

CHAPTER 8
THOROUGH AND EFFICIENT SYSTEM
OF FREE PUBLIC SCHOOLS

Authority

N.J.S.A. 18A:1-1, 18A:4-15, as supplemented and amended
by 18A:7A-1 et seq., P.L. 1990, c.52, P.L. 1991, c.3
and P.L. 1991, c.62.

Source and Effective Date

R.1998 d.457, effective September 8, 1998.
See: 30 N.J.R. 1479(a), 30 N.J.R. 3261(b).

Executive Order No. 66(1978) Expiration Date

Chapter 8, Thorough and Efficient System of Free Public Schools,
expires on September 8, 2001.

Chapter Historical Note

Chapter 8, Thorough and Efficient System of Free Public Schools, was adopted as R.1976 d.3, effective January 7, 1976. See: 7 N.J.R. 543(a), 8 N.J.R. 58(a). Pursuant to Executive Order No. 66(1978), Chapter 8 was readopted as R.1984 d.282, effective June 18, 1984. See: 16 N.J.R. 597(a), 16 N.J.R. 1719(a). Chapter 8 was repealed and a new Chapter 8, Thorough and Efficient System of Free Public Schools, was adopted as R.1987 d.32, effective January 5, 1987. See: 18 N.J.R. 1984(a), 19 N.J.R. 63(c).

Subchapter 9, Approved Public Elementary and Secondary School Summer Sessions, was adopted as R.1989 d.601, effective December 18, 1989. See: 21 N.J.R. 2441(c), 21 N.J.R. 3933(a).

Pursuant to Executive Order No. 66(1978), Chapter 8, Thorough and Efficient System of Free Public Schools, was readopted as R.1992 d.22, effective December 11, 1991, and former Subchapter 8 was repealed and former Subchapter 9 was recodified as Subchapter 8 by R.1992 d.22, effective January 6, 1992. See: 23 N.J.R. 2908(b), 24 N.J.R. 90(b). Petition for Rulemaking. See: 24 N.J.R. 653(b), 24 N.J.R. 1400(d).

Subchapters 1, 2, 3 and 4 were repealed and were adopted as new rules by R.1992 d.510, effective December 21, 1992. See: 24 N.J.R. 3039(a), 24 N.J.R. 4508(a).

Subchapter 5, Interim Rules for Level II and III Districts, was recodified as Subchapter 5A, Interim Rules for Districts Placed in Level II and III Monitoring Prior to July 1, 1993, and Subchapter 5, Rules for Level II and III Districts, was adopted as new rules by R.1992 d.510, effective December 21, 1992. See: 24 N.J.R. 3039(a), 24 N.J.R. 4508(a).

Subchapter 6, Preventive and Remedial Programs in Reading, Writing and Mathematics, was repealed and Subchapter 6, Programs and Services for Pupils at Risk, was adopted as new rules by R.1993 d.40, effective January 19, 1993. See: 24 N.J.R. 3494(a), 25 N.J.R. 299(c).

Subchapter 9, Educational Improvement Plans in Special Needs Districts, was adopted as R.1992 d.396, effective October 5, 1992. See: 24 N.J.R. 2323(a), 24 N.J.R. 3535(b). Public Notice: Public testimony sessions held June 17, 1992. See: 24 N.J.R. 2081(a).

Pursuant to Executive Order No. 22(1994), Chapter 8, Thorough and Efficient System of Public Schools, expired on June 11, 1998. See: 26 N.J.R. 3783(a), 26 N.J.R. 3942(a).

Chapter 8, Thorough and Efficient System of Free Public Schools, was adopted as new rules, former Subchapter 2, State Educational Goals and Standards, was repealed and former Subchapter 4, Procedures for the Evaluation of the Performance of Each Public School

District, was recodified as Subchapter 2, former Subchapter 3, Reporting and Staffing of School Districts, was recodified as N.J.A.C. 6:3-1.6 and former Subchapter 5, Rules for Levels II and III Districts, was recodified as Subchapter 3, Subchapter 5A, Interim Rules for Districts Placed in Level II and III Monitoring Prior to July 1, 1993, and Subchapter 6, Programs and Services for Pupils at Risk, were repealed, Subchapter 7, Promotion and High School Graduation Requirements and Procedures, was recodified as N.J.A.C. 6:3-4A, Subchapter 8, Approved Public Elementary and Secondary School Summer Sessions, was recodified as N.J.A.C. 6:3-1.8, and Subchapter 9, Educational Improvement Plans in Special Needs Districts, was recodified as N.J.A.C. 6:19-4.2 by R.1998 d.457, effective September 8, 1998. See: Source and Effective Date. See, also, section annotations.

