or the board of school estimate.

6:19-5.5 Grounds for application or review

(a) Grounds for application or review shall be on a "thorough and efficient education" or "stability" basis as follows:

1. For the automatic review required pursuant to N.J.S.A. 18A:7F-5e(2) a governing body or board of school estimate, as applicable, making reductions to a proposed budget which is at or below a district board of education's minimum T&E budget or making reductions which reduce a proposed budget below a district board of education's minimum T&E budget shall document by clear and convincing evidence for each item reduced, that it either will not adversely affect the district board of education's ability to meet the thoroughness and efficiency standards established pursuant to N.J.S.A. 18A:7F-4a and b or will not adversely affect the stability of a district board of education's overall operations.

2. A district board of education which proposed a budget at or below its maximum T&E budget upon application to the Commissioner for restoration of reductions pursuant to N.J.S.A. 18A:7F-5e(2) shall document its need for restoration of each item reduced that it either will adversely affect the district board of education's ability to meet the thoroughness and efficiency standards established pursuant to N.J.S.A. 18A:7F-4a and b or will adversely affect the stability of a district board of education's overall operations.

3. A district board of education which proposed a budget in excess of its maximum T&E budget upon application to the Commissioner for restoration of reductions pursuant to N.J.S.A. 18A:7F-5e(1) shall document by clear and convincing evidence its need for restoration of each item reduced that it will adversely affect the stability of a district board of education's overall operations. In such cases, a district board of education shall not argue that any of the reductions will adversely affect the district board of education's ability to meet the thoroughness and efficiency standards established pursuant to N.J.S.A. 18A:7F-4a and b.

4. "T&E grounds" means that the reduction or reductions would adversely affect the district board of education's ability to implement programs and services at the level contained in the efficiency standards established pursuant to N.J.S.A. 18A:7F-4b in order to ensure that its students achieve the Core Curriculum Content Standards. The efficiency standards are those contained in the Report on the Cost of Providing a Thorough and Efficient Education. For the 1997-98 and 1998-99 school years, the efficiency standards shall be those contained in the Comprehensive Plan for Educational Improvement and Financing issued by the Department in May 1996.

5. "Stability grounds" as used in the Comprehensive Educational Improvement and Financing Act of 1996 shall mean reductions which would require long term planning or budgeting and cannot be accomplished within the budget year; would adversely affect the district board of education's ability to operate a school system; and which are not a program, service or other expenditure contained within the efficiency standards established pursuant to N.J.S.A. 18A:7F-4b or are expenditures for items

which are in excess of those contained in the efficiency standards established pursuant to N.J.S.A. 18A:7F-4b.

6:19-5.6 Commissioner review and determination

(a) Commissioner review of application and determination shall be made as follows:

1. Upon receipt of a district board of education's application and the governing body or board of school estimate's comments thereon or upon expiration of the time for their submission, or upon receipt of a board's comments on a budget below minimum T&E level or expiration of the time for their submission, the Commissioner shall review the materials submitted and issue an order directing such restorations or reallocations as he or she deems warranted pursuant to the appropriate standard as set forth in N.J.S.A. 18A:7F-5 consistent with the overall intent of the Act. For purposes of assessing applications, or conducting automatic reviews in the case of districts having budgets below the minimum T&E budget, the Commissioner may engage the assistance of such Department of Education staff as he or she deems appropriate.

2. In addition to application materials and responsive comments, and those materials submitted to the county superintendent in accordance with the requirements of N.J.A.C. 6:19-5.2(a)1, the Commissioner in assessing applications for restoration or conducting automatic budget reviews shall not be precluded from considering such additional information as may be available to him or her through established reporting requirements and Department of Education data collection processes, for example, the Fall Report. Additionally, should the Commissioner or a designee determine during the course of review that further information or explanation is required from a district board of education, or a governing body or board of school estimate, such information may be requested at any time during the review process.

3. In the case of applications submitted pursuant to N.J.A.C. 6:19-5.3(a)1 or 2 (proposed budgets in excess of or at the maximum T&E amount), the Commissioner shall consider enrollment increases or decreases within the district, the history of voter or board of estimate approval or rejection of district budgets, the impact on the local tax levy, whether reductions made will impact on the ability of the district to fulfill its contractual obligations, and the other factors listed in (a)5 below.

4. In the case of reductions requiring review pursuant to N.J.A.C. 6:19-5.3(a)3 (budgets below the minimum T&E amount), the governing body or bodies or the board of school estimate which has made the reductions shall affirmatively demonstrate to the Commissioner that such reductions will not adversely affect the district board of education's ability to provide a thorough and efficient education or the stability of the district given the need for long term planning and budgeting. In reviewing the budget and the governing body or board of estimate's position, the Commissioner shall consider enrollment in-

creases or decreases within the district, the history of voter or board of estimate approval or rejection of district budgets, the impact on the local tax levy, whether reductions made will impact on the ability of the district to fulfill its contractual obligations, and the other factors listed in (a)5 below.

5. In determining the impact of reductions on the stability of a district, the Commissioner shall consider the following information:

- i. Increases or decreases in enrollment;
- ii. The history of voter approval or rejection of district budgets;
- iii. The impact on the local tax levy;
- iv. The ability of the district to fulfill its existing contractual obligations on the effective date of N.J.S.A. 18A:7F-1 et seq. and the relationship of contractual obligations since the effective date of N.J.S.A. 18A:7F-1 et seq. to Statewide trends in bargaining practices;
- v. The impact on class sizes relative to instructional space;
- vi. The impact on class sizes relative to teaching staff reductions under existing teacher contracts;
- vii. The link between the proposed reduction and classroom instruction or health and safety;
- viii. The nature of the reduction as to whether it is a continuation expenditure or a new or increased expenditure;
- ix. The districts relative standing in the Comparative Spending Guide on the indicators for Total Administration, Administrative Salaries and Benefits, Total Operations and Maintenance of Plant, Board Contributions to the Food Service Program and Extracurricular Costs;

x. The district's original budget to actual spending and undesignated general fund balance usage and projections trend histories;

xi. Nonrecurring costs; costs removed from the pre-budget year net budget by statutory change, such as the transfer of lease purchase payments to the debt service fund;

xii. The degree to which a district exceeds the maximum T&E budget; and

xiii. Any facts or data which would provide evidence of the reduction's impact.

6. In the case of districts classified as special needs districts under the Quality Education Act of 1990, P.L. 1990, c.52 (N.J.S.A. 18A:7D-1 et al.), the Commissioner shall additionally consider educationally meritorious programs or services established through State resources provided as a result of that Act in accordance with the provisions of N.J.S.A. 18A:7F-5g.

7. Where applicable, the Commissioner shall ensure appropriate use of aids designated for specific purposes pursuant to N.J.S.A. 18A:7F-16, 18 and 22.

8. In directing adjustments to budgets which are the subject of application for restoration or required review, the Commissioner shall not be precluded from reallocating or sustaining reductions to surplus where such reallocations or reductions do not decrease surplus below three percent of the proposed general fund budget or \$75,000 whichever is greater, notwithstanding that budgeted amounts are within the level permitted by N.J.S.A. 18A:7F-7.

9. Any reallocations directed as a result of review under this subsection shall be made consistent with the provisions of N.J.S.A. 18A:7F-6e.

10. Orders of the Commissioner issued pursuant to this subchapter are final decisions appealable to the State Board of Education pursuant to N.J.A.C. 6:2.