

CHAPTER 10

IMPROVING STANDARDS-DRIVEN INSTRUCTION
AND LITERACY IN ABBOTT DISTRICTS

Authority

Fiscal Year 2004 Appropriations Act.

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Chapter Expiration Date

Chapter 10, Improving Standards-Driven Instruction and Literacy in Abbott Districts, expires on June 30, 2004.

Chapter Historical Note

Chapter 10, Improving Standards-Driven Instruction and Literacy in Abbott Districts, was adopted as special new rules by R.2003 d.312, effective July 2, 2003. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

6A:10-1.1 Purpose and applicability of rules

These rules are adopted pursuant to Fiscal Year 2004 Appropriations Act. The rules apply to "Abbott districts" as defined in N.J.A.C. 6A:10-1.2. These rules serve to ensure the provision of a thorough and efficient system of education (T & E), as defined by the Core Curriculum Content

Standards (CCCS); and to ensure that programs and services mandated by the New Jersey Supreme Court in *Abbott v. Burke* are properly implemented. Abbott districts must comply with the requirements of the Comprehensive Educational Improvement and Financing Act (CEIFA) rules promulgated to implement that Act; and N.J.A.C. 6A:24, promulgated to implement certain provisions of *Abbott v. Burke*; except that where differences between these rules occur, the rules herein shall take precedence.

6A:10-1.2 Definitions

As used in this chapter, unless the context clearly indicates otherwise, the following words shall have these meanings:

"Abbott district" means one of the following 28 urban districts in district factor group 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, Pembertown Township, Perth Amboy City, Phillipsburg Town, Pleasantville City, Trenton City, Union City, Vineland City and West New York Town, and the following districts not included above but designated Abbott districts pursuant to P.L. 1999, c.110, Neptune Township and Plainfield, and such other districts as may qualify in the future. Abbott district shall not include a charter school located within any of these districts.

"Abbott Preschool Program Contract" means the State approved model agreement developed by the Department, with any modifications requested by the District and approved by the DOE, between the district and private providers, including Head Start to use when contracting preschool program services.

"Actual 2002-2003 expenditure" means, for the 2003-2004 school year, a cash or accrued expense in the 2002-2003 school year for goods and/or services received in the 2002-2003 school year.

"Additional supplemental funding" means, for the 2003-2004 school year, the discretionary funding awarded by the Commissioner to maintain the instructional program approved and provided in 2002-03.

"Appropriations Act" means the unitary appropriations law covering a single fiscal year as required by N.J. Const. Art. 8, Section 2, paragraph 2.

“Child care center provider” means a child care center or Head Start licensed by the Department of Human Services pursuant to N.J.S.A. 30:5B-1 et seq.

“Child Development Associate (CDA)” means a national credential for early care and education teachers. The credential means that the candidate has met the CDA competency standards or 120 clock hours of formal education through an agency or organization with expertise in child development or early childhood teacher preparation. Only the Council for Professional Recognition in Washington, DC can award a CDA credential.

“Certified Childcare Professional (CCP)” means a credential earned by teachers who demonstrate their knowledge of early childhood development and their skills in working with young children. The credential means that the candidate has, at a minimum, obtained 180 clock hours of continuing education credit, at least 720 hours of experience in the classroom, and completed an exam designed to demonstrate what the candidate has learned.

“Core Curriculum Content Standards (CCCS)” means the standards of achievement established for the provision of a thorough and efficient education pursuant to N.J.S.A. 18A:7F-4.

“Commissioner” means the Commissioner of Education or the Commissioner’s designee.

“Demonstrated need” means a documented finding by a school that some or all students will be unable to master the CCCS unless a particular program, service, position, or combination is provided in that the connection between the proposed remedy and improved student achievement is also documented.

“Department” means the New Jersey Department of Education.

“District board of education,” “board” or “district” means the local district board of education, or the State district superintendent in the case of a State-operated school district of an Abbott district.

“Early Childhood Education Advisory Council (ECAC)” means a diverse representation of community stakeholders interested in the education and welfare of preschool-age children, organized by the district to participate in community-wide planning by the school district and to review progress towards full implementation of high quality preschool programs.

“Early childhood expenditures” means those expenditures related to the approved preschool programs for three- and four-year-old children.

“Early childhood screening instrument” means a screening tool designed for preschool aged children intended to be used as a preliminary indicator for additional assessment rather than a definitive judgment about the child’s skills and abilities.

“Educational Facilities Construction and Financing Act (EFCFA)” means P.L. 2000, c.72.

“Full-day, full-year” means a 10-hour day, 245 days per year. For 180 days, this must include a six-hour educational component meeting Department requirements at N.J.A.C. 6A:10-3.3(a) and four hours of wraparound services meeting Department of Human Services (DHS) requirements at N.J.A.C. 10:122, Manual of Requirements for Child Care Centers. The remaining 65 days must meet DHS requirements at N.J.A.C. 10:122, Manual of Requirements for Child Care Centers for a 10-hour day.

“Full-time family worker” means an individual hired by the child care center provider at a ratio of one full-time family worker to every 45 children. The full-time family worker position is a 12-month position.

“Instructional program” means, for the 2003–2004 school year, programs, services and positions that are school based and are directly serving students in the attainment of the core curriculum content standards.