Law Review and Journal Commentaries

Toward parity in education: *Abbott v. Burke* and the future of New Jersey school systems. 5 Temp.Pol. & Civ.Rts.L.Rev. 183 (1996).

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SUBCHAPTER 1. DEFINITIONS

6:8-1.1 Words and terms defined

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Alternative monitoring” means a voluntary certification process established for Level I school districts as an alternative to the monitoring procedures in N.J.S.A. 18A:7A-14. The alternative monitoring process is based on the district’s continuous self-assessment in accordance with established criteria, that is, Baldrige, Quality New Jersey or ISO9000.

“Articulation” means continuity, consistency and interdependence in the curricular offerings of the successive divisions of the school system and among constituent, regional and sending-receiving districts.

“Assessment” means a written analysis of the current status of an educational system in terms of achieving its goals and objectives.

“Average daily attendance” means the total number of days present divided by the total possible number of days of attendance.

“Behavior standard” means a school-level standard related to attendance, dropout rate, expulsions, out-of-school suspensions, acts of violence and substance abuse.

“Benchmark” means interim performance level which is set to measure a school’s progress toward the achievement of minimum State standards.

“Certification” means an acceptable rating in all indicators in the eight elements of the monitoring process.

“Certification with conditions” means certification that is contingent upon the district correcting identified deficiencies without additional diagnostic monitoring or technical assistance, within a specific period of time.

“Challenge objective” means a school-level objective which is developed when student performance or behavior is at or above minimum State standards.

“Community” means the community at large, including, but not limited to, the parents of pupils.

“Curriculum” means planned learning opportunities in order for pupils to achieve the intended outcomes of instruction.

“Curriculum content standards” means standards adopted by the State Board of Education in K-12 curriculum areas which define the knowledge and skills that a school should impart to all pupils to demonstrate competency in challenging subject matter.

“Desk audit” means a review of materials submitted to or available at the office of the county superintendent of schools.

“Element” means one of the eight components of the educational process which is reviewed during monitoring for the purpose of certifying school districts.

“Evaluation” means procedures used to determine the success of programs, projects, techniques and materials in relation to the achievement of goals, objectives and standards; that is, the act of making judgments based upon the data gathered.

“Goals” means a written statement of educational aspirations for learner achievement and the educational process stated in general terms.

“Group 1 school districts” means school districts that have met the pupil performance indicators of N.J.A.C. 6:8-2.6 and 2.7.

“Group 2 school districts” means school districts that have not met the pupil performance indicators of N.J.A.C. 6:8-2.6 and 2.7.

“Indicator” means one of the subsections of the eight elements that contain specific criteria reviewed during the monitoring process.

“Information processing skills” means library, study, computer and technology skills.

“Minimum level of proficiency” means passing scores on the State tests established pursuant to N.J.S.A. 18A:7A-6 and the State-approved minimum levels of proficiency in grades where State testing does not take place.

“Monitoring” means the process by which the Commissioner of Education or his or her designee evaluates the status of each school district every seven years for the purpose of determining certification status.

“Municipal alliance” means the coordinated efforts of a community and school district with regard to substance abuse prevention programs.

“Objective” means a written statement of the intended outcome of a specific educational process.

“Performance assessment” means a variety of techniques for assessing pupil’s achievement in areas that are not well measured by typical multiple choice tests, including such things as open-ended or constructed response questions, essays, portfolios of pupil’s work, performance of what pupils know and can do, projects, demonstrations, and laboratory problems.

“Quality assurance annual report” means a report provided by the chief school administrator to the public which includes: implementation of school-level plans, achievement of performance objectives, school report cards, professional development activities, condition of school facilities, status of mandated program reviews and community support data.

“School-level plan” means a two-year plan which is developed by each school, is based on school report card data and includes student performance objectives, progress review by teaching and administrative staff and parent involvement.

“School report card” means a profile of each school which is compiled annually by the district and which contains statistical information specified by the State Department of Education.

“Statement of assurance” means a document submitted by the chief school administrator to the county superintendent which verifies the development and implementation of the school-level plan, conduct of school-level meetings, written curricula, curriculum articulation and the development and implementation of a substance abuse prevention program.

Amended by R.1998 d.457, effective September 8, 1998.
See: 30 N.J.R. 1479(a), 30 N.J.R. 3261(b).

Inserted “Alternate monitoring”, “Desk audit”, “Group 1 school districts” and “Group 2 school districts”; deleted “Pupil at risk”; in “Quality assurance annual report” and “School-level plan”, substituted references to report cards for references to profiles; and changed “School profile” definition to “School report card”.

SUBCHAPTER 2. PROCEDURES FOR THE EVALUATION OF THE PERFORMANCE OF EACH PUBLIC SCHOOL DISTRICT

6:8-2.1 General requirements

(a) The Commissioner of Education shall evaluate each school district’s implementation of the standards required by this chapter.

(b) Based upon the evaluation, the Commissioner shall recommend to the State Board of Education the certification of each district meeting the criteria established in this chapter.

(c) The State Board of Education shall determine the certification of each district.

(d) A district certified pursuant to this chapter shall not be required to be formally evaluated for seven years.

(e) The Commissioner reserves the right to recommend that the State Board of Education rescind the certification of any district which may fall into non-compliance with the standards set forth in this chapter.

Case Notes

Evidentiary hearing was not required before Commissioner of Education removed local school board and ordered creation of state-operated school district on ground that district was not providing thorough and efficient system of education. *Contini v. Board of Educ. of Newark*, 286 N.J.Super. 106, 668 A.2d 434 (A.D.1995).

Reductions in school budget restored. *Board of Education of the Township of Jackson v. Township Committee of the Township of Jackson, Ocean County*, 97 N.J.A.R.2d (EDU) 421.

6:8-2.2 Evaluation procedures

(a) Each school district within a county shall be monitored beginning July 1, 1993, and if certified, every seven years thereafter by the monitoring team under the supervision of the county superintendent of schools.

(b) The Department shall review the district’s performance for student achievement and behavior according to this subchapter to determine a district’s eligibility for one of the following types of on-site evaluation:

1. A school district that meets standards for student performance and behavior set forth in N.J.A.C. 6:8-2.6 and 2.7 is designated as a Group 1 school district. Group 1 school districts shall be evaluated by a desk audit and an abbreviated on-site process to determine the status of:

- i. Curriculum and content standards implementation;
- ii. Status of teacher evaluation and professional improvement plans;
- iii. Annual development of a three to five-year comprehensive maintenance plan;
- iv. Implementation of GAAP;
- v. The absence of the over-expenditure of funds;
- vi. Compliance regarding the correction of annual audit recommendations; and
- vii. Status of school facilities for health and safety requirements.

2. A school district that does not meet the standards for student performance and behavior set forth in N.J.A.C. 6:8-2.6 and 2.7 is designated as a Group 2 school district. The county superintendent shall conduct an on-site evaluation of all Group 2 districts to determine compliance with N.J.A.C. 6:8-2.1.

3. A Group 1 school district that meets the standards in student performance and attendance set forth in N.J.A.C. 6:8-2.6 and 2.7 may elect an alternative program of evaluation according to N.J.S.A. 18A:7A-14.5.

- i. A school district shall apply to the Commissioner through the county superintendent to use an alternative method of evaluation.
- ii. The application shall identify the alternative evaluation model to be used by the district.
- iii. The district shall ensure that there is a consensus between the school district and the majority representative of the school employees to participate in this alternative method of evaluation.
- iv. The Commissioner shall determine the approval/disapproval of the district’s application pursuant to N.J.S.A. 18A:7A-14.5.
- v. A district approved to use an alternative method of evaluation shall provide documentation to demon-

strate compliance with the approved model as well as documentation that will ensure compliance with N.J.A.C. 6:8-2.1.

(c) The county superintendent of schools shall establish a monitoring schedule with the approval of the Assistant Commissioner, Division of County and Regional Field Services.

(d) Each district scheduled for monitoring shall be notified in advance by the county superintendent of schools. The dates for such monitoring visits to the district shall be established in consultation with the chief school administrator of the district and, for Abbott districts, the director of the Office of Program Review and Improvement.

(e) A representative of the county superintendent of schools shall conduct a pre-monitoring conference with a representative of the district to establish the monitoring format.

(f) Prior to the monitoring visit, the county office representative shall request that the district representative provide such documentation materials that are unavailable at the county office. The district representative shall be directed to either forward the documentation materials or make them available at the time of the monitoring visit.

Amended by R.1998 d.457, effective September 8, 1998.
See: 30 N.J.R. 1479(a), 30 N.J.R. 3261(b).

Deleted former (b) and inserted a new (b); recodified former (a)1 and 2 as (c) and (d); in (c), substituted a reference to the Division of County and Regional Field Services for a reference to the Division of County and Regional Services; in (d), substituted a reference to Abbott districts for a reference to special needs districts and substituted a reference to the director of the Office of Program Review and Improvement for a reference to the director of the regional urban assistance center; and recodified former (a)3 and 4 as (e) and (f).

Case Notes

Right to have either counsel or court reporter present at evaluation interviews conducted for a Comprehensive Compliance Investigation. In the Matter of the Comprehensive Compliance Investigation of the Newark School District, 94 N.J.A.R.2d (EDU) 9.

Application of college credits towards requirements for high school graduation. Silverman v. Burke, 1977 S.L.D. 724.

Local administrative directive cannot alter graduation requirements. Dooner v. Bd. of Ed., Toms River School District, Ocean Cty., 1976 S.L.D. 619.

6:8-2.3 Quality assurance

(a) The quality assurance element shall be rated acceptable upon demonstration of performance in the following two indicators:

1. A quality assurance annual report:

i. By October 30 of each year, the chief school administrator shall provide a report to the public at a regular board of education meeting, which includes:

(1) Implementation of school-level plans (N.J.A.C. 6:8-2.4(a)2);

(2) Achievement of performance objectives (N.J.A.C. 6:8-2.4(a)3);

(3) Each school report card, including pupil performance results and student behavior data (N.J.A.C. 6:8-2.4(a)1);

(4) Professional development activities (N.J.A.C. 6:8-2.8(a)4);

(5) Condition of school facilities (N.J.A.C. 6:8-2.9);

(6) Status of mandated program reviews (N.J.A.C. 6:8-2.10); and

(7) Community support data contained in (a)2 below.

ii. By November 15 of each year, the chief school administrator shall submit a copy of the annual report to the county superintendent.

iii. The documentation/activities for Group 1 school districts shall be the quality assurance annual report.

iv. The documentation/activities for Group 2 school districts shall be:

(1) The quality assurance annual report; and

(2) Board minutes; and

2. Community support:

i. Over a seven-year period, the district shall document community support through the following components:

(1) A review of demographic data;

(2) A community survey;

(3) Identification of available resources and linkages to social service agencies;

(4) Strategies to overcome any community and environmental conditions that hinder learning;

(5) Methods to eliminate any barriers to community participation;

(6) Planned level of community involvement; and

(7) Strategies for parental involvement and parent-teacher interaction.

ii. The documentation/activities for Group 1 and Group 2 school districts shall be the quality assurance annual report.

Amended by R.1998 d.457, effective September 8, 1998.
See: 30 N.J.R. 1479(a), 30 N.J.R. 3261(b).

In (a), changed N.J.A.C. references throughout, changed the deadline from September 30 to October 30 in the introductory paragraph of 1i, changed the deadline from October 30 to November 15 in 1ii, inserted a new 1iii, recodified former 1iii as 1iv and inserted a reference to Group 2 school districts, and inserted a reference to Group 1 and Group 2 school districts in 2ii.

Law Review and Journal Commentaries

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

Case Notes

Commissioner's monitoring function under the Public School Education Act to measure and achieve a thorough and efficient education for all public school children failed to accomplish that goal and operated largely as a self-improvement system. *Abbott v. Abbott v. Burke*, 119 N.J. 287, 575 A.2d 359 (1990).

Establishment of music curriculum within local board's discretion; no requirement for employment of certified music teachers. *Popovich v. Bd. of Ed., Wharton Boro., Morris Cty., 1977 S.L.D. 440.*

6:8-2.4 School-level planning

(a) The school-level planning element shall be rated acceptable upon demonstration of performance in the following three indicators:

1. School report card:

i. Annually, the district shall compile a report card of each school, which shall contain statistical information specified by the State Department of Education. This report card shall be disseminated to all staff and parents, and made available to the media.

ii. The documentation/activities for Group 1 and Group 2 school districts shall be the school report card included in the annual report;

2. School-level plan:

i. By September 30, each school in the district shall develop and implement a two-year plan based on school report card data. This plan shall include pupil performance objectives, a review of progress by teaching and administrative staff, and the involvement of parents.

ii. At least once per semester, each school shall conduct meetings by grade level, Department, team or similarly appropriate group to review the school level plan. Such review shall include:

(1) School report card data;

(2) Progress toward achieving pupil performance objectives; and

(3) Progress toward achieving core curriculum content standards.

iii. The documentation/activities for Group 1 and Group 2 school districts shall be a statement of assurance, signed by each principal, and submitted on the form prescribed by the Commissioner; and

3. Pupil performