

# **Education Transformation Task Force**

## **Initial Report**

September 12, 2011

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## Introduction

The core goal of a state public education system is to assure that all children – regardless of background or economic circumstances – graduate from high school ready for college and career. New Jersey’s educators should take great pride in our track record of success against this measure, especially relative to that of other states.

At the same time, a substantial distance remains to be travelled. Most notably, while New Jersey’s students perform at higher levels than their peers in virtually every other state, this aggregate figure masks several discouraging realities. To a startling and unacceptable degree, “zip code is destiny” in New Jersey. While the State ranks second in reading nationally, only three states have a larger

NJ Student Achievement on National Assessments				
Test	Measure	National Ranking in Grade		
		4	8	11 & 12
National Assessment of Educational Progress (NAEP)	Math	5th	5th	
	Reading	2nd	2nd	
Trends in International Mathematics and Science Study (TIMMS)	Math	11th	9th	
	Science	8th	11th	
ACT college entrance exam	Composite			5th
SAT Reasoning Test	Composite			11th
Advanced Placement exams	Percentage scoring > 2			3rd

achievement gap between economically disadvantaged children and their wealthier peers. Tens of thousands of children attend schools where only a minority of students meets basic levels of proficiency in reading and math, and hundreds of thousands of children overall perform below these minimal

NJ Student Achievement Gap				
<i>Achievement of Non-Economically Disadvantaged (Non-ED) and Economically Disadvantaged (ED) on National Assessment of Educational Progress (NAEP)</i>				
Grade	Measure	National Ranking		
		Non ED	ED	ED-Non ED Difference
4th	Math	4th	13th	47th
	Reading	4th	24th	34th
8th	Math	3rd	18th	48th
	Reading	3rd	20th	48th

standards. In entire districts, barely half of the children who begin 9th grade successfully graduate from high school. Perhaps most alarmingly of all, while New Jersey has the nation’s highest graduation rate, a distressingly high percentage of those who do graduate are unprepared for success. For example, almost 90% of students who matriculate into both Essex and Bergen County Community Colleges require remediation in reading, writing or math.

As these figures suggest, we must work together to find the right balance between celebrating New Jersey's impressive educational accomplishments and adopting a perspective of moral urgency in tackling the deep concerns that coexist with them. At minimum, this is hardly a time for complacency. When, quite literally, children's futures and even lives are at stake, no stone can remain unturned in identifying impediments to progress and implementing positive changes to our schools.

#### **Remediation in NJ Community Colleges**

- In 2009-2010, 91% of first-time Bergen Community College students tested into remedial math or English.
- In Fall 2009, 61.2% of full-time, first-year students at Union County College were enrolled in at least one remedial class.
- In Fall 2007, 89.5% of Essex County College students tested into remedial math, 58.2% tested into remedial reading, and 82.9% tested into remedial writing.

It is in that spirit that Governor Christie has called for an unflinching examination of all that is – and is not – working in the State's education system. Towards that end, on April 4, 2011 the Governor issued Executive Order No. 58 establishing an Education Transformation Task Force consisting of accomplished educators from across the State, including a teacher, principal, and superintendent. E.O. No. 58 charged the Task Force with two interrelated responsibilities:

- 1) Review "existing accountability systems" including the Quality Single Accountability System (QSAC) and provide recommendations on "a revamped accountability system, which would grant more autonomy to public schools and public school districts while maintaining strict measures of accountability in the areas of student performance, safety and fiscal responsibility."
- 2) Conduct a comprehensive review of all education-related statutes and regulations "to determine the extent to which they increase the quality of instruction for students, improve academic achievement of students, improve teaching effectiveness within schools or improve the safety and well being of students . . . or are overly prescriptive."

These twin charges share a common education reform philosophy, which the Task Force today emphatically reaffirms. As noted above, an effective state education system embodies a partnership between two central values: 1) establishing ambitious academic standards with associated "output-oriented" performance objectives for every school and district, coupled with concrete, state-enforced consequences for failing to meet them; and 2) empowering districts and local educators with the information, support, and decision-making authority to craft their own paths to meeting these ambitious goals.

If our single-minded focus is to increase the number of children, regardless of birth circumstances, who graduate from high school prepared for college and career, our State education authority must move from a compliance orientation to one organized around accountability for results, from one of micromanagement of districts to one that encourages innovation, from one where State officials are not viewed as "white gloved" auditors but as partners in a professional collaboration to advance

student learning. The State must use its convening power, resources, and economies of scale to generate educational supports that districts embrace – not because they “must,” but because they conclude that they will help them achieve their performance goals.

To be sure, the Task Force recognizes, these are not always easy lines to draw. How do we define the level of school failure that is sufficiently injurious to children that we can no longer afford to “empower” districts with the authority to be the primary decision-maker? In addition to the core duty of setting goals and enforcing a schedule of consequences for failure, are there other areas that are so central to success that a state should continue to hold them “tight” rather than devolve them to local control? (Examples might include teacher certification and evaluation criteria, requirements that schools have systems and processes in place to enable data driven decision-making to adjust instruction and address deficiencies, or matters related to health and safety.) As the entity ultimately responsible for the fiscal health of the State and the legal distribution of hundreds of millions of dollars of federal funds, should state authorities reserve a larger measure of involvement to assure that districts are responsible wards of taxpayers’ money?

These are difficult questions, which the Task Force will continue to wrestle with throughout its tenure. Whatever the answer in these more nuanced areas however, the Task Force believes that there is much that can and should be accomplished as quickly as possible with respect to the two inextricably connected elements of the Governor’s charge: 1) an evaluation and redesign of the State’s accountability system, and 2) reduction of “empowerment-restricting” red tape.

With respect to the first, the Task force has concluded that the State’s accountability system warrants significant revision. More likely to frustrate than positively affect behavior, the system is a patchwork of essentially unconnected, sometimes contradictory, federal (No Child Left Behind) and State (QSAC, etc.) mandates.

NCLB has played a critical role in shining a light on student achievement, both in the aggregate and for subgroups of students, and reinforcing that schools' and districts' failure to advance student learning must have real consequences. However, as Secretary of Education Duncan himself acknowledges, the law suffers from some basic flaws, including its failure to give credit for progress (as opposed to absolute performance), its one-size-fits-all approach to labeling schools as "failing," the unrealism of the assumption that every student in the nation will achieve academic proficiency by 2014, and the perverse incentive it has created for some states (fortunately, not New Jersey) to water down academic standards.

New Jersey’s own accountability system also suffers from some critical concerns. Designed primarily as a pathway to State takeover or restoration of local authority, QSAC applies equally to all 600 of the State’s districts, even those many that are achieving powerful results for the children they serve. Interviews with superintendents and others reveal that the review process is viewed almost universally as highly bureaucratic, easily gamed, and overly focused on “inputs” rather than student achievement.

Districts who are achieving outsized results for children can do poorly, while some whose students are failing at alarming rates can score well.

Accepting the Governor's challenge to "provide recommendations...on a revamped accountability system," the Task Force has reached several preliminary conclusions. Most importantly, consistency and clarity are essential components of any effective accountability system. That goal is not achievable so long as schools and educators labor simultaneously under overlapping and sometimes conflicting federal and State measures of success and schedules of consequences.

Accordingly, we recommend the development of a unitary accountability system that would be the basis of a waiver application to the federal government. A successful application would result in a single accountability system that incorporated the best of both NCLB and QSAC while correcting for the deficiencies of each. Hallmarks of the system would include 1) focusing on schools, more than districts, as the accountable unit; 2) emphasis on "outcomes" (graduation rates, achievement gains) rather than "inputs;" 3) a commitment to measure success by high standards directly correlated to college and career readiness; 4) recognizing academic progress, not absolute achievement levels, as the proper benchmark for success; 5) considerably less paperwork and fewer bureaucratic demands on districts, so they can focus on what matters; and 6) a clearly articulated schedule of interventions for schools experiencing persistent educational failure. As this new system is designed, the State must also ensure that the other core purpose of QSAC – restoration of local control to State-operated districts– is separately addressed and responsibly honored.

With respect to the Governor's second charge, elimination of "excessive and unnecessary state mandates," the Task Force is well underway in its comprehensive review of the over 2,000 pages of regulations and statutes governing New Jersey's schools. This process has been supported by a team of nine lawyers, DOE personnel, and an array of extremely helpful educators from across the State. This Report contains the preliminary fruit of that effort, including over 40 specific recommendations for regulatory reform.

In making these recommendations, we wish to stress three points. First, the review process has revealed that much of problem identified above is rooted in statute rather than in regulation. This Initial Report concentrates on regulations that are within the unique power of the State Board of Education or the Commissioner to address. Second, every mandate, whether administrative or legislative, has its origins in good intentions or, typically, as a reaction to a specific event or concern that arose at the time. As a result, every one of them has a rational basis, and often a constituency that is sure to advocate for its preservation. The issue then is not with any one provision, but with the Code in the aggregate, which imposes an extraordinary burden on educators and perpetuates a mentality of compliance rather than a performance that is often contrary to the best interests of children. Third, the Task Force wishes to stress the interim and preliminary nature of these recommendations and hopes they contribute to a lively discussion by policy makers, the State Board, and educators across the state.

## Process

On May 9, 2011, the Governor appointed the Task Force's eight members, individuals who, per E.O. No. 58, have "practical experience, knowledge or expertise" in education, including at least one teacher, principal, school business administrator and superintendent." [See Appendix for list of members and copy of Order] The Task Force as a whole met seven times and heard presentations from various experts. It also held two public meetings – one in South Orange in the northern half of the State and one in Pittsgrove in the southern. At these meetings, valuable input was received from school and school district leaders, teachers, other education professionals, community groups and other interested parties. The meetings, which were publicized widely, drew over 150 attendees and over 50 speakers. In addition, two focus group sessions engaged over 40 educators in detailed discussions about opportunities for improvement from the vantage point of some of our most talented practitioners. Further public input came via postal mail and a dedicated email address, which has received over 100 submissions to date. Members of the Task Force also contacted over 40 stakeholder groups to seek ideas and other recommendations. Lastly, we are grateful that two members of the State Board of Education served as liaisons to the Task Force and were actively involved in the overall process.

Executive Order No. 58 directs the Task Force to issue an initial report to the Governor by August 15, 2011. After the submission of the report, the Task Force is directed to continue work on its overall charge, continue to receive input from the public and other stakeholders, and review and revise its recommendations accordingly. The Task Force will submit a report to the Governor containing its final recommendations by December 31, 2011, at which point the Task Force will expire.

Pursuant to this timeline, the Task Force respectfully submits this preliminary Interim Report. Part I consists of a review of the State's principal accountability systems and proposes a framework for improvements. Part II addresses the challenge of overly prescriptive regulatory mandates and makes a number of specific recommendations to address them.

## Accountability Systems

Over the past 10 years, the concept of “accountability” has been central to education reform efforts in the United States. Educators and policymakers have paid increasing attention to the performance of students, and states have developed systems to identify the outcomes of students, schools, and districts each year. Accountability systems matter because they positively affect the behavior of educators and administrators as they work to strengthen student outcomes<sup>1</sup>.

Accountability systems do not exist for their own sake, but as part of an overall strategy to advance student learning and ensure that children graduate from high school ready for college and a career. A meaningful accountability system sets clear standards of success and a high bar for achievement, measures the success of schools and districts in meeting those standards, provides helpful data and supports to help schools improve performance year after year, and identifies appropriate interventions in the case of persistent education failure.

New Jersey operates under two parallel, and at times conflicting, accountability systems. At the federal level, the No Child Left Behind Act (NCLB) focuses on schools and districts, as evaluated by absolute student performance on State exams. At the State level, the Quality Single Accountability Continuum (QSAC) evaluates districts on five components of effectiveness, where student performance informs only one indicator.

In the sections below, we describe how NCLB and QSAC operate. We also identify the flaws of each accountability system, both in isolation and in their interaction together. We then propose a different set of principles around which a revised accountability system should be organized.

### New Jersey’s Quality Single Accountability Continuum – An Overview

The Quality Single Accountability Continuum (“QSAC”) is the State’s statutorily mandated system of school district performance assessment. QSAC serves as the State’s set of standards for measuring how well local school officials manage tax dollars and educate children, and the State’s yardstick for determining the appropriate level of State oversight of local district governance and administration. QSAC was created in accordance with the Quality Single Accountability Continuum Act, which was signed into law in September 2005. Administrative regulations to implement QSAC were adopted by the Commissioner of Education, effective February 22, 2007.

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<sup>1</sup> Armstrong, J. May 2002. “Next-generation” Accountability Models: Principles from Interviews. Education Commission of the States Briefing Paper 4029. Retrieved 8/1/11 from <http://www.ecs.org/clearinghouse/40/29/4029.htm>.

### *History of QSAC*

The evaluation of New Jersey school districts has been evolving for decades. State Board of Education regulations in 1891 required each county superintendent to visit every school in his region at least once per year and

He shall note at such visits, in a book provided for the purpose, to be designated “The Superintendent’s Visiting Book,” the condition of the school buildings and out-houses, the appearance and correctness of the records kept in the School Registers, the efficiency of the teachers, the character, record and standing of the pupils, the methods of instruction, the branches taught, the text-books used, and the discipline, government, and general condition of each school; and from the notes thus taken he shall ascertain and report the relative grade of each school<sup>2</sup>

More recently, in 1975, the Legislature sought to address the poor condition of statewide education performance standards, and to satisfy the State’s obligation under the “thorough and efficient” education clause of the New Jersey Constitution, by mandating that the Commissioner of Education develop a “uniform, Statewide system of evaluating the performance of each school.” Shortly thereafter, the Department adopted standards for the monitoring and assessment of school districts, known as the “T & E” standards, which have guided the evaluation of school district performance ever since.

From the late 1990s until 2007, the T & E standards included elements pertaining to curriculum and instruction, implementation of State/federal mandated programs, quality assurance, school-level planning, school resources (finance and facilities), student behavior and performance, and teaching staff quality and professional development. The monitoring process consisted of an annual “desk audit” comprised of a review of aspects of school district operations reported annually in the Quality Assurance Annual Report (QAAR), and a site visit every seven years by the county superintendent of schools. If satisfactory performance was demonstrated at the site visit, districts were certified for a seven-year period as providing their students with a thorough and efficient education. Districts that were not certified, or were given certification with conditions, were subject to additional monitoring. The T & E standards were a small subset of the performance requirements governing New Jersey school districts. The State had a patchwork of standards and guidelines for assessing various aspects of district performance, which included mandatory curriculum standards in seven subject areas, called the core curriculum content standards, high school graduation standards, particularized mandates for the 31 special needs districts known as the Abbott districts, and extensive requirements relating to students who are eligible for special education services under the Individuals with Disabilities in Education Act (IDEA).

The T & E monitoring process identified some districts with severe deficiencies in performance. In 1987, the Legislature found that “the monitoring process may reveal some school districts which are unwilling

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<sup>2</sup> Rules and Regulations Prescribed by The State Board of Education, October 13, 1891

or unable to correct the deficiencies identified during the process,” and that “the State Department of Education should be empowered with the necessary and effective authority in extreme cases to take over a local school district which cannot or will not correct severe and complex deficiencies in that school district.” Accordingly, the Legislature authorized the State Board of Education in such cases to disband the district board of education, appoint a State district superintendent, and establish a State-operated school district. The State exercised this “takeover” authority in Jersey City (1989), Paterson (1991), and Newark (1995).

By 2000, it had become clear that even with the many standards governing school district performance, the State lacked clear guidance for measuring the performance of the State-operated districts, their capacity to perform satisfactorily without State intervention, or their ability to be returned to local control. This led to discussions regarding a new single, uniform set of standards that could be used to assess the performance of all school districts in the State and could better inform decisions regarding when to return the State-operated districts to local control. The ensuing legislation became known as the Quality Single Accountability Continuum.

### *How QSAC Works*

Although its interrelationship with NCLB is loose at best, QSAC seeks to combine, in one comprehensive set of objective standards, all of the legal and regulatory requirements and other accountability measures with which school districts must comply. QSAC requires an assessment of the performance of every school district in the State at least every three years. The QSAC statute itself does not specify the standards by which school district capacity and effectiveness are to be measured (the core QSAC statute addressing district evaluation is merely three paragraphs in length).

Through regulations, the Department has developed a set of standards known as quality performance indicators, and compiled them in an instrument known as the District Performance Review (“DPR”). The DPR is published as an appendix to the QSAC regulations and is available on the Department’s web site<sup>3</sup>. There are five discrete DPRs representing the “five key components of school district effectiveness: instruction and program; personnel; fiscal management; operations; and governance.”

- The Instruction and Program section encompasses the areas of student performance (including NCLB requirements), curriculum, instruction, mandated programs, early childhood programs and high school/graduation.
- The Personnel section encompasses the areas of licensed personnel, personnel policies and professional development.
- The Fiscal Management section encompasses the areas of budget planning, financial and budgetary control, annual audit, restricted revenues and efficiency.
- The Operations Management section encompasses the areas of facilities, student conduct, school safety and security, student health, and student support services.

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<sup>3</sup> <http://www.nj.gov/education/genfo/qsac/regs/dpr.htm>

- The Governance section encompasses the areas of board training, disclosure and operation, ethics compliance, policies, procedures, and by-laws, standard school board practices, annual evaluative process, school board/administration collaboration, budget priorities, and communications.

The DPRs are to be completed in three phases. First, districts assess their own performance via a committee composed of the chief school administrator, administrative staff, teaching personnel representative of different district grade levels and/or schools, the school business administrator and assistant superintendent for curriculum and instruction, one or more member representatives of the board of education and of the collective bargaining unit of the educational staff, and any other members selected by the local board of education. This review must be supported by documentation, approved by the local board of education, accompanied by a statement of assurance signed by the chief school administrator and approved by the board of education.

Second, the executive county superintendent verifies the district's responses by conducting a "desk audit" of the completed DPR and supporting documentation, as well as with a site visit to the district. And third, the Commissioner reviews each assessment and places each school district at the appropriate point on a "performance continuum" ranging from 0 to 100 percent for each DPR.

The district's placement on the performance continuum determines whether improvement is required and the extent of any technical assistance, support or oversight the district may receive from the Department. When a district's performance is rated satisfactory on 80 to 100 percent of the indicators in all five of the key components of school district effectiveness, it is designated "high-performing." Districts with performance measuring in the range of 50 to 79 percent in any of the five key components are required to develop and implement an improvement plan for each deficient area and may be required to undergo an in-depth evaluation.

Districts with performance measuring below 50 percent in any of the five key components are required to undergo an in-depth evaluation for each deficient area. They also are required to develop and implement an improvement plan. The Department may intervene in one or more key components of these districts' performance.

In addition to the district improvement plan, in-depth evaluation, and technical assistance previously mentioned, three additional interventions are available to assist these districts. First, the Commissioner may appoint a Highly Skilled Professional ("HSP") to provide additional targeted technical assistance and monitoring in any discrete DPR area in which the district scored below 50 percent. These HSPs are intended as advisors and do not have any authority to make or veto decisions independently.

Second, the Commissioner, via an order to show cause, may seek partial State intervention in any discrete DPR area in which the district scored below 50 percent. Partial State intervention is, essentially, direct oversight of one, two, three or four areas of school district functions by a highly skilled professional appointed by the Commissioner. Unlike the previously-mentioned HSP, this type of highly

skilled professional has the authority to veto decisions of the superintendent and local board of education relevant to his QSAC area(s). Further powers under partial State intervention include the ability to appoint three members to the local board of education.

Third, the Commissioner, via an order to show cause, may seek full State intervention of a district if it satisfies less than 50 percent of the quality performance indicators in all five key components of school district effectiveness. Upon full State intervention, the local board's authority to govern the district is removed, and the State Board of Education may appoint a State district superintendent, who will have all the authority ordinarily exercised by a local board of education. While a district is under full State intervention, the State district superintendent may abolish senior administrative positions, reorganize the central administrative and supervisory staff, evaluate all individuals employed in central and supervisory positions, establish an assessment unit for principals and vice principals, and dismiss tenured principals and vice principals. A capital project control board may be established to review any capital project proposed by the State district superintendent. Meanwhile, the local board of education remains in place, but its authority to govern is removed and it becomes advisory.

Withdrawal from partial or full intervention may be initiated at the recommendation of the Commissioner and with the support of the State Board of Education once a district has achieved a score of at least 80 percent in a component and the district sufficiently demonstrates evidence of sustained and substantial progress and substantial evidence that the district has adequate programs, policies and personnel in place and in operation to ensure that the demonstrated progress will be sustained. Thus far, local control over operations was returned in Newark and local control over governance and finance management was returned in Jersey City, both in 2007.

### **New Jersey's Quality Single Accountability Continuum – Limitations**

Although QSAC is an improvement over the State's previous systems for district monitoring, it suffers from several important limitations.

#### **QSAC focuses on district "capacity" instead of student performance.**

Education accountability systems should focus on what matters most: academic achievement. Unfortunately, QSAC prioritizes inputs instead of outputs. For instance, the QSAC Governance DPR awards a district points for mentioning the New Jersey Core Curriculum Content Standards in its mission statement. As a result, districts get credit for having policies on shelves and showing good intentions even if student performance results are dismal. In other words, a district can be deemed a success even if its students are failing.

For example, the Paterson School District earned a score of 88% in governance, suggesting the district runs a tight ship and ostensibly indicating that the State might consider returning this area to local control. Yet, despite spending over \$20,000 per student, the district's self-reported total graduation rate for the 2009-10 school year was only 50.4%. Moreover, many of those who did graduate were

unable to pass the High School Proficiency Assessment (HPSA), the State's standard exam for determining proficiency in basic subjects. Currently, 62.3% of the district's students are below proficiency in language arts literacy (LAL) and 55% are below proficiency in math. Of the district's 39 schools, 25 are in need of improvement (SINI<sup>4</sup>) under No Child Left Behind criteria and 16 have been in SINI status for at least five years.

### **QSAC misdirects districts' attention**

Because QSAC gives credit for a wide range of inputs, many completely unrelated to student performance, it incentivizes low-scoring districts to focus on the wrong things. Knowing that it could increase its QSAC scores by checking an additional box or two in the transportation or facilities categories, a district might direct its resources toward these areas instead of making tough decisions about instruction or educator effectiveness. Indeed, since many of these districts have been unable to improve student learning over long stretches of time, they would be behaving rationally—under this irrational system—were they to focus on areas *other* than student achievement since these would be likelier to gain QSAC points. Districts should devote virtually all of their attention to student performance, but since QSAC prioritizes other things, strategies to improve achievement can and often do take a back seat.

This misdirection of priorities stems from the unfortunate reality that QSAC focuses predominantly on the central office rather than the school or classroom – both in assessing performance and in directing interventions to improve performance. It presumes that the point of significance and influence in a district is not the principal and the instructional leaders but rather central administrators.

### **QSAC is premised on the false view that a comprehensive reform agenda can be disaggregated**

QSAC defines five discrete components of district effectiveness and prescribes different interventions for district underperformance in each category. It also permits the State to take and relinquish control of each of these components separately. These categories, however, are inextricably interconnected. Ensuring that every teacher is effective is an issue not simply for the "personnel" DPR but also has implications for curriculum and program, financial management, operations and governance. Similarly, the fiscal management of a district cannot be isolated from academic performance. To state the obvious, spending and investment decisions have a direct impact on program effectiveness. Is it better for student achievement to spend more money on aides and less on technology? To reduce class size or pay teachers more? A comprehensive and successful education reform agenda is an integrated strategy involving each of the five "DPRs." A system that is premised on the view that they can be disaggregated – with the State responsible for some and local authorities others – is inherently artificial and unlikely to succeed.

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<sup>4</sup> The federal No Child Left Behind legislation, which will be explained in the following section, designates School In Need of Improvement (SINI) status on schools which fail to meet certain academic criteria.

### QSAC is a highly imperfect pathway for transition to local control

One of QSAC's primary purposes is to provide the Department a reliable tool for assessing whether a district under State operation should reacquire local control. Because QSAC is "input focused" and largely indifferent to how students are actually performing, however, a district can score well on QSAC despite having terribly low student achievement results. Moreover, QSAC is based on an "all or none" philosophy: A district either has or does not have control of one or more DPR areas. Accordingly, it sheds little helpful light on the common situation in which many schools in a district are showing significant forward progress, while a number of others continue in a state of persistent educational failure. A focus on schools rather than districts seems a far more targeted way to trigger (or relinquish) state control.

### The QSAC process is deeply flawed

QSAC begins with a district self-assessment. This process is extraordinarily burdensome, requires over a year and hundreds of hours of staff time to address each of the over 300 items on the DPR "checklist." Much of this mandated activity is unnecessarily demanding; for example, the district must collect information that is already submitted to the State via other means.

Moreover, the conclusions reached by the district are merely advisory. The State makes the ultimate determination on scores. On its face, this is a misallocation of resources. District energy is certainly better spent on trying to improve student learning than generating score recommendations that will later be overridden. Indeed, it is often the case that district assessments have little bearing on final scores. For example,

#### Wide Variance between QSAC District Self-Assessment Scores and Final Department Scores

QSAC initial and final DPR scores of selected districts

District	DPR category	District score	County score	Gap
Asbury Park	Instruction & Program	56	22	34
Bloomfield	Governance	100	66	34
	Instruction & Program	72	51	21
	Personnel	94	73	21
Burlington City	Governance	89	67	22
East Orange	Fiscal Management	92	62	30
	Governance	100	45	55
	Personnel	71	30	41
Essex Fells	Governance	56	23	33
	Instruction & Program	86	64	22
Glassboro	Governance	100	77	23
	Instruction & Program	56	24	32
	Personnel	88	69	19
Paulsboro	Fiscal Management	89	51	38
	Governance	89	66	23
	Instruction & Program	81	58	23
	Operations Management	98	70	28
Trenton	Governance	78	33	45
	Instruction & Program	39	22	17
	Operations Management	73	56	17
	Personnel	58	30	28

East Orange in its most recent self-evaluation awarded itself a score of 71 on the personnel DPR which was reduced to 30 by the State. Trenton awarded itself a score of 78 in the Governance DPR, which was reduced by Department staff to 33.

Finally, and probably most importantly, QSAC reviews fail to generate useful information. According to a recent survey of New Jersey superintendents conducted by the Department, only 22% of superintendents believe that “overall, the QSAC process plays an important role in helping [them] achieve [their] core mission of elevating student achievement and the number of students who graduate college and career ready.”

### **QSAC provides inconsistent, and therefore unreliable, information**

An effective accountability system tells a full and accurate story. A strong district assessment system would zero in on strengths and weaknesses and show the gradual changes over time. However, QSAC scores can be erratic from year to year, giving the State no reason to believe that the system is providing a fair depiction of a district’s standing. Pleasantville’s Fiscal Management score has ranged from 29% in 2008, to 73% in 2009, to 52% in 2010, and back to 29% in 2011 while its Governance DPR started at 11% in 2008, climbed to 44% in 2009, and reached 56% in February 2010, only to fall to 0% six months later in August 2010. The April 2011 review yielded a score of 11%. In Beverly, the Personnel DPR score was 53% in 2008, 53% in 2009, 73% in 2010, and 23% in 2011. Similarly, Trenton’s Governance DPR was 22% in 2007, 88% in 2009, and 33% in 2011.

These erratic scores – and the jarring disconnect that frequently exists between student learning and DPR performance – point strongly towards the conclusion that QSAC can be “gamed.” Districts have found that hiring lawyers and approving policies that may gather dust on shelves are a far easier means of raising QSAC scores than is boosting student achievement.

### **QSAC process fails to distinguish between very different districts**

Many of New Jersey’s districts are performing at the highest levels. Their student achievement results are strong and their fiscal houses are in order. A strong accountability system would take these factors into account and give such districts a greater degree of freedom. Previous district accountability systems allowed for up to seven years between evaluations, but QSAC mandates that all districts undergo a review at least every three years, even if the most recent review was unerringly positive. These rules not only burden our best performers, they also misallocate State resources. The Department should be able to focus its attention on struggling districts not those at the top of their games.

### **QSAC meshes poorly with NCLB**

Despite its manifest flaws, NCLB does properly focus on academic achievement. Its reporting requirements, though many, force schools to direct their attention to improving student learning, both in the aggregate and for subgroups. As a result, district administrators are compelled to invest their

resources in the right areas. QSAC, however, with its focus on so many other things, diverts attention. As a result, educators are spread thin, pulled in numerous directions as they try to satisfy a laundry list of demands. The State needs an accountability system that simultaneously meets the needs of Uncle Sam and Trenton—and those needs should all be tightly tethered to measures of student achievement. QSAC frustrates this goal.

### **QSAC has failed to drive district improvement**

A high-quality district accountability system would effectively improve the performance of our schools. QSAC has not done so. Only a quarter of New Jersey school superintendents agree that the Department helps them integrate the results of QSAC into their districts' overall strategies for improving student achievement. QSAC provides little actionable information to the Department, so developing State assistance programs based on QSAC-identified deficiencies is difficult. This harms districts and the Department. Districts typically see QSAC as punitive, providing a wagging finger without a helping hand. The State receives alarming reports but isn't certain how to respond: Nearly three dozen districts have received QSAC scores below 50% in at least one DPR, yet the State has never sought to use its legal authority under QSAC to engineer a partial State takeover.

In sum, while those who crafted QSAC tried to improve district performance and State oversight, the system hasn't lived up to its billing. It pays too much attention to things of minimal importance, burdens our educators, creates perverse incentives, and fails to improve student learning.

We can and must do better.

### **No Child Left Behind – An Overview**

The federal No Child Left Behind Act (NCLB) was signed into law in 2001 in order to hold states, districts, and schools accountable for the performance of all students. The law set a goal of having 100% percent of students across the country proficient in several tested subjects by 2014.

In order to define “proficiency,” NCLB requires all states to establish their own standards and tests for all schools and districts in their state. The law requires states to test all students annually in grades 3 through 8 in both mathematics and language arts, and once in grades 10-12. States must also test students in science once in grades 3-5, 6-8, and 10-12. Individual schools and districts must publicly report their test results both aggregated by grade and subject level and disaggregated by specific student subgroups. Those student groups include:

- Low-income students
- Students with disabilities
- English Language Learners
- Major racial and ethnic groups: American Indian, Asian & Pacific Islander, Black, Hispanic, White, Two or More Races

New Jersey's State assessments in language arts literacy and mathematics are based on the New Jersey Core Curriculum Content Standards. The New Jersey Assessment of Skills and Knowledge (NJ ASK), is the State's comprehensive assessment for grades 3 through 8, while the High School Proficiency Assessment (HSPA) is the Core Curriculum Content Standards-linked assessment for grade 11. New Jersey determines proficiency by grade span: elementary includes grades 3 through 5; middle includes grades 6 through 8; and high school. In each grade span, schools are held accountable for each different subgroup of students as well as for all students as a whole.

Students must score either "proficient" or "advanced proficient" on the assessments to be counted as meeting the benchmarks, with the goal of having 100% of students in New Jersey proficient by 2014. In addition to meeting proficiency targets, schools must also meet secondary indicators. For example, elementary and middle schools must also meet attendance benchmarks while high schools must meet a dropout benchmark.

States set their own yearly incremental proficiency targets for how they will reach 100% proficiency, and schools are rated on making "adequate yearly progress" (AYP) by meeting the state-defined proficiency targets each year. For a number of reasons, the yearly benchmarks for the percentage of students meeting proficiency is increasing at a faster rate as 2014 approaches. Therefore, the number of schools in New Jersey and across the country that are not meeting AYP is also increasing at a higher rate each year. In New Jersey, more than 50% of schools missed an AYP target last year, and the number is highly likely to increase.

In 2003, for instance, in order for a New Jersey school to make AYP, 68% of its students, and 68% of each subgroup of students, in grades 3 through 5 on the language arts literacy assessment needed to be deemed proficient. The benchmark rose to 75% in 2005, but was reset to 59% in 2008 when the third and fourth grade tests were revised. In 2011, the benchmark is now 79%.

The following chart shows the rising rates of proficiency required to meet AYP between 2003 and 2014. In certain years, the percentages were adjusted and lowered as new and more difficult tests were implemented.

Content Area	Grade Span	2003 (Start)	2005-2007	2008-2010	2011-2013	2014
<b>Language Arts Literacy</b>	Elementary (Grades 3-5)	68	75	59	79	100
	Middle School (Grades 6-8)	58	66	72	86	100
	High School (Grade 11)	73	79	85	92	100
<b>Mathematics</b>	Elementary (Grades 3-5)	53	62	66	83	100

	Middle School (Grades 6-8)	39	49	61	80	100
	High School (Grade 11)	55	64	74	86	100

Beyond proficiency and secondary factors such as participation and dropout rates, several additional factors are taken into account when determining whether a school made AYP. First, NCLB provides for a “Safe Harbor” provision. The goal of this provision is to give schools credit for making significant progress, even if they missed one or more proficiency targets. If a school reduces the number of students below proficient by at least 10 percent from the prior year, the school can still make AYP. For example, if in one year 40 students in a grade span were below proficient, the following year the school could make AYP under the “Safe Harbor” provision if 10 percent fewer students, meaning 4 fewer students or 36 students in all, are below proficient.

In addition, the State must account for other issues that can affect an AYP calculation. For example, the State must establish confidence intervals around proficiency outcomes to protect against data aberrations. The State must also account for student mobility from school to school in a given year.

Finally, the State holds a school accountable for the performance of subgroups only when the number of students in that subgroup is 30 or above. As a result, if there are only 20 low-income students in one grade span, the school is not held accountable for the subgroup results for those students, although those students are still counted in the overall calculation.

### No Child Left Behind – Missing AYP

If a school misses a proficiency target for one or more subgroup(s) in one content area, or misses a target for testing participation, the school does not make AYP for that year. When a school does not make AYP for two consecutive years in the same content area, it is designated as a “school in need of improvement” (SINI).

### School Intervention

At the school level, NCLB requires a series of interventions when schools do not make AYP. The interventions vary by the number of years a school has not made their AYP targets, as described below:

**Year 1 – Early Warning:** A school that does not make AYP for one year is placed into “early warning” status. If a school does not make AYP for two consecutive years in the same content area, it will be identified as a school in need of improvement. There are no formal consequences in year 1.

**Year 2 – In Need of Improvement/School Choice:** A school that does not make AYP for two consecutive years in the same content area is designated as a “school in need of improvement.” Certain interventions apply, including:

- Either intra-district school choice or supplemental educational services (if choice is not available). Under intra-district school choice, families may choose to send their child to another school in the district so long as the new school is not also labeled a “school in need of improvement.” Under supplemental education services (SES), students are eligible for free extra academic help, such as tutoring or remedial help, from a state-approved provider selected by parents.
- Parents must be notified that the school is in need of improvement, as well as the options available to them through choice or SES.
- Development of a school improvement plan for Title I schools<sup>5</sup>.

The district must offer the school technical assistance to address the areas that caused the school to be in improvement.

**Year 3 – In Need of Improvement/Supplemental Educational Services (SES):** A school that does not make AYP for three consecutive years in the same content area continues to be identified as a “school in need of improvement.” The Title I school must continue to offer intra-district school choice and must *also* offer SES to eligible students. Technical assistance must continue to be offered by the district, parents must receive notification of the school’s status, and the school improvement plan (Title I Unified Plan) must be revised.

**Year 4 – Corrective Action:** A school that does not make AYP for four consecutive years in the same content area is identified as a school in corrective action. Such a school must continue to offer intra-district school choice and SES, notify parents of the school’s status, revise its school improvement plan (Title I Unified Plan), and receive technical assistance from the district and the state.

The district also must take at least one of the following corrective actions:

- Provide, for all relevant staff, appropriate, scientifically research-based professional development that is likely to improve academic achievement of low-performing students.
- Institute a new curriculum grounded in scientifically based research and provide appropriate professional development to support its implementation.
- Extend the length of the school year or school day.
- Replace the school staff that are deemed relevant to the school not making adequate progress.
- Significantly decrease management authority at the school.
- Restructure the internal organization of the school.
- Appoint one or more outside experts to advise the school (1) how to revise and strengthen the improvement plan created while the school was in improvement status; and (2) how to address the specific issues underlying the school’s continued inability to make AYP.

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<sup>5</sup> Title I of the federal Elementary and Secondary School Act (ESEA) establishes a set of programs that distribute funding to schools a high percentage of students from low-income families.

The state offers school support by engaging a team of experienced professionals to conduct an extensive school review called Collaborative Assessment and Planning for Achievement (CAPA). The CAPA team interviews stakeholders and staff, reviews school and district documents, and conducts on-site observations to develop a report that contains recommendations for school improvement, which then becomes part of the Title I Unified Plan.

**Year 5 – Planning for Restructuring:** A Title I school that does not make AYP for five consecutive years in the same content area must plan to restructure. The restructuring plan is implemented at the beginning of the following school year if the school continues to miss AYP benchmarks. During the planning year, the Title I school must continue to offer intra-district school choice and SES, notify parents of the school's status and invite their input during the restructuring process, and receive technical assistance from the district and the state. The technical assistance design for a school being restructured emphasizes the following:

- The importance of improving instruction by using strategies grounded in scientifically based research so that all children in the school achieve proficiency in the core academic subjects of reading and mathematics.
- The importance of analyzing and applying data in decision-making.
- The restructuring plan must include one of the following alternative governance systems for the school as outlined by NCLB regulations and consistent with New Jersey statute:
  - Implement any major restructuring of the school's governance that is consistent with the principles of restructuring as set forth in the No Child Left Behind Act.
  - Re-open the school as a public charter school as defined by state statute and regulation (N.J.S.A. 18A:36A-1 et seq. and N.J.A.C. 6A).
  - Replace all or most of the school staff, which may include the principal, who are relevant to the school's inability to make adequate progress (consistent with existing contractual provisions and applicable statutory protections in Title 18A).

**Year 6 – Restructuring:** A Title I school that does not make AYP for six consecutive years in the same content area must implement the approved restructuring plan. The school must continue to offer intra-district school choice and SES, notify parents of the school's status and invite their input and support during the implementation process, and receive technical assistance from the district and the state. Technical assistance is critical to help school staff remain focused on increasing student achievement while the school is adjusting to potentially radical changes in its administration and governance structures.

### **District interventions**

At the district level, NCLB requires the rollup of student and school performance on state exams to identify the progress that the district is making on the path to 100 percent proficiency. As with schools, the law mandates sanctions based on district performance.

Year	Status	Interventions for Title I Districts
1	<b>Early Warning:</b> Did not make AYP for one year	None
2	<b>District Improvement – District In Need of Improvement (DINI 1):</b> Did not make AYP for two years.	Parent notification; develop a district improvement plan to analyze and address leadership, governance, fiscal infrastructures, curriculum, and instruction. The plan must address the needs of the low-achieving students, instructional strategies, professional development, and fiscal responsibilities the district will use to bring about increased student academic achievement.
3	<b>LEA Improvement – (DINI 2):</b> Did not make AYP for three years.	Parent notification; revise the district improvement plan, as indicated.
4 and above	<b>District Corrective Action:</b> Did not make AYP for four or more years.	Parent notification; state notification to the district; state takes one of the following actions: <ul style="list-style-type: none"> <li>• Defer funding</li> <li>• Implement a new curriculum</li> <li>• Replace district personnel</li> <li>• Appoint a Highly Skilled Professional</li> </ul>

### No Child Left Behind – Importance

For all the controversy it has generated, NCLB has been transformative. By focusing national attention on student performance as the most important outcome in schools, it has permanently affected K-12 public education in profound and important ways. The law sets clear standards for success – 100% proficiency by 2014 – and measures the progress both of students in the aggregate, and by socio-economic status and other subgroups, in achieving that goal. This disaggregation of students by subgroup has been crucial in unmasking the problems that too often hid beneath the surface for our most vulnerable students.

The law also reinforced the idea that when schools and districts fail to advance student learning, there must be real consequences. These consequences range from providing extra support to structural changes at the school or district level. But the focus on consequences for performance has been a culture shift in the world of education. Requiring that all students participate in a state's assessment and accountability system has indeed brought increased attention to those students typically at risk of low performance. There is little doubt that this focus has resulted in a new prioritization of improving outcomes for economically disadvantaged students as well as other subgroups.

### **No Child Left Behind – Limitations**

Despite these important benefits, the law suffers from a number of critical flaws. These limitations are well documented and have led the US Secretary of Education Arne Duncan to announce that he will accept waiver applications from states to substitute rigorous state-level accountability systems in place of NCLB.

First, while NCLB correctly focuses on student achievement, the law fails to give schools sufficient credit for student progress (growth) as opposed to absolute measures of performances. In general, the law takes a snapshot of student performance at the end of each year, and evaluates schools based on how many students are proficient in that year<sup>6</sup>. No credit is awarded even for substantial academic growth unless it results in a score deemed proficient. Moreover, no credit is awarded for individual student progress since the only focus is on cohorts (e.g., comparing this year's third graders to last).

Second, based on this imperfect measure of student achievement, the law requires that schools be placed in either of only two categories: passing or poor-performing. This binary approach is deeply problematic in that it treats with absolute equivalence schools that are failing across the board with those that only "miss" in a single category. Schools are often in varying states of growth or achievement, and labeling schools with a one-size-fits-all approach does not accurately identify the true status of a school. The system does not distinguish between a school that has not met the targets in most subgroups from one that has not met the target for a single subgroup. Nor does it distinguish one that is far from the targets from one that is close to the targets.

As a result, the law has not done an adequate job either of assessing school performance or providing the type of data that would help a school to improve. The results from an annual test and a label of poor-performing might indicate poor performance, but does not provide rich context to policy makers, educators, and administrators about what the schools need in order to improve or what type of interventions would be most successful. Instead, this poor-performing label requires a series of interventions that may not only be unhelpful but may actually hinder the progress that the school is already making. Further, certain NCLB-endorsed interventions for failing schools are not possible for many New Jersey families. For example, intra-district choice is not an option in many smaller districts where there are no other schools into which students can transfer.

Third, the combination of the federal requirement to meet 100% proficiency by 2014 and the responsibility of states to define proficiency has also led to several unintended consequences. For example, many states have lowered their standards for proficiency and "watered-down" their state tests, resulting in the phenomenon of the "race to the bottom." In addition, many states have set lower

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<sup>6</sup> While the "Safe Harbor" provision does evaluate school improvement based on the year-to-year increase of the number of students rated proficient in a given grade, this still does not fully measure student growth. For example, the provision also only looks at the total number of students proficient in grade span 3-5 in a given year. The provision then looks at the number of students proficient in the following year in grade span 3-5. But these are not the same cohort of students, since last year's fifth graders have moved onto sixth grade. So the provision measures "school" growth, but does not track an individual student's growth directly.

proficiency rates for meeting AYP in the first several years of the law, masking potential problems in certain schools and making comparisons of progress from state to state impossible. Fortunately, New Jersey, among other states, has actually increased the rigor of its state tests during this time period.

Fourth, as stated previously, in New Jersey schools are only held accountable for subgroups of 30 students or more. As a result, a school with 31 students in a particular subgroup is held directly accountable for the subgroup's performance, while a school with 29 students in that same subgroup is not. This creates situations where smaller schools are outside of the accountability system regardless of their student achievement. As states vary widely on the size of the subgroup necessary for accountability, this translates to enormous variability on the meaning of AYP from state to state.

Fifth, the inflexible timeframe for all schools to achieve 100 percent proficiency has created an incentive for schools to focus narrowly on helping a small group of students move from below proficient to proficient on tests in two subjects. If our goal is to make sure that all students graduate from high school ready for college and career, the law incentivizes schools to focus on too few students in too few subject areas.

Finally, the Task Force finds that NCLB largely has failed to drive meaningful improvement in the performance of the State's worst-performing schools. The numbers are quite illustrative. 181 New Jersey schools have been in SINI status for at least five years – over 8% of all public schools in the State. Less than 1 in 8 schools – only 21 in total – that had been in SINI status for at least five years achieved AYP this year.

### **The Path Forward: Key Principles of a “Next Generation” Accountability System**

New Jersey needs a new accountability system, one that is transparent, fair, and rigorous. It should set the highest expectations for all our children and hold adults responsible for delivering on the purpose and promise of public education. Parents and taxpayers should trust that it provides complete and reliable information on the condition of our schools. Educators should know that it fully and fairly reflects the importance and expanse of their work

Our current system falls far short of this mark.

We have created a system that is at the same time painfully simple and yet indecipherably complicated. Part of the explanation is that the requirements emanating from Washington, DC and those coming from Trenton are often at odds.

Federal rules mandate that each school be assessed on a binary scale—either it met AYP or it didn't—when no one believes that something as complex as public education can be reduced to an up-or-down judgment. But state rules tell us that it takes 334 indicators to understand whether a district is meeting its obligations to children. Little actionable or intelligible information can be gleaned from a system made up of two such dissonant components.

### 10 Principles of the Accountability System of the Future

1. A single, streamlined system
2. Accurate differentiation of schools
3. Assess school outputs not inputs
4. Set explicit, measurable, appropriate targets
5. Evaluate growth in addition to status
6. Generate appropriate interventions
7. Intensify responses in cases of persistent failure
8. Grant earned autonomy to high performers
9. Provide diagnostic information as well as judgments
10. Focus on schools not districts

The Task Force believes that the first step toward creating the accountability system of the future is agreeing that we need a **single, streamlined system**. The federal government and the State of New Jersey want the same thing: schools that prepare all boys and girls for success throughout life. There is no reason why a unitary system can't satisfy the needs of both. Committing to developing the right set of performance metrics and reporting requirements will not only focus our attention on what matters most, it will ease the burden on educators who currently feel like they are shooting at multiple targets, serving two masters, and filing stacks of meaningless but mandatory paperwork.

Fortunately, the timing is right to make this necessary shift. The limitations of QSAC, the State accountability system, are becoming clearer by the day, and the federal government, recognizing the shortcomings of NCLB, is inviting waivers from states committed to embracing more meaningful accountability. The Task Force believes New Jersey should seize the opportunity by applying for a waiver on the basis of a single, unitary accountability system that draws from the best features of NCLB and QSAC but corrects for the deficiencies of each.

No more federal indicators on one report card and state measures on another. No more differing federal interventions and state sanctions for the same set of schools. Just a single, clear, concise slate of metrics for assessing our schools and strategies for remediation underperformance.

A hallmark of this new system must be an ability to **accurately differentiate schools** at different points in the quality distribution. This means a thorough and nuanced assessment of performance. The system should use multiple measures—certainly not a single test score—as a means of triangulation, so the true strengths and weaknesses of a school can be determined.

These measures should be based on **outputs not inputs**. It is not enough to say we are spending a great deal of money on our schools, that our class sizes are small, or that we can “check the box” on hundreds

of other policies and procedures. Though important, these variables are not tightly correlated with what matters most: student learning. We need to measure and then judge ourselves based on our classroom results.

An effective system should identify those schools with troubling results, whether among all of their students or at-risk subgroups. It should pinpoint schools that aren't performing up to expectations – for example, high schools receiving high-performing middle school students who then disproportionately fail to enter college.

But it should also be able to identify the very best schools. We should know which schools have outstanding comprehensive test scores as well as those making remarkable progress with disadvantaged students. We should know which schools' students are truly prepared for college and career when they graduate. We should know which schools' graduates not only enter institutions of higher education but earn degrees.

The Task Force believes strongly that all schools want their students to succeed. But in order for a school to hit the mark, it must know at what it should aim, and that target has to be within reach. So an accountability system must set **explicit, measurable, and appropriate targets**.

An elementary school's teachers must know whether increasing 3<sup>rd</sup> grade reading scores is the goal, or reducing the 5<sup>th</sup> grade achievement gap between students of different racial backgrounds is the goal - or whether both are goals. They must know how their school's performance on those indicators will be assessed. Is proficiency the aim or advanced proficiency? Or are they tracking scale scores? And they must know that they can reach their targets. No middle school can be reasonably expected to hit a 100 percent passing rate among 6<sup>th</sup> graders if its elementary feeder schools graduate woefully underperforming 5<sup>th</sup> graders.

This final point raises arguably the most important characteristic of a high-quality accountability system: it must measure **student growth**. Of course, our aspiration for every child is the absolute mastery of key skills and the total acquisition of essential knowledge. But different schools receive students at vastly different levels of achievement. This phenomenon is most evident in our lowest-income communities, where many teachers begin their school years with classrooms of students far behind grade level.

Public education must never shy away from its responsibility to raise all students to high levels of achievement regardless of socioeconomic or other extrinsic conditions; however, it is terribly unfair to schools and demoralizing to their educators if they are not given credit for the progress made by their students. Yes, it is a shame if each of Ms. Johnson's 7<sup>th</sup> graders fails to end the year with 7<sup>th</sup> grade reading skills; but if each entered her classroom with 3<sup>rd</sup> grade skills and made several years worth of progress during their time with her, she deserves our praise and admiration, not censure.

Though the above characteristics are critical, an accountability system's work is still far from over when metrics are established, goals are set, and progress toward targets is tallied. The system then **must generate appropriate interventions** for each school.

That begins by acknowledging that not all struggling schools are alike. The system must have a tailored response for the school with struggling English-language learners, the school where low-income students lag far behind their more affluent peers, and the school where too few students take Advanced Placement classes.

It also means recognizing that there are vastly different levels of "underperformance." While we may seek change in both the school with a 20 percent failure rate and the one with a 90 percent failure rate, they must be labeled and treated quite differently.

With this said, we must have a sense of urgency about the students in all of our struggling schools. Our responses must grow in scope and seriousness when underperformance persists. No school should be allowed to under-educate its students indefinitely. **Intensified response** means that while a school may expect ample support at the first signs of trouble, unresponsiveness should lead to additional and more intrusive interventions, possibly ending in state takeover or closure of the school.

Though addressing our low-performing schools should be our highest priority, a great accountability system will go further. Unlike our current system, which virtually ignores schools that excel, there should be consequences – *positive* consequences – for those on the far right side of the quality distribution.

For example, a district with consistently superior results should have the opportunity to enjoy **earned autonomy**. Rules and regulations are generally designed to preclude worst-case scenarios. But they can also tie the hands of innovative, high-performing professionals. The leaders of our best schools should have greater flexibility when it comes to inputs: for example, teacher certification rules and seat-time requirements. These schools should also be free of heavy-handed state oversight – e.g. monitoring visits, reporting requirements – that might be appropriate for lower-performing schools, on which the limited resources of the Department are best invested.

Another major flaw in the current order is the sense it has generated among educators that accountability systems are solely about judgment and sentencing – a school receives its verdict at the end of the year and then awaits punishment. Educators shouldn't dread the release of assessment scores or school report cards; they should look forward to them.

This can only occur if these are seen as providing **diagnostic information** that is actually helpful to educators in driving improvement. An accountability system should inform a school's staff of its areas of strengths and weakness with as much specificity as possible so they can adjust and improve. It doesn't help a principal to tell her that her African-American student subgroup is underperforming in reading; she wants to know precisely which students are struggling, which standards they were unable to master,

and how far behind they are. She'd also appreciate receiving early warning signs so she and her team are able to develop remediation strategies throughout the year, instead of learning about the problem after summer vacation has begun.

Finally, the accountability system of the future should focus its attention on **the real unit of change, the school**. QSAC prescribes interventions for low-performing districts while ignoring the reality that failure affects children at the school level and that effective reforms should concentrate there.

This is more than a philosophical position. New Jersey has a generation of experience with district interventions, with mixed results at best. To be sure, district dysfunction certainly seeps into schools. Nonetheless, if an accountability system is to have meaningful and lasting influence, it must set its sights on school performance and direct its energies toward principals, teachers, students, and classrooms.

### Next Steps

The Task Force recommends that the Department, working with the State Board, move forward on three fronts. First, it should develop a clear and rigorous accountability system based on the 10 principles outlined above. Pending federal action and state statutory reform, the State can begin tackling much of this work. That is, the State can set new and more challenging performance targets, it can focus on growth in addition to status, it can develop more robust interventions, and it can provide more diagnostic information to schools and their teachers.

These activities might be consolidated into and be given energy by a new State Report Card system. Districts such as New York City and states such as Florida have, for some time, graded their schools and applied targeted interventions based on these grades. While it is premature to endorse such a "single score" approach, and provisionally, we are disinclined to recommend this, such report cards can be thorough and nuanced and provide invaluable, actionable information to parents, educators, and policymakers.

Second, the State should apply for a waiver to NCLB. The federal Department of Education recently has invited states to develop new, tough accountability systems that would replace the framework mandated under the decade-old federal law, and the Department should seize on this opportunity.

Third, the Department should draft legislation that would modify QSAC to a unitary accountability system, based on the 10 principles, that accurately assesses schools and delineates meaningful interventions would better advance the goals behind this flawed state program.

Pursued together, these three strategies will make New Jersey a national leader in school accountability and greatly improve the state's system of public education.

The Task Force also recognizes that in our State-operated districts, the State has a responsibility to pursue policies that are in the best interests of children while also recognizing the democratic value of

local control. As the State transitions to a new accountability system, a responsible transition should be negotiated for each district based upon achieved benchmarks of student performance.

## Regulatory Reform

### Overview

New Jersey's public schools are governed by an astoundingly dense and complex array of laws and regulations<sup>7</sup>. Many of these are appropriate. Academic standards done right add value by establishing expected learning results; assessments done right add value by measuring actual learning results; financial management done right confirms how taxpayer resources are spent and to what effect; prudent health and safety requirements protect children and reporting done right provides transparency to the public.

But we have gone too far. Embedded within 1,200 pages of statutes and 1,000 pages of regulations is a host of rules that needlessly burden our educators. In some cases, such as the regulation specifying the type of filing cabinet districts must use to house student records, these policies are hard to understand and even harder to justify. These overly prescriptive rules and regulations inhibit the initiative of teachers, school leaders and administrators and stifle creativity in schools and central offices throughout the state. They are also at odds with an effective accountability system that embodies a partnership between two central values: 1) establishing ambitious academic standards with associated "output-oriented" performance objectives for every school and district, coupled with concrete, state-enforced consequences for failing to meet them; and 2) empowering districts and local educators with the information, support, and decision-making authority to craft their own approach to meeting these ambitious goals.

If the Department is going to truly focus on results and empower educators to do right by their students, the State must engage in a comprehensive review of this mountain of rules to ensure that local schools have the necessary freedom and flexibility to innovate as they continue to strive toward school improvement and student results.

Every hour a teacher spends filing forms is an hour less spent on lesson plans or professional development. Every day a superintendent spends complying with unnecessary policies is a day that could have been invested in closing the achievement gap or improving the high school graduation rate. Every week the Department spends updating old regulations or promulgating new ones is time not spent on improving our lowest-performing schools.

The opportunity costs of education's regulatory culture are staggering.

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<sup>7</sup> A statute is a law passed by the New Jersey Legislature and signed by the Governor. A regulation is a rule promulgated by either the Commissioner of Education or the State Board of Education that fills in the gaps of a statute. For example, a statute might require teachers to complete 50 hours of professional development each year, while a regulation interpreting that statute might specify the specific courses to be taken. Importantly, a statute can only be amended or repealed through the legislative process. A regulation, on the other hand, can be amended or repealed through the unilateral action of the Commissioner of Education or the State Board of Education.

## Process

As mandated by the Governor's Executive Order, the Task Force has begun a comprehensive review of the laws and regulations governing New Jersey's public schools. Our review has been organized around two related considerations. First, any mandate that does not directly advance student learning, safety, or fiscal integrity is a candidate for elimination or modification. Second, other than in certain circumscribed areas where it is appropriate for the State to retain firm central direction, districts and schools are in by far the best position to craft their own pathways to meet the ambitious performance standards set by the State.

The Task Force began the process by assembling a working group to conduct a comprehensive and detailed review of Title 6A of the Administrative Code regulations. For each regulation, we have analyzed:

1. The statutory authorization and intent.
2. The degree to which it exceeds the statutory mandate.
3. The degree to which it impacts student achievement.
4. The need for the regulations to protect student/employee health and safety.
5. The need for the regulations to provide minimum standards of fiscal stewardship.

While this massive task is daunting, the Task Force has tackled it with vigor. To date, with the support of our team of lawyers, we have reviewed much of the regulatory code. In the coming months, the Task Force will comb through the rest, along with the underlying statutes, and offer the Governor, Legislature, Department, and State Board of Education a complete list of changes for consideration. That list will be included in our final report to be issued on or before December 31, 2011.

In the interim, below, the Task Force proposes an initial list of regulatory changes for the Department's consideration. This list is the product of our research and input from a variety of stakeholders, including administrators, teachers, parents, and more. The Task Force is encouraged by what we have collectively uncovered; we believe strongly that the adoption of these recommendations will both ease the burden placed on educators and facilitate the Department's work to significantly improve student learning.

## Proposed Regulatory Changes

The regulations identified for alteration fall into a number of categories. Some are simply unrelated to student learning, fiscal integrity, or student health and safety – the areas about which we should be most concerned. Others are duplicative of statutory language, thereby causing clutter in our code book. Some regulations are unclear, confusing both those charged with administering them and those attempting to comply with them. Finally, some regulations clearly stifle educator innovation and autonomy.

For each of the proposed regulatory changes below, the Task Force provides the citation to the regulation, the operative language, how the regulation has been interpreted where not self-evident, the proposed change, and the reason or reasons underlying the proposed change.

- **N.J.A.C. § 6A:30 Evaluation of the Performance of School Districts (QSAC)**

In Part I of this Report, we propose a fundamentally revised system of accountability for the State that would replace both NCLB and QSAC and would provide for new approaches to supporting schools in their improvement efforts. In some respects, this recommendation would require statutory changes in addition to federal approval of a waiver from NCLB. Accordingly, this will not be implemented in time for the current school year. In the meanwhile, a Department working group has examined the regulations implementing QSAC in hopes of a more immediate streamlining of the current process within the confines of the existing statute.

Under QSAC, the Department evaluates school districts in five areas: fiscal management, governance, instruction & program, operation management, and personnel. Districts are currently measured on a total of 334 indicators within the five review sections. Districts must meet 80 percent of the indicators in all five areas to be State certified, and those falling below 80 percent in one or more sections must implement an improvement plan and other actions as directed by the Department.

The streamlined process proposed by the Department working group would keep the five review sections intact, but reduce the number of indicators from 334 to 54. In addition, the proposal calls for each superintendent to annually submit to the Department a “Statement of Assurance” to verify that the school system is meeting 49 other standards in each of the five sections. Each school board must approve the document by saying that it attests, to the best of its knowledge, that the district is complying with the standards in the Statement of Assurance.

The Task Force wholeheartedly endorses this regulatory reform and encourages the State Board of Education to adopt the new regulations. Making the NJQSAC process more efficient and less time-consuming will allow districts to more efficiently use limited resources and to focus attention on factors that directly impact student achievement. While this regulatory reform should not be viewed as a substitute for the more comprehensive reform proposed by the Task Force, this proposal will yield better data for the Department and districts while substantially reducing the compliance burden of the current process.

- **N.J.A.C. § 6A:9-15.2 Amount, duration and content of required continuing professional development.**

*“Each district board of education shall require all active teachers in the school district to complete 100 clock hours of approved professional development every five years. Each teacher must make annual yearly progress during the five-year cycle, though there is no specific annual*

*hourly requirement for teachers entering a five-year cycle in years one through four. For teachers entering a five-year cycle in year five, 20 hours of professional development must be completed in that one year. All new teachers employed under provisional or standard certificates must fulfill this requirement and must therefore have a Professional Development Plan (PDP) within 60 instructional days of the beginning of their teaching assignment.”*

The Department and State Board should seek to amend this regulation to focus on student learning rather than hours of professional development seat-time; that is, the goal should be driving outputs not mandating inputs. Amending this regulation will also encourage innovation as the state and districts are able to experiment with different approaches to improving academic achievement via professional development. For example, districts might conclude that devoting increased time to expanding Professional Learning Communities (PLCs) has a greater impact on student achievement than does traditional professional development.

- **N.J.A.C. § 6A:23A-5.2(c) Public relations and professional services; board policies; efficiency.**

*“School district and county vocational school district publications shall be produced and distributed in the most cost-efficient manner possible that will enable the district to inform and educate the target community. The use of expensive materials or production techniques where lower cost methods are available and appropriate, such as the use of multi-color glossy publications instead of suitable, less expensive alternatives, is prohibited. School district and county vocational school district publications shall be produced and distributed in the most cost-efficient manner possible that will enable the district to inform and educate the target community. The use of expensive materials or production techniques where lower cost methods are available and appropriate, such as the use of multi-color glossy publications instead of suitable, less expensive alternatives, is prohibited.”*

The Department and State Board should seek to modify this overly prescriptive regulation. The Department should not be in the business of determining what kinds of paper districts use. In light of the 2 percent property tax cap, which properly constrains increases in aggregate district spending, district administrators should have greater flexibility with regard to the nature of their expenditures.

- **N.J.A.C. § 6A:23A-5.2(a)(3) Public relations and professional services; board policies; efficiency.**

*“Districts with legal costs that exceed 130 percent of the Statewide average per pupil amount should establish the following procedures and, if not established, provide evidence that such procedures would not result in a reduction of costs.”*

The Department and State Board should seek to modify this regulation. In light of the 2 percent property tax cap, which properly constrains increases in aggregate district spending, district administrators should have greater flexibility with regard to the nature of their expenditures.

- **N.J.A.C. § 6A:23A-9.3(c)(3) Efficiency standards for review of administrative and non-instructional expenditures and efficient business practices.**

*“Efficient administrative and non-instructional costs include, but are not limited to, the following . . . [c]ustodians and janitors on a ratio of one for every 17,500 square feet of building space calculated on a district-wide basis.”*

The Department and State Board should seek to modify this regulation. Although this restriction technically applies to the budget review process by county superintendents, it has come to establish a norm for all districts that was not intended. In light of the 2 percent property tax cap, which properly constrains increases in aggregate district spending, district administrators should have greater flexibility with regard to the nature of their expenditures.

- **N.J.A.C. § 6A:23A-9.3(c)(8) Efficiency standards for review of administrative and non-instructional expenditures and efficient business practices.**

*“Efficient administrative and non-instructional costs include, but are not limited to, the following . . . [v]acant positions budgeted at no more than step one of the salary guide unless justification for the additional amount has been approved by the Department.”*

The Department and State Board should seek to modify this regulation. Although this restriction technically applies to the budget review process by county superintendents, it has come to establish a norm for all districts that was not intended. In light of the 2 percent property tax cap, which properly constrains increases in aggregate district spending, district administrators and educators should have the flexibility to attract and hire the best educators.

- **N.J.A.C. § 6A:23A-9.3(c)(9) Efficiency standards for review of administrative and non-instructional expenditures and efficient business practices.**

*“Efficient administrative and non-instructional costs include, but are not limited to, the following . . . [a]ides that are not mandated by law or required by an IEP employed only when supported by independent research-based evidence that demonstrates the use of aides is an effective and efficient way of addressing the needs of the particular student population served.”*

The Department and State Board should seek to modify this regulation. There are valid justifications for aides beyond the requirements of law and Individualized Education Program IEPs. In light of the 2 percent property tax cap, which properly constrains increases in aggregate

district spending, district administrators should have greater flexibility to determine staffing within their schools.

- **N.J.A.C. § 6A:23A-9.3(c)(14) Efficiency standards for review of administrative and non-instructional expenditures and efficient business practices.**

*“Efficient administrative and non-instructional costs include, but are not limited to, the following . . . [p]ublic relations services that are incorporated into the duties of the superintendent, business administrator and/or other staff position or positions and not provided by a dedicated public relations staff position or contracted service provider.”*

The Department and State Board should seek to modify this regulation. The Task Force believes that decisions about how to best keep families and the community informed and empowered should be left to districts. In light of the 2 percent property tax cap, which properly constrains increases in aggregate district spending, district administrators should have greater flexibility with regard to the nature of their expenditures.

- **N.J.A.C. § 6A:23A-16 et seq. Fiscal accountability, efficiency, and budgeting procedures.**

*“Each district board of education and charter school board of trustees shall maintain a uniform system of financial bookkeeping and reporting. . . . Quotations for fresh or frozen fruits, vegetables and meats need not be solicited more than once in any two-week period”*

These regulations prescribe a highly specific system of double-entry bookkeeping and Generally Accepted Accounting Principles (“GAAP”) to be employed by districts and schools. The Department should consider condensing some of these burdensome regulations and reducing financial reports requirements not required by statute, particularly when a school demonstrates sound financial practices through independent audits.

- **N.J.A.C. § 6A-32.7.8(e) Retention and disposal of student records.**

*“The New Jersey public school district of last enrollment, graduation or permanent departure of the student from the school district shall keep for 100 years a mandated record of a student's name, date of birth, name of parents, gender, citizenship, address, telephone number, health history and immunization, standardized assessment and test answer sheet (protocol), grades, attendance, classes attended, grade level completed, year completed, and years of attendance.”*

The Department and State Board should seek to amend this regulation to encourage electronic recordkeeping, which would allow districts to maintain the same records at significantly lower costs.

- **N.J.A.C. § 6A:11-2.1 [Charter] Application and approval process.**

*“The Commissioner with the authority of N.J.S.A. 18A:36-1 et seq. may approve or deny an application for a charter after review of the application submitted by an eligible applicant and the recommendation(s) from the district board(s) of education or State district superintendent(s) of the district of residence of the proposed charter school.”*

The Department and State Board should seek to amend this regulation, which is burdensome for charter school applicants, school districts, and the Department. Among other issues, it establishes both a normal and a separate expedited charter school application process, requires that applicants submit documentation which is occasionally duplicative, and limits the ability of the Department to establish performance contracts with charter school applicants. The Department should develop new regulations that continue to enable local stakeholders to voice opinions on charter applications while streamlining and simplifying this process.

- **N.J.A.C. § 6A:11-6.1 [Charter] Tenure acquisition.**

*“All teaching staff members, janitors and secretaries shall acquire streamlined tenure in a charter school after three consecutive academic years, together with employment at the beginning of the next succeeding academic year, in accordance with the tenure acquisition criteria as set forth in N.J.S.A. 18A:28-5(b), 18A:28-6 and 18A:17-2(b)2.”*

The Department and State Board should carefully study the charter tenure regulations. The charter school statute introduces the concept of “streamlined tenure,” but leaves its definition and related process questions to regulation. This presents an opportunity for the Department to tie tenure in charter schools to assessments of effectiveness as determined by robust evaluations.

- **N.J.A.C. § 6A:11-2.3 Renewal of charter.**

*“The Commissioner shall grant or deny the renewal of a charter upon the comprehensive review of the school including, but not limited to [several factors]: A renewal application submitted by a charter school to the Commissioner, the respective county superintendent of schools and the district board(s) of education or State district superintendent(s) of the district of residence of the charter school no later than 4:15 P.M. on October 15 of the last school year of the current charter. . . .”*

The Department and State Board should seek to amend this regulation to ensure that charter school operators are held accountable for results through a charter school renewal process that balances effective decision-making with a reasonable process for the Department, charter school leaders, and other stakeholders.

- **N.J.A.C. § 6A:11-2.1(m) [Charter] Application and approval process.**

*“A charter school shall locate its facility in its district of residence or in one of the districts of its region of residence.”*

The Department and State Board should seek to repeal this regulation. The charter school statute does not require that a charter school locate its facility in its district or region of residence. Charter schools should be free to determine the best location for their buildings, subject to the input of any affected district.

- **N.J.A.C. § 6A:11-2.6 Amendment to charter.**

*“A charter school may apply to the Commissioner for an amendment to the charter following the final granting of the charter.”*

The Department and State Board should study this regulation carefully. “Charter amendment” is given only passing mention in the charter school statute; process and related issues are all defined in this regulation alone. Accordingly, the Department and State Board should consider how this instrument might be best utilized to advance student learning, for example by facilitating the expansion and replication of high-performing charters or by enhancing accountability for existing charter schools.

- **N.J.A.C. § 6A:11-1.2 (Definitions) and N.J.A.C. § 6A:11-2.1 [Charter] application and approval process.**

*“‘District of residence’ means the school district in which a charter school facility is physically located; if a charter school is approved with a region of residence comprised of contiguous school districts, that region is the charter school’s district of residence.”*

The Department and State Board should consider eliminating the “contiguous” requirement from the definition of “district of residence” to provide future charter school founders with increased flexibility in establishing charter schools.

- **N.J.A.C. § 6A:11-2.1(i)(14) [Charter] application and approval process.**

*“The Commissioner may approve an application for a charter which shall be effective when all necessary documents and information are received by the Commissioner. The charter school shall submit on or before the dates specified in the letter of approval the documentation not available at the time of the application submission including, but not limited to, copies of . . .*

*[e]vidence of enrollment of at least 90 percent of approved maximum enrollment, as verified by student registrations signed by parent/guardian(s)."*

Historically, this regulation has been interpreted to require 90 percent of approved maximum enrollment in the charter school's district of residence. The Department and State Board should seek to clarify that this regulation means 90 percent of enrolled students, whether inside or outside the charter school's district of residence. This regulation has also been interpreted to preclude innovative charter school models, such as virtual or online schools. The Department should clarify that this regulation does not proscribe such innovative models.

- **N.J.A.C. § 6A:11-2.2 [Charter school] Reporting.**

*"The board of trustees of a charter school shall submit an annual report no later than 4:15 P.M. on August 1 following each full school year in which the charter school is in operation to the Commissioner, the respective county superintendent of schools and the district board(s) of education or State district superintendent(s) of the district of residence of a charter school. If August 1 falls on a weekend, the annual report is due on the first subsequent work day."*

*"The board of trustees of a charter school shall submit documentation annually to the Commissioner for approval prior to the opening of school on dates specified by and in a format prescribed by the Commissioner."*

The Department and State Board should consider amendment of this regulation. Although charter schools' annual reporting requirement is statutory, the scope of that requirement is defined in regulation. The obligation to provide "annual documentation," however, is purely regulatory. The Department should consider whether the annual report and "annual documentation" provide overlapping information, and to the extent that they do, the Department should consider eliminating such redundancies.

- **N.J.A.C. § 6A:13A-4.6(c) [Early childhood] Family and community involvement.**

*"The district board of education shall establish a preschool through grade three early childhood advisory council (ECAC) to review preschool program implementation and to support transition as children move from preschool through grade three."*

The Department and State Board should review this requirement. While family, community, and other stakeholder involvement is critical to the success of preschool programs, the regulation's one-size-fits-all mandated approach may not be suitable for all districts. Flexibility should be encouraged so that local districts can review and support these programs and their students in ways they deem appropriate. Further, the Department should strive to identify and recognize exemplary preschool programs throughout the State and support struggling preschool programs with targeted improvement efforts.

- **N.J.A.C. § 6A:13A-4.6(b) [Early childhood] Family and community development.**

*“The services shall be provided by a combination of social worker(s), family worker(s) and community parent involvement specialist(s) (CPIS) as part of the school district's five-year preschool program plan and/or annual update as required and approved by the Department.”*

The Department and State Board should review the merits of this regulation. The Task Force agrees that social services are an integral part of any preschool program and that families and the community must be engaged. However, regulations should not require dedicated community parent involvement specialists (CPISs) to be hired to perform those functions. Rather, flexibility should be encouraged so that preschool providers and local districts can provide these mandated social service functions in ways they deem appropriate, whether by a dedicated CPIS or other appropriate personnel.

- **N.J.A.C. § 6A:13A-9.1(e)(3) [Early childhood] Mandated contract.**

*“Each private provider or local Head Start agency that has not previously held a preschool program contract with a district board of education shall be able to meet the following criteria to be eligible for a contract . . . (3) [b]e able to accommodate at least 90 eligible children in a manner consistent with this chapter.”*

The Department and State Board should review the merits of this regulation. This regulation impedes smaller private preschool providers with fewer than 90 students from serving school districts, and thus limits choice and flexibility for parents, particularly those in the State's smaller districts. The Department should consider relaxing this minimum capacity requirement permitted that preschool providers demonstrate the efficacy of their programs and finances.

- **N.J.A.C. § 6A:13A-9.1(a) [Early childhood] Contract and N.J.A.C. § 6A:13A-9.4(b) [Early childhood] Termination of a preschool program contract.**

*“The preschool program contract with private providers and local Head Start agencies shall be in a form provided and/or approved by the Department.”*

*“The district board of education shall use the following process to terminate a contracting private provider or local Head Start agency's preschool program contract . . . (1) [i]f a contracting private provider or local Head Start agency fails to comply with all terms of the preschool program contract or applicable Federal, State or local requirements, the school district shall notify the contracting private provider or local Head Start agency and the Department of the deficiency in writing and provide a timeframe for compliance.”*

The Department and State Board should review these regulations. In particular, the Department should consider converting the mandatory requirements of the regulations into non-mandatory guideline of a model contract for districts, so long as the requirement for a contract with each provider is met.

- **N.J.A.C. § 6A:13A-9.2 [Early childhood] Informal dispute resolution process.**

*“The district board of education and contracting private provider or local Head Start agency shall attempt to resolve any dispute that may arise.”*

The Department and State Board should review this regulation. Informal dispute resolution is not mandated by law. Accordingly, while informal dispute resolution should be encouraged by the Department, it should not be mandated in regulation.

- **N.J.A.C. § 6A:13A-9.3 Renewal or non-renewal of a preschool program contract.**

*“The district board of education and contracting private provider or local Head Start agency and Department shall use the following process for renewal or non-renewal of a private provider or local Head Start agency preschool program contract.”*

The Department and State Board should review this regulation. The Department should not be required to approve every renewal and non-renewal decision made by local districts. Districts should be able to make their decisions regarding the renewal or non-renewal of a preschool program contract without interference from the Department, so long as the program meets clear performance targets.

- **N.J.A.C. § 6A:13A-9.4(f) Termination of a preschool program contract.**

*“In the event of non-renewal or termination of the preschool program contract by the school district or the contracting private provider or local Head Start agency, the contracting private provider or local Head Start agency may be required by the school district to continue the service until the school district has found an appropriate placement for all children. At no time shall the contracting private provider or local Head Start agency be required to continue and be reimbursed for the service for more than 90 days beyond the expiration date of the existing preschool program contract.”*

The Department and State Board should review this regulation. In particular, the Department should consider whether the 90-day requirement could be shortened or eliminated altogether.

- **N.J.A.C. § 6A:13A-10.1(b)(4) [Early childhood] School district fiscal responsibilities.**

*“The district board of education shall request regular updates on the status of any corrective action plans or outstanding issues raised as a result of a limited examination or audit report.”*

The Department and State Board should review this regulation. Since this regulation was enacted, the State passed a new school funding formula, the School Funding Reform Act (“SFRA”). The Department should consider the audit process in light of the SFRA, and with an eye to treating public and private preschool providers comparably by holding them to comparable standards for fiscal integrity.

- **N.J.A.C. § 6A:13A-11.1 Preschool program appeals.**

*“A school district may file an appeal of their preschool program plan and/or annual update and budget decision with the Commissioner of Education, pursuant to N.J.A.C. 6A:3, Controversies and Disputes, 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, P.O. Box 112, Trenton, New Jersey 08625-0112; Attention: Education and Higher Education Section.”*

The Department and State Board should review this regulation. The Task Force believes that the formal service of the Department of Law and Public Safety in the appeals process is unnecessary.

- **N.J.A.C. § 6A:9-13.4 School nurse/non-instructional.**

*“To be eligible for the standard educational services certificate with a school nurse/non-instructional endorsement, a candidate shall hold a current New Jersey registered professional nurse license issued by the New Jersey State Board of Nursing, hold a bachelor's degree from a regionally accredited college or university, hold current cardiopulmonary resuscitation (CPR) and automated external defibrillators (AED) certificates and complete either a Department-approved college curriculum for the preparation of school nurse/non-instructional or a program of studies, minimum of 21 credits that includes study in [nine separate areas] . . . Human and intercultural relations. Studies designed to develop understanding of social interaction and culture change, including courses such as the following: urban sociology, history of minority groups, intergroup relations, and urban, suburban and rural problems. . . . School law including legal aspects of school nursing..”*

The Department and State Board should seek to limit the breadth of the “program of studies” from nine separate areas to two – study of public health nursing and human growth and development. This change will provide districts and schools with larger applicant pools for their non-instructional school nurse positions.

- **N.J.A.C. § 6A:13-1.1(a) Purpose and applicability of rules.**

*" These rules are promulgated pursuant to the School Funding Reform Act, P.L. 2007, c. 260, to ensure that all students receive the educational entitlements guaranteed them by the New Jersey Constitution. These rules shall ensure that all districts provide students with a rigorous curriculum that is based on the Core Curriculum Content Standards; that relies on the use of State assessments to improve instruction . . . ."*

The Department and State Board should consider amending this regulation to include the phrase "and other relevant data" after "State assessments" and before "to improve instruction" to make clear that districts may offer their own assessments in addition to those provided by the Department.

- **N.J.A.C. § 6A:13-2.1(a)(3) Standards-based instruction.**

*"All school districts shall implement a coherent curriculum for all students, including English language learners (ELLs), gifted and talented students and students with disabilities, that is content-rich and aligned to the most recent revision of the Core Curriculum Content Standards (CCCS). The curriculum shall guide instruction to ensure that every student masters the CCCS. Instruction shall be designed to engage all students and modified based on student performance. Such curriculum shall include . . . [a] pacing guide."*

The Department and State Board should consider amending this regulation to eliminate the pacing guide requirement. If we are focused on results, we should minimize such mandates on inputs. District and school leaders and their teachers should determine the best ways to ensure that students learn what is expected.

- **N.J.A.C. § 6A:7-1.7(b)(2) Equality in school and classroom practices.**

*"Each district board of education shall ensure that the district's curriculum and instruction are aligned to the State's Core Curriculum Content Standards and address the elimination of discrimination by narrowing the achievement gap, by providing equity in educational programs and by providing opportunities for students to interact positively with others regardless of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status, by . . . (2) [e]nsuring that courses shall not be offered separately on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status."*

The Department and State Board should review this regulation to be certain that it is consonant with federal and State constitutional and statutory protections, which prohibit students from

being assigned to single-sex classrooms but allow families and students to “opt-in” to such arrangements.

- **N.J.A.C. § 6A:14-4.7(e) Program criteria: special class programs, secondary, and vocational rehabilitation.**

*“Instructional group sizes for preschool, elementary and secondary special class programs shall not exceed the limits listed below. The instructional group size may be increased with the addition of a classroom aide according to the numbers listed in Column III as set forth below. When determining whether a classroom aide is required, students with a personal aide shall not be included in the student count.”*

The Department and State Board should seek to amend this regulation to permit school administrators, consistent with the requirements of the applicable Individualized Education Program (IEPs) and the determinations of the Child Study Team (CST), to determine the number of classroom aides needed.

- **N.J.A.C. § 6A:9-5.11(b) Validation of college degrees and college professional preparation.**

*“Professional education preparation programs required for New Jersey certificates shall be accepted from: (1) A New Jersey college approved by the State Board for the preparation of teachers; (2) Out-of-State colleges approved by the State board or department of education or department of higher education in the state in which the college is established and approved by the Department on the basis of reciprocal agreements; and (3) Regionally accredited two-year colleges provided that . . . [n]o more than six semester-hour credits in professional education are completed on the two-year college level, except as provided for in N.J.A.C. 6A:9-13.18.”*

The Department and State Board should seek to repeal this regulation since it is duplicative of statute and other regulation. Further, the six semester-hour cap on credits from two-year colleges is an arbitrary limitation that gives no consideration to the quality of the programs offered by the two-year colleges.

- **N.J.A.C. § 6A:27-7.2 [School bus] Capacity.**

*“The number of students assigned to a seat shall not exceed the gross seating length in inches divided by 15. The maximum number of students who may be transported in each vehicle shall be determined by this seat measurement. Application of this formula shall not result in the use of a school vehicle with a seating capacity in excess of 54.”*

The Department and State Board should seek to eliminate the upper limit on school bus seats. Provided that rigorous safety requirements are met, districts should be able to select the bus size that best serves their needs.

- **N.J.A.C. § 6A:9-12.7(b)(2) School business administrator.**

*“To be eligible for a provisional administrative certificate with a school business administrator endorsement, the candidate shall . . . [o]btain and accept an offer of employment in a position that requires the school business administrator endorsement in a public school district that has agreed formally to sponsor the residency.”*

This regulation requires a school business administrator obtaining a certificate of eligibility to work in a public school. The Department and State Board should seek to amend this regulation so that school business administrators at private schools for the disabled are treated the same as are school business administrators at district schools. Doing so will eliminate the unfair requirement that business administrators first work in a public school before being able to obtain a certificate of eligibility.

- **N.J.A.C. § 6A:13A-7.1 [Preschool] Space requirements.**

*“The district board of education shall ensure, for all newly contracted private provider and local Head Start agency preschool classrooms, a minimum of 950 square feet per classroom consisting of 750 square feet of usable space, 150 square feet of storage and equipment or furnishings that are either built in or not easily movable and 50 square feet of toilet room.”*

The Department and State Board should seek to relax or repeal this regulation while maintaining rigorous standards for student health and safety. Doing so will allow private preschool providers to achieve cost efficiencies with no adverse impact on student learning, health, or safety. The Department already issues frequent waivers of these rules, and the regulation should reflect Department policy and practice.

- **N.J.A.C. § 6A:16-10.1 Home or out-of-school instruction due to a temporary or chronic health condition.**

*“The school district shall provide instructional services within five school days after receipt of the school physician's verification or, if verification is made prior to the student's confinement, during the first week of the student's confinement to the home or out-of-school setting.”*

This regulation requires that districts provide home instruction for any student absent for at least ten days beginning five days following receipt of a letter of verification from the school physician. Targeted instruction for students during extended illnesses is critical to the pursuit of

college-and career-readiness, but this regulation is burdensome for districts in the case of shorter-term absences (e.g., between 10-20 days). The Department and State Board should seek to relax this regulation. For example, districts should be able to pursue alternatives to home instruction, such as online programs or various tutoring options.

- **N.J.A.C. § 6A:16-10.2(d)(3) Home or out-of-school instruction for a general education student for reasons other than a temporary or chronic health condition.**

*“The teacher shall provide one-on-one instruction for no fewer than 10 hours per week on three separate days of the week and no fewer than 10 hours per week of additional guided learning experiences that may include the use of technology to provide audio and visual connections to the student’s classroom.”*

The Department and State Board should seek to relax this regulation and allow districts to reduce the number of hours of one-on-one instruction if alternative approaches, such as the creative use of technology, can be used to increase instructional time.

- **N.J.A.C. § 6A:9-6.1-6.3 Types of teacher certificates.**

*“The standard certificate is a permanent certificate issued to candidates who have met all requirements for State certification . . . The provisional certificate is a two-year certificate issued to candidates who have met requirements for initial employment as part of a State-approved school district training program or residency leading to standard certification. . . .An emergency certificate is a substandard certificate issued only to educational services certificate candidates who meet the requirements specified for each endorsement. . . .”*

These three regulations define the three types of teacher certificates – standard, provisional, and emergency. These regulations, however, may be confused with the three types of credentials that a teacher may earn – instructional, educational, and administrative. The Department and State Board should endeavor to clarify these three regulations.

- **N.J.A.C. § 6A:9-5.2(c) Certificates – general.**

*“The chief school administrator of each district board of education shall annually report the names and teaching assignments of all teaching staff members to the county superintendent. The county superintendent shall provide to the employing district board of education and the Commissioner written notice of any instance in which a teaching staff position is occupied by a person who does not hold appropriate certification.”*

The Department and State Board should consider repeal of this regulation as it already receives comparable information from other mandated reports.

- **N.J.A.C. § 6A:9-14.1(b) [Professional licensure and standards] General provisions.**

*“If such approval is given by the Commissioner, it shall be of three months' duration, and may be renewed by him or her upon application for a period of three months at a time. Consideration of said request shall be made on a case-by-case basis. If the acting status of said individual is to extend beyond a year, no such permission can be given except upon recommendation of the Commissioner to the State Board that the application of the district board of education be granted.”*

This regulation requires both Commissioner and State Board of Education approval where the “acting status” of an administrator is extended beyond one year. The Department and State Board should seek to amend the regulation to allow for approval from the Commissioner alone. The dual approval process creates a needless redundancy.

- **N.J.A.C. § 6A:9-11.12 Swimming and water safety.**

*“To be eligible for the swimming and water safety endorsement, candidates shall hold: (1) [a] standard New Jersey instructional certificate; (2) [a] valid Cardiopulmonary Resuscitation for Professional Rescuer Certificate issued by the American Red Cross or the YMCA; (3) [a] valid Lifeguard Certificate issued by the American Red Cross or YMCA; and (4) [a] valid Water Safety Instructor Certificate issued by the American Red Cross or the YMCA.”*

The Department and State Board should review this regulation and determine whether an individual needs all four of these certificates to be prepared to deal with the emergency situations that may arise at a school pool or other body of water. Of course, student safety remains paramount, and if the Department determines that each certificate is necessary, the Department should leave the regulation unchanged.

- **N.J.A.C. § 6A:9-4.1(a) and § 6A:9-4.2(a) State Board of Examiners.**

*“There shall be a Board of Examiners, consisting of the Commissioner, ex officio, and one assistant commissioner of education, two presidents of State colleges, one county superintendent, one superintendent of schools of a Type I district, one superintendent of a Type II district, one high school principal, one elementary school principal, one librarian employed by the State or by one of its political subdivisions, one school business administrator and four teaching staff members other than a superintendent, principal, school business administrator or librarian, all of whom shall be appointed by the Commissioner with the approval of the State Board.”*

*“The Board of Examiners shall issue appropriate certificates to teach or to administer, direct, or supervise, the teaching, instruction or educational guidance of pupils in public schools operated*

*by district boards of education, and such other certificates as it shall be authorized to issue by law, based upon certified scholastic records, documented experience or upon examinations, and may revoke or suspend such certificates. The authority to issue certificates also includes the authority to refuse to issue a certificate under appropriate circumstances as set forth in N.J.A.C. 6A:9-17.2. All actions taken by the Board of Examiners shall be taken pursuant to rules adopted by the State Board.”*

The Department and State Board should consider repealing these regulations as they are duplicative of N.J.S.A. § 18A:6-34 and N.J.S.A. § 18A:6-38 respectively.

- **N.J.S.A. § 6A:19-2.3(a)(1) Access to county vocational schools.**

*“Each resident district board of education shall ensure that resident students may apply to and, if accepted, attend a county vocational school pursuant to N.J.S.A. 18A:54-20.1. The existence of the same career and technical education program at the resident district board of education shall not negate a student's right to apply to and, if accepted, attend a county vocational school, subject to the following limitations: (1) The resident district board of education shall be responsible for the tuition and transportation costs of any resident student admitted to the county vocational school in which the school district is located, unless the resident district board of education maintains a vocational school pursuant to N.J.S.A. 18A:54-5 et seq., and such school offers the same program as the county vocational school where the student has been admitted. A program shall be deemed the same, for purposes of this section, if it is approved by the Department in accordance with N.J.A.C. 6A:19-3.1 and 3.2, is assigned the same Classification of Instructional Programs (CIP) code, and meets or exceeds all applicable program performance standards.”*

The Department and State Board should consider eliminating this regulation as it is duplicative of N.J.S.A. § 18A:54-20.1.

- **N.J.A.C. § 6A:9-5.6(b) Oath of allegiance required.**

*“Any person who is a citizen or subject of any country other than the United States is required to file an oath to support the Constitution of the United States while so employed.”*

The Department and State Board should consider repealing this regulation as it is duplicative of N.J.S.A. § 18A:6-7, which already mandates an oath of allegiance for candidates.

## Upcoming Work of the Task Force

This Initial Report represents a first step in the work of the Task Force; the great majority of the regulatory reform project and accountability system development will occur after the submission of this update.

Once this Report is released publicly, the Task Force will solicit comments on the ideas expressed in the document from the public, stakeholders, and the State Board of Education. These perspectives will be used to review and revise the recommendations expressed herein and to inform the future work of the Task Force.

With regard to evaluating school and district performance for a revamped accountability system, the Task Force recommends that the Department's Division of Performance develop specific definitions of academic achievement for this purpose, in compliance with federal mandates and in accordance with the principles expressed in this report. This and other efforts should be undertaken toward the goal of achieving approval of a proposed alternative accountability system and a granting of a waiver of NCLB by the federal Department of Education.

Further, the Task Force recommends that the Department's financial and oversight offices create detailed standards for district fiscal responsibility with a focus on internal control systems and standards operating procedures in light of the 2% "hard" property tax cap. The Task Force recommends that the Department's Division of Program and Operations create clear standards for district responsibility regarding student health and safety.

With regard to supporting schools and districts in their efforts to increase the number of students who graduate from high school ready for college and career, the Task Force will continue its review and will work with Department staff to develop further details of a revised proposal.

With regard to regulatory reform, the process of reviewing each chapter of Department regulation, and each underlying statute, will continue through the end of year. The Task Force's team of lawyers and educators will continue to evaluate the extent to which each regulation exceeds federal mandate, State law, or case law. If the regulation exceeds the underlying authority and does not serve to improve student achievement, operational efficiency, or fiscal effectiveness, then the Task Force will recommend its repeal. The Task Force will collaborate with Department leadership and staff to prepare revised chapter of code which reflect this new regulatory perspective and which shall be proposed to the State Board of Education for adoption. In addition to this review of regulations, the Task Force is also charged with reviewing the statutes supporting these administrative regulations and making further recommendations.

The recommendations derived from these streams of work will be shared in a final report submitted to the Governor by December 31, 2011, at which point the Task Force will expire.

## Appendix

### Task Force Membership

Dave Hespe (Chair)	Chief of Staff, New Jersey Department of Education <sup>8</sup> . Prior positions include Co-Executive Director and VP of STEM Education at Liberty Science Center; Interim Superintendent, Willingboro School District; Chair and Associate Professor, Educational Leadership Department, Rowan University; Commissioner, New Jersey Department of Education.
Angel Cordero	Co-Founder and Director, Community Education Resource Network and Co-Founder, East Side Preparatory High School.
Angela Davis	Principal, Teaneck High School. Prior positions include Teacher, Clifford J Scott High School, East Orange.
Frank Digesere	Retired Superintendent, Kearny School District <sup>9</sup> . Prior positions include Superintendent of Bloomfield School District and Supervisor, Principal, and Teacher in Kearny School District.
Linda DuBois	Mayor, Pittsgrove Township, and Teacher, Pittsgrove Middle School. Prior positions include Member, Pittsgrove Township Committee.
Don Goncalves	Assistant Board Secretary, Elizabeth Public Schools. Prior positions include Freeholder, Union County; Director of Projects and Community Relations, Elizabeth Development Company.
Bruce Litinger	Executive Director, ECLC of New Jersey (nonprofit provider of services to the children and adults with special needs). Prior positions include Director of Special Services, School Social Worker, and Special Education Teacher in Woodbridge Township School System.
Mike Osnato	Chair, Seton Hall University Department of Education Leadership, Management and Policy. Prior positions include Superintendent, Montclair Public Schools (2003 NJ Superintendent of the Year); Superintendent, Pearl River School District (NY); Superintendent, Cohoes City School District (NY); Superintendent and Principal, Livingston Manor Central School District (NY); Teacher, New York City Department of Education.

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<sup>8</sup> Mr. Hespe's position at the Department commenced after his appointment to the Task Force.

<sup>9</sup> Mr. Digesere's retirement occurred after his appointment to the Task Force.

## Acknowledgements

We are grateful to the more than 200 people who met with us, submitted thoughtful written commentary, or attended a public meeting and shared their perspective on how to improve our regulatory code and accountability systems. Without their cooperation and ideas, our work would not have been possible.

We thank the Foundation for Education Advancement / New Jersey Principals and Supervisors Association, Seton Hall University, and Pittsgrove Township for providing a welcoming place to hold some of our meetings.

We extend our thanks to the team of lawyers and legal interns who have assisted with our legal review of regulations: Maksim Feofanov, Matt Franson, Chris Leavell, David Morin, Justin Nelson, Mac Robertson, Chris Skufca, and Justin Yost, under the leadership of Kevin Mitchell. Finally, we are indebted to the Department of Education staff members who provided invaluable assistance with our work. Thank you, Michael Blaustein, Christopher Emigholz, Diana Pasculli, and Eric Taylor.