“Maintenance budget” means, for the 2003–2004 school year, a budget funded at a level such that the district can implement 2002–2003 approved and provided programs, services, and positions and includes documented increases in non-discretionary expenditures and adjustments for actual 2002–2003 expenditures. Examples of non-discretionary expenditures are increases in contracted salaries, health benefits, and special education tuition. Maintenance does not include the restoration of programs, positions, or services that were provided in previous years or new programs, positions, or services unless necessary to meet paragraph 2c of the Supreme Court’s order of June 24, 2003 in *Abbott v. Burke*. Maintenance also does not include non-recurring 2002–2003 expenditures.

“Master teacher” means an employee of the district board of education that models, coaches and provides feedback to teaching staff in preschool programs on the planning and implementation of preschool programs and the implementation of the Early Childhood Education Program Expectations: Standards of Quality.

“Non-instructional program” means, for the 2003–2004 school year, office/administrative expenditures and programs, positions, services and/or expenditures that are not school based or that are not directly serving students in the attainment of the core curriculum content standards.

“Preschool operational plan” means the three year operational plan submitted by the district to the Department on or before November 15, 2003 and updated annually thereafter for approval which shall include how the district will deliver the Abbott preschool programs and services in accordance with the New Jersey Supreme Court mandates.

“Reliable independent observer” means an individual adequately trained in the use of the program quality instrument identified by the Department as the standard for independent observation of preschool classrooms.

“Reliable program quality assessment instrument” means a tool designed to assess and improve preschool learning environments approved by the Department.

“School-based budget” means a budget for an individual school.

“Systematic professional development” means effective staff development that focuses on the knowledge, skills and attitudes required of teachers, administrators, and other school employees so all students can learn and perform at high levels, including mastery of the CCCS and the Early Childhood Education Program Expectations: Standards of Quality. It shall be based on a comprehensive assessment of student work and achievement and of the mastery of all teachers of the content of the CCCS they teach. This includes high-quality training with intensive follow-up and support and other competency-promoting processes such as study groups, action research, peer coaching, and opportunities for teachers to discuss and share student work. Systematic professional development shall be directed at the needs of individual teachers, groups of teachers, or the entire faculty of a school.

“Teaching staff members” as defined in N.J.S.A. 18A:1-1, means a member of the professional staff of any district or regional district board of education, or any district board of education of a county vocational school, holding office, position or employment of such character that the qualifications, for such office, position or employment, require him or her to hold a valid and effective standard, provisional or emergency certificate, appropriate to his office, position, or employment, issued by the Board of Examiners and includes a school nurse and a school athletic trainer.

“Uniform preschool enrollment form” means a Department document to be used as the basis for an examination of the child and family background to assess the child’s needs and will serve as a planning tool for the district’s preschool program so that the preschool program will be responsive to the needs of the child. The generated data will be used to assist the district and the State to determine whether the preschool program is meeting the needs of the preschool children in the district, consistent with the Supreme Court’s mandates for the Abbott preschool program.

Special amendment, R.2003 d.369, effective August 22, 2003 (to expire June 30, 2004).

See: 35 N.J.R. 4329(a).

Rewrote “Additional supplemental funding”; added “Actual 2002-2003 expenditure”, “Demonstrated need”, “Instructional program”, “Maintenance budget”, and “Non-instructional program”.

SUBCHAPTER 2. PRESCHOOL PROGRAM

6A:10-2.1 Preschool program general provisions

(a) On May 21, 1998, New Jersey’s Supreme Court mandated that children in New Jersey’s Abbott districts receive a high-quality preschool education beginning at age which is an essential element in achieving the goal of early literacy. The preschool program shall be well articulated with the kindergarten through grade three curriculum. The purpose is to prepare these children to enter kindergarten with skills and abilities more comparable to those of their wealthier suburban peers and thus to prepare them to succeed in school and life. The Court’s mandate has a strong scientific basis. Intensive, high-quality preschool programs can close much of the early achievement gap for lower income children. This substantially increases their school success and produces a host of life-long benefits including increased school achievement and social and economic success as adults. The Court set out a few basic standards for quality preschool education:

1. A certified teacher and an assistant for each class;
2. Maximum class size of 15 students;
3. Developmentally appropriate curriculum;
4. Adequate facilities; and
5. Transportation, health and other related services as needed.

(b) These rules will assist the Department in reaching its goal to ensure that all preschool children in Abbott districts enter kindergarten ready to succeed. The purpose of these rules is to ensure that high-quality preschool programs are established.

6A:10-2.2 Preschool programs

(a) The district board of education shall provide a full-day, full-year preschool program.

1. The district board of education shall determine age eligibility for enrollment in preschool programs for three- and four-year olds pursuant to this subchapter using the same date it uses in determining age eligibility for kindergarten programs.

2. The district board of education shall offer preschool programs and services only to age-eligible residents of the district.

3. The district board of education shall provide one teacher and one aide for every 15 children. Class size shall not exceed 15 children.

4. The district board of education shall provide programs that meet the Department's Early Childhood Education Program Expectations: Standards of Quality, 2002 (Expectations) that are linked to the CCCS. The program and curriculum shall include, but not be limited to, the following:

i. An alignment of the district's curriculum and classroom practices with the Expectations, with particular attention paid to the needs of English language learners and children with disabilities;

ii. A clearly described, systematic, and intensive approach for the acquisition of early literacy and language abilities using appropriate strategies and techniques delineated in the Expectations including, but not limited to: inviting places to look at a wide variety of books; writing materials and literacy props that are available throughout the room; introduction of new words, concepts and linguistic structures; book reading more than once per day individually and in groups; and promoting children's interest in the sounds they hear in words and the letters that make up words; and

iii. Implementation of an on-going performance-based assessment process that measures the child's progress toward meeting the Expectations and provides essential information for curriculum planning and communication with parents and other teachers to ensure a seamless transition to kindergarten.

5. As of the 2004-05 school year, the district board of education shall ensure that all preschool age children receive systematic support for language acquisition in their natural preschool environment, not through pull-out programs that do not offer the continuous and comprehensive support preschool children need.

6. The district board of education shall participate in a self-assessment and validation system using a protocol developed by the Department. This system will assess program implementation and result in program improvement plans. The self-assessment and validation system shall be conducted annually by the district board of education and the Department and shall include, but not be limited to, the following:

i. A detailed self-assessment by the district board of education of its preschool program as described in their three-year preschool operational plan;

ii. A validation visit by a State team; and

iii. The development of a plan for improvement in a format to be provided by the Department, when areas of non-compliance or areas in need of improvement are identified. The plan shall, at a minimum, include:

(1) Identification of the program area(s) in need of improvement;

(2) A detailed explanation of the steps to be taken by the district board of education and/or the department for program improvement to occur;

(3) An outline of the time frame for implementation; and

(4) A specific date for program reevaluation.

7. The district board of education shall provide master teachers at a ratio of no more than 20 preschool classrooms for each master teacher. The district board of education shall provide additional master teachers to address special needs including, but not limited to, providing additional assistance to uncertified or inexperienced teachers and providing professional development on serving specialized populations. The responsibilities of the master teacher shall, at a minimum, include:

i. Modeling, coaching and providing feedback to teachers in preschool programs to assist in implementation of the Expectations;

ii. Providing staff development instruction for all aspects of the preschool program including district board of education and child care center provider programs;

iii. Providing resources and support to preschool programs and when applicable make recommendations to Supervisors or Directors of early childhood preschool programs to use the expertise of district personnel or other early childhood experts to provide additional professional development as the need is identified through data collection;

iv. Coordinating early childhood assessment in preschool programs;

v. Coordinating parent involvement programs with other district board of education and provider staff;

vi. Providing information on district board of education programs to the family worker, social workers, and preschool program staff; and

vii. Planning of transition activities, programs and services between preschool programs and kindergarten programs.

8. The master teacher shall have the following qualifications and experience:

i. A bachelor's degree and teacher certification;

ii. Three to five years experience teaching in preschool programs;

iii. Experience facilitating and providing professional development directly to classroom teaching staff;

iv. Experience facilitating workshops and training sessions for preschool teachers;

v. Experience in design and implementation of developmentally appropriate preschool curriculum; and

vi. Experience with on-going performance based preschool assessment.

9. In addition to the requirements in (a)7 above, depending on the population served by the district board of education and identified by the needs assessment conducted in the district, the master teachers shall demonstrate one or more of the following:

i. Specialization in bilingual education or second language acquisition;

ii. Specialization in special education/inclusion;

iii. Specialization in early literacy;

iv. A Preschool through Grade Three Certificate or an N-8 Certificate;

v. Coursework in supervision and leadership; or

vi. Preschool Professional Development Fellow status.

10. Each district board of education shall ensure that Supervisors of preschool programs hold a New Jersey Supervisor's Certificate and have a background and experience in preschool education.

11. The district board of education shall establish an Early Childhood Education Advisory Council (ECAC).

i. The membership of the council shall consist of community stakeholders, and include child care center providers and parents.

ii. The council shall be organized by elected co-chairs and meet regularly.

iii. The council shall advise on the planning and implementation of the preschool program.

iv. The council, once organized, may add new representation as needed or identified.

v. The Community and Parent Involvement Specialist or other designated district employee shall staff the council.

12. The district board of education shall use the following method for calculating the universe of eligible three-year-old and four-year-old children:

i. The district board of education shall determine the number of children attending first grade using the Application for State School Aid (ASSA) report. The Department will collect the first grade enrollment data from the non-public schools in each Abbott school district board of education and forward this enrollment data to each Abbott school district board of education. The district board of education shall add the non-public first grade enrollment data to the total first grade ASSA enrollment data to determine the potential universe of first grade children in the district; and

ii. The district board of education shall use the total of the determinations made under (a)12i above, to determine the universe of the three-year-old children and the universe of four-year-old children to be served in the next school year.

13. The district board of education shall use the following method to calculate the number of preschool children to be served in the next school year:

i. The district board of education shall make appropriate adjustments to the universe of three-year-old children and to the universe of four-year-old children to determine enrollment projections for each age group based upon the documented history of the actual enrollments in the three- and four-year old programs over the last three years and provide that documentation to the Department in the three-year preschool operational plan;

ii. The district board of education shall make appropriate adjustments to the universe of three-year-olds and to the universe of four-year-olds based upon any factors in the community that might affect the growth rate in the three- and four-year-old populations, such as a large employer moving in or out of the district, or a new housing development and provide this documentation to the Department;

iii. Using the data identified in (a)13i and ii above, the district board of education shall determine the projected number of three-year-old and four-year-old children to be served in the next school year in order to reach and maintain a preschool enrollment of 90 percent of the universe by the 2005-2006 school year and beyond; and

iv. The district board of education shall also use the number in (a)13iii above as the projected number of three- and four-year-old children for planning purposes in the development of the three-year preschool operational plan.

(b) The district board of education shall contract with a child care center provider or its local Head Start program to implement required preschool programs and shall not duplicate programs or services otherwise available in the community. The district board of education shall enter into a contract with a child care center provider or local Head

Start program to provide services to preschool children only when that provider is able and willing to meet the quality standards of Abbott preschool programs including the following:

1. Provide one P-3 certified teacher and one aide for every 15 children. Class size shall not exceed 15 children;

2. In consultation with a master teacher, provide programs that meet the Department's Early Childhood Education Program Expectations: Standards of Quality, 2002, that are linked to the Core Curriculum Content Standards;

3. Require teachers hired before September 1999 who lack academic credentials to make annual progress toward obtaining a bachelor's degree and a teacher of preschool through grade three certificate and to obtain that certificate by September 2004;

4. Require any newly hired teachers to have a teacher of preschool through grade 3 certificate;

5. Require all teacher aides, both new hires and existing staff, to have a high school diploma or its equivalent;

6. Encourage all teacher aides, both new hires and existing staff, to:

i. Obtain the Child Development Associate/Certified Childcare Professional (CDA/CCP) credential if they do not have CDA/CCP credentials; or

ii. Pursue an associate's degree in early childhood education, if they already have Child Development Associate/Certified Childcare Professional (CDA/CCP) credentials;

7. Provide demonstration of application to the Child and Adult Care Food Program (CACFP) or National Food Program for food and food service related costs if eligible;

8. Provide one full-time family worker for every 45 children being served by the center. The family worker shall provide information, referral services and follow-up to families on obtaining necessary health and social services or arrange for emergency assistance or crisis intervention services based on request and individual need;

i. The full-time family worker shall work the equivalent of a 40-hour work week and shall be willing to work evenings and weekends to meet family needs; and

ii. If a child care center provider does not serve enough preschool children to warrant hiring a full-time family worker, then the child care center provider shall hire the family worker to be employed for an amount of time equal in proportion to the number of children and families being served; and

9. Implement sound fiscal practices, including, but not limited to:

i. Maintaining a financial management system that provides timely, accurate, current and complete disclosure of all financial activities related to the agreement, in accordance with generally accepted accounting principles;

ii. Making expenditures in strict accordance with the budget approved by the district board of education and Department;

iii. Amending the approved budget, as necessary, with approval by the district board of education and Department;

iv. Submitting to an annual, independent audit to ensure compliance with programmatic and fiscal requirements; and meeting all other requirements to maintain DHS licensure and provide copies of the audit to the district board of education within 30 days of issuance and to the Department upon request;

v. Making all financial and program information available on request; and

vi. Submitting to the district board of education a quarterly report of actual expenditures signed and certified by an officer of the corporation.

(c) The contract shall be in a form provided by and/or approved by the Department.

1. Each district board of education using the State approved Abbott preschool contract without modifications shall submit a copy of each executed contract to the Department no later than 45 days after informing the provider of its intent to renew the agreement for an additional one-year term.

2. The district board of education shall ensure that its request(s) to modify the State approved Abbott preschool contract are submitted for approval no later than 45 days after the Department's annual release of the contract for the following school year.

3. The district board of education shall submit a copy of each executed contract to the Department within 45 days of receiving approval from the Department to modify the State approved Abbott-preschool contract.

(d) In addition to (c) above, the contract shall include, but not be limited to, the following expectations, supports and accountability measures for the district board of education and the child care center provider:

1. The district board of education in consultation with the ECAC shall determine the minimum number and types of professional development opportunities they will annually offer to all teachers serving preschool children in an Abbott district board of education;

2. The district board of education with the center director and the teaching staff shall develop a professional development plan for preschool teaching staff that describes, but is not limited to, the role and activities of the master teacher for that year;

3. The district board of education shall establish a procedure for providing fiscal assistance to the child care center provider in the development and monitoring of the child care center provider's annual budget and for verifying the accuracy of costs and ensuring that private providers make expenditures in strict accordance with the approved budget;

4. The district board of education with the ECAC shall establish procedures for recruitment, enrollment and placement of all eligible three- and four-year-old children in the preschool program;

5. The district board of education with the ECAC shall establish the procedure by which preschool attendance will be submitted to the district board of education by the child care center provider and verified by the district board of education; and

6. The district board of education shall verify the credentials and progress toward certification, where applicable, of all preschool teaching staff in a child care center provider.

(e) A child care center provider that has not previously, as of the effective date of this rule, had a contract with the district board of education to serve Abbott preschool children shall meet the following criteria to be eligible for a contract:

1. The child care center provider shall have provided preschool educational services for at least one year prior to entering into a contractual relationship with the district board of education;

2. The child care center provider shall demonstrate fiscal responsibility;

3. The child care center provider shall be able to accommodate and serve at least 90 Abbott eligible children in a program that meets the needs of preschool children in an effective and efficient manner;

4. The child care center provider shall agree to provide to the district board of education copies of insurance certificates; an efficient annual budget; copies of criminal history background checks for all staff; credentials for teaching staff, attendance records; and any additional documentation, including all financial records, as requested by the district board of education and/or Department;

5. The child care center provider shall agree to a minimum number of professional developmental opportunities offered by the district board of education for all preschool teaching staff;

6. The child care center provider shall agree to submit certification that expense reports are accurate;

7. The child care center provider shall agree to a periodic means of ascertaining how the approved budget is spent;

8. The child care center provider shall agree to expend funds only as specified in the approved budget; and

9. The child care center provider shall agree to certify that the proposed budget submitted to the district board of education and the executed contract is true and accurate.

(f) The district board of education shall include in each child care center provider's contract, criteria, submitted to and approved by the Department, for termination of the executed contract prior to the expiration of the executed contract term, which shall include, but not be limited to:

1. Material breach of the child care center provider's responsibilities;
2. Revocation of its DHS licensure;
3. Failure to comply with all terms of the executed contract; and
4. Failure to comply with all applicable requirements established pursuant to N.J.A.C. 6A:10.

(g) The district board of education shall conduct on-site monitoring at least twice in the contract year to assess compliance and shall ensure that child care center providers and local Head Start programs comply with the contract requirements including the requirements of (b) through (f) above.

6A:10-2.3 Three-year preschool operational plan

(a) The district board of education shall submit its three-year preschool operational plan and annual revisions for the appropriate school years to the Department by November 15 of each year.

(b) In the three-year preschool operational plan, the district board of education shall submit its implementation plan for the full inclusion of the local Head Start programs. The plan shall include the procedures for ensuring that the preschool program offered by the local Head Start program meets the requirements of N.J.A.C. 6A:10-2.1 where applicable.

(c) In the three-year preschool operational plan, the district board of education shall describe its plan for full enrollment. This plan shall include the outreach and recruitment procedures to be implemented by the district board of education and its child care center providers and shall identify particular strategies to be used to reach out to the unserved children in the district board of education.

(d) The three-year preschool operational plan shall be developed based on a needs assessment conducted by the district board of education to assure that the preschool programs are responsive to the educational needs of children. The needs assessment shall include, but not be limited to, the identification of the following:

1. Demographic information on the children and families using the Uniform Preschool Enrollment Form;
2. Facilities assessment, including contingency plans to accommodate more students than current facilities;
3. Outreach and recruitment of unserved children;
4. Parent education and involvement; and
5. Transportation.

(e) In its three-year preschool operational plan, the district board of education shall detail the process used with its current and/or future contracting child care center provider(s) to identify the needs of the provider and the children served by the provider.

(f) In its three-year preschool operational plan, the district board of education shall ensure that all resident three- and four-year-old children are offered full-day, full-year preschool programs. The district board of education shall provide any necessary information as requested by the Department and:

1. Shall ensure that each child care center provider and local Head Start program submit a proposed budget that adequately supports the needs of the children and the actual program costs for the six-hour educational component of the 10-hour day for at least 180 school calendar days;
 - i. The proposed budget shall demonstrate that certified teachers receive compensation comparable to that which would be received if the certified teacher were employed by the district board of education;
 - ii. The child care center provider shall ensure that the certified teacher receiving the comparable compensation meets the work schedule requirements, including the equivalent number of hours per day and the equivalent number of days per contract year established by the district board of education for its certified teachers. This work schedule shall also include the same amount of preparation time and the amount of lunch time as received by the district board of education certified teachers;
2. Shall monitor the expenditures of each contracted child care center provider at least quarterly and shall recoup any unexpended funds at the end of the school year; and
3. Shall review and verify for accuracy all annual budget projections submitted in the preschool operational

plan by each child care center provider prior to the November 15 submission of the plan to the Department.

(g) The district board of education shall use the following informal process for resolving disputes between themselves and a contracting private provider:

1. If a dispute arises between a district board of education and a provider, they shall at first attempt to resolve it at the local level;

2. If the dispute cannot be resolved locally, either the provider or the district, or both jointly, shall submit a request in writing, that the Office of Early Childhood Education review the dispute;

3. Upon receipt of a request for review, the Office of Early Childhood Education shall notify the non-requesting entity if the request has not been jointly submitted, and shall request any documents it thinks necessary for review;

4. The Office of Early Childhood Education shall mediate the dispute, in consultation with the Department of Human Services as appropriate, facilitate communications between the provider and the district board of education, and attempt to bring the parties to agreement on a resolution;

5. If a dispute becomes the subject of a contested case proceeding after the informal resolution process has concluded unsuccessfully, discussions occurring during the process shall be considered confidential, and shall not be used as evidence in the contested case;

6. The district board of education and private provider shall be advised that this process is an optional service offered by the Department. If either is alleging a violation of school law, and the dispute is such that adjudication by the Commissioner shall be sought through contested case proceedings, use of the informal dispute resolution process shall not exempt parties from complying with filing deadlines for appeals to the Commissioner outlined in N.J.A.C. 6A:3; and

7. This process shall not apply to the termination or potential termination of an Abbott preschool contract.

(h) In the three-year preschool operational plan, the district board of education shall ensure that the parent education and involvement activities planned by the district board of education are based on identified needs.

(i) The district board of education shall annually participate in a self-study and validation of its preschool program as evidenced in its approved three-year preschool operational plan, and amend the plan accordingly, based on its findings.

(j) Following approval of the three-year preschool operational plan, the district board of education shall submit amendments to it, and shall continue to submit annual district and private provider budgets that adequately support the needs of the children for the school years contained in the three-year preschool operational plan to the Department by November 15.

(k) Through the needs assessment process, the district board of education shall evaluate and assess the needs of its students, programs and child care center providers so as to formulate plans and applications to meet these needs and shall include, but not be limited to, the following:

1. For every child's preschool application, the district board of education will complete an enrollment survey on forms provided by and made available to the Department;

2. The district board of education shall conduct a preschool early childhood screening assessment at school entry to determine if a child needs comprehensive diagnostic assessment; and

3. The district board of education shall assess program quality and develop professional development plans for all teaching staff using a reliable observation method approved by the Department.

i. The district board of education in consultation with the ECAC and with approval from the Department shall establish a minimum acceptable score for all preschool classrooms in operation in the district.

ii. If any classroom falls below the minimum acceptable score, then an improvement plan shall be established. The district early childhood supervisor or director, the master teacher and the principal or center director shall participate in discussions to determine the classroom quality improvements that are necessary based upon the observation and establish a time frame for making the required changes.

iii. The master teacher shall provide technical assistance to the classroom teacher based upon the improvement plan.

iv. If the district board of education deems that improvements have not been made according to the established schedule, a reliable independent observer approved by the Department will evaluate the classroom or program. If the reliable independent observer verifies that the expectations are not being met, steps shall be taken to remove the teacher from the classroom or terminate the contract between the child care center provider and the district board of education.

(l) In its three-year preschool operational plan, the district board of education shall describe its plan for articulation of the preschool program with kindergarten. This plan shall, at a minimum, include the following:

1. The process for identifying the information needed by the kindergarten teachers about the preschool program, and vice-versa;
2. Methods for communicating information about individual children to their new kindergarten teacher, in particular the results of the on-going performance based assessment system;
3. The process for providing this information to the kindergarten and preschool teachers;
4. The plan developed by the district board of education to ensure a seamless transition from preschool to kindergarten for the preschool children; and
5. The process for providing information to parents about the kindergarten program and the transition plan from preschool to kindergarten.

(m) Upon offering full-day, full-year preschool programs, the district board of education may request a waiver of this requirement under N.J.A.C. 6A:5, as applicable, to allow families to enroll their children in a half-day program and/or a school-year program, provided that the program meets all other requirements of this subchapter.

1. The waiver application shall include copies of signed declinations by parents or guardians that demonstrate that the district board of education offers a full-day, full-year preschool program and discloses that the families have elected a half-day program and/or a school-year program.

6A:10-2.4 Department of Education roles and responsibilities in the preschool program

- (a) The Department of Education shall provide services that include, but are not limited to, the following:
 1. On-site technical assistance in the development of the three-year preschool operational plan, including the development of program goals and objectives for a high quality preschool program and other technical assistance as requested by the district board of education;
 2. Review and approval of the three-year preschool operational plan;
 3. Professional development opportunities to the district board of education early childhood supervisors or early childhood directors in the form of monthly or bi-monthly meetings to provide information and technical assistance to the district board of education from the Department;
 4. Professional development opportunities to the master teachers;
 5. Assistance with the self-study and validation process and the development of a program improvement plan where areas of non-compliance are identified;

6. Providing copies of the complete three-year preschool operational plan including the district and child care center provider budget forms, a copy of the Uniform Preschool Enrollment Form, a list of State-approved reliable independent observers, a copy of the State-approved Abbott preschool contract, as well as copies of other information available from the Department and requested or needed by the district board of education;
7. Opportunities to be involved in State planning and policy development for the preschool program; and
8. Providing funds necessary to implement a high quality preschool program.

SUBCHAPTER 3. DISTRICT REQUEST FOR ADDITIONAL SUPPLEMENTAL FUNDING

6A:10-3.1 Application for additional supplemental funding for the 2003-2004 school year

(a) The board shall submit to the Department for approval, pursuant to N.J.S.A. 18A:7F-5(c) and 6(c), a balanced budget consistent with N.J.S.A. 18A:4-14 and 18A:22-8. When necessary, a board shall submit an application for additional supplemental funding in a format prescribed by the Commissioner as part of the original districtwide budget to be submitted pursuant to N.J.S.A. 18A:7F-5(c) and 6(c). Additional supplemental funding requires the applicant district to complete the budget application, supporting documents and all additional supplemental funding request forms provided by the Department in accordance with N.J.S.A. 18A:7F-6. Failure to provide timely and complete information may be the basis for rejection of the requested funds.

(b) The board shall consider all available resources, reallocations and other factors before submitting an application for additional supplemental funding as follows:

1. Undesignated general fund balances in excess of two percent;
2. Salary appropriations for vacant positions in excess of the district's average salary for the position title;
3. Salary breakage for replacement of retiring staff during the upcoming budget year;
4. Positions, programs and services or other appropriations not required for all students to achieve the CCCS and to read at grade level by completion of the third grade;
5. Positions, programs and services or other appropriations that are not effective and/or efficient;
6. Appropriations in excess of actual documented need as contained in the approved district and school three-year operational plans; and

7. All costs eligible for funding under the Educational Facilities Construction and Financing Act.

(c) The Department shall review the district-wide budget to determine if all available resources, reallocations and other factors have been incorporated and that the budget is a maintenance budget that contains only those programs, positions and services approved and provided in 2002-2003. The Department shall review the maintenance budget to ensure that all non-instructional expenditures are effective and efficient.

1. The effectiveness and efficiency of non-instructional expenditures in the 2002-2003 budget shall be determined by:

i. A comparative analysis of non-instructional expenditures to those of other school districts and/or historical spending patterns in the district;

ii. An analysis of staffing needs, including, but not limited to, comparative data of ratios of non-instructional/administrative staff to instructional staff as well as district-specific information regarding staffing needs;

iii. A review of non-instructional programs to identify expenditures that are included that may be funded through other funding sources or that alternative funding is not available because the expenditure is not essential to the provision of a thorough and efficient education. Such expenditures include, but are not limited to, capital costs that could be funded pursuant to the Education Facilities Construction and Financing Act or that exceed the facilities efficiencies standards established pursuant to that Act; and

iv. Cost savings and/or inefficiencies identified or proposed by the district or by the State Auditor or Office of Legislative Services audit.

2. If a non-instructional program is determined to be ineffective and/or inefficient, a corresponding reduction shall be made to the district's budget.

(d) The Commissioner shall review applications for additional supplemental funding and make a determination based on:

1. Confirmation that the district filed a complete budget application and supporting documentation to the Department on the date specified and is consistent with this chapter and the district specifies guidance provided by the Department;

2. That the district has responded to the Department's review of its application for additional supplemental funding and has made available all information requested;

3. Documentation by the district, confirmed by the Commissioner, that the additional funds sought cannot be achieved by:

i. Reallocating from non-instructional programs that are determined not to be effective or efficient; or

ii. Attaining economies and efficiencies in the delivery of services and programs;

4. Evidence by the district that an essential program or service cannot be funded through reallocation and that without additional supplemental funding the core instructional programs will be negatively affected. The core instructional program for the school year will be the instructional program approved and provided in the 2002-2003 school year and shall include any documented increase in non-discretionary expenditures including, but not limited to, contracted salary increases, increases in health benefits, and increases in special education tuition;

5. A determination by the Commissioner that the business and financial practices of the district are efficient and effective, that a current and complete roster of positions (both filled and vacant) in the district is available, that the board secretary's report is filed monthly, and other indicators that the district operates with a special regard for the value of public funds.

(e) The Department shall issue a preliminary estimate of supplemental funding needed to support a maintenance budget as reduced for ineffective and/or inefficient non-instructional programs for 2003-2004. This amount is subject to adjustment as provided in the Appropriation Act.

(f) If the Commissioner determines that a non-instructional program is ineffective and/or inefficient and makes a corresponding expenditure reduction in the district budget, these monies shall be made available to a district if it can identify an unmet demonstrated need for a program or service. A district may apply for these funds once any appeal by that district as to reductions in the 2003-2004 school year budget for ineffective and/or inefficient non-instructional programs has been decided by the Commissioner or otherwise resolved.

1. An application for such funds must include evidence that:

i. The program, position or service being requested will have a direct effect on the academic success of the students identified as needing the program and evidence in support of this must be attached to the application;

ii. The program, position or service is not redundant or duplicative of other programs, positions or services available at that school and the application must attach an inventory of existing programs, positions and services at that school;

iii. The program, service or position is school based and directly serving students;

iv. The identified need is a result of an appropriate assessment of the instructional needs of all or some students in that school and the application must attach that needs assessment;

v. There is no possible way to organize or redirect existing programs, services, positions or other resources to serve the instructional needs identified;

vi. The program, position or service being requested has been demonstrated effective in meeting the identified need of similar students and the evidence of this demonstration must be attached to the application; and

vii. The program, service or position is either in place or can be implemented in an effective manner during the 2003-2004 school year.

2. If the Commissioner determines that the district has met the standard set forth in (f)1 above to demonstrate a need for a program, position or service and the funds are available, he or she may award the funds to the district for the provision of that program. Any such funds shall be kept in a restricted account and may only be used for the program or service approved under this subsection. Any funds not expended during the 2003-2004 school year shall be returned to the State.

(g) If during a school year, the board determines the need for additional resources to implement the Department-approved programs, services and other expenditures due to unanticipated expenditures or unforeseen circumstances, a separate application for additional supplemental funding shall be filed consistent with the provisions of this subchapter.

1. The application should document the nature of the unanticipated expenditures or unforeseen circumstances and the impact on the current approved budget.

2. The Department's review of the separate application shall be consistent with the provisions in (d) above.

3. Upon review of the current status of the district's approved budget, the needs of the district as presented in the application and the proximity of the application submission to the end of the school year, the Department may direct the reallocation of general fund balances below two percent prior to approving additional resources.

4. Amounts approved by the Commissioner in response to the district's separate application will be available for expenditure during the school year.

5. The revenue shall be recognized through the establishment of an accounts receivable subject to appropriation in the subsequent year's Appropriations Act, or by a supplemental appropriation.

(h) Any board requesting additional supplemental funding shall ensure that all spending is necessary and aligned with the objectives and strategies for achieving the CCCS

and ensuring all students read at grade level by the end of third grade. Expenditures related to Department-approved preschool program plans and programs related to helping all students achieve the CCCS and read at grade level by the end of third grade shall be given the highest priority.

Special amendment, R.2003 d.369, effective August 22, 2003 (to expire June 30, 2004).

See: 35 N.J.R. 4329(a).

Rewrote (c) and (d); added new (e) and (f); recodified existing (e) and (f) as (g) and (h).

SUBCHAPTER 4. APPEALS

6A:10-4.1 Applicability of subchapter

An aggrieved applicant for Department authorization to improve or amend an existing program, adopt a supplemental program or service, or seek additional supplemental funding may appeal to the Commissioner in accordance with the provisions of this subchapter.

6A:10-4.2 Filing, service and documentation of petition

(a) Any appeal filed pursuant to this subchapter shall, except as noted in (a)1 and 2 below, meet the filing, service and format requirements for petitions of appeal as set forth in N.J.A.C. 6A:3, and shall generally proceed as a contested case except as noted in this subchapter. Service of the petition is required on the Attorney General of the State of New Jersey, and should be directed to the Department of Law and Public Safety, Division of Law, PO Box 112, Trenton, New Jersey 08625-0112; Attention: Education Section.

1. Any appeal of a determination made pursuant to N.J.A.C. 6A:10-3.1(c) shall be governed by N.J.A.C. 6A:10-4.7.

2. Any other appeal filed pursuant to this subchapter shall be filed within 30 days of the date of the decision which is the subject of the requested contested case hearing.

(b) Any appeal filed pursuant to this subchapter shall include, in addition to the petition required under (a) above, a copy of the complete application submitted to the Department and copy of the determination from which the appeal is taken.

(c) Appeals may be filed by the entity that submitted the application under dispute, or by the district board of education in the case of applications filed by entities other than the district board of education. In any appeal in which the district board of education is not the petitioner, the district board of education shall be named as an indispensable party to the appeal.

Special amendment, R.2003 d.369, effective August 22, 2003 (to expire June 30, 2004).

See: 35 N.J.R. 4329(a).

Rewrote (a).

6A:10-4.3 Filing, service and documentation of answer

(a) Answers to petitions of appeal filed pursuant to this subchapter shall meet the filing, service and format requirements for answers as set forth in N.J.A.C. 6A:3. Nothing herein shall preclude the filing of a motion to dismiss in lieu of an answer.

1. Any answer filed pursuant to this subchapter shall be filed within 20 days of the date of receipt of the petition.

6A:10-4.4 Review of pleadings

Upon review of the petition, answer and supporting documentation, the Commissioner may use the procedure set forth in N.J.A.C. 6A:10-4.5 to decide the matter. If so, he or she shall notify the parties and they shall be provided the opportunity to submit any additional documents submitted to the Department or considered by the Department in rendering the decision.

6A:10-4.5 Submission of position statements and replies

If the Commissioner requires the submission of position statements and replies, within 20 days after receipt of the notice from the Commissioner pursuant to N.J.A.C. 6A:10-4.4, the petitioner shall file a letter memorandum setting forth the basis for its position, referencing the criteria established for the application process and the materials submitted in conjunction with it. Within 10 days of receipt of petitioner's memorandum, each respondent shall file such reply as it may wish to make. Within five days of receipt of any reply, petitioner may file a final response thereto. All submissions shall be filed in triplicate (original and two copies) and served upon all other parties to the appeal at the same time they are filed with the Commissioner.

6A:10-4.6 Commissioner review and decision

(a) If the Commissioner retains the matter pursuant to N.J.A.C. 6A:10-4.5, upon receipt of the filings set forth in N.J.A.C. 6A:10-4.5, or expiration of the time for their submission, the Commissioner shall review the total record before him or her and render a written decision. If the Commissioner transmits the matter to the Office of Administrative Law, such transmission shall be done on an expedited basis to resolve factual disputes.

(b) The Commissioner's decision shall include an appropriate order. Where the relief ordered includes additional funding, the Commissioner shall make the necessary request to the Governor and the Legislature.

(c) In rendering decisions pursuant to this subchapter, the Commissioner shall apply the same standards as are set forth for Department review in the operative rules for the type of application in dispute. The burden of proof shall be on the petitioning party to demonstrate that these standards were met by the applicant notwithstanding the Department's determination to the contrary. The record on appeal shall consist of those documents and information submitted to the Department in support of its application and any additional information relied upon by the Department in making the determination at issue.

6A:10-4.7 Appeals of decision rendered pursuant to N.J.A.C. 6A:10-3.1(c)

(a) Reductions to the maintenance budget made pursuant to N.J.A.C. 6A:10-3.1(c) may be appealed to the Commissioner as follows:

1. If the district has a pending appeal of the 2003-2004 budget at the Office of Administrative Law, the district shall contact the assigned Administrative Law Judge within one business day of receipt of the notice of the preliminary estimate of supplemental funding needed to support a maintenance budget (as reduced for ineffective and/or inefficient non-instructional programs) for 2003-2004 to seek a pre-hearing conference in which the issues on appeal can be identified.

2. If the district does not have a pending appeal of the 2003-2004 budget at the Office of Administrative Law, the district shall file with the Commissioner, the Office of Administrative Law, Attention Chief Administrative Law Judge and the Attorney General, Attention Education Section, a letter within seven days of receipt of the notice of the preliminary estimate of supplemental funding needed to support a maintenance budget (as reduced for ineffective and/or inefficient non-instructional programs) for 2003-2004 that specifically identifies the issues of appeal and seeks a pre-hearing conference. No answer shall be filed to this letter of appeal.

3. In the appeals, the Department shall bear the burden of moving forward to establish the basis for any proposed reductions to the district's maintenance budget based on the effective and efficient standard set forth in N.J.A.C. 6A:10-3.1(c). If that initial burden is met, the district shall bear the burden of demonstrating that any budgetary reductions are not justified under that standard.

Special New Rule, R.2003 d.369, effective August 22, 2003 (to expire June 30, 2004).

See: 35 N.J.R. 4329(a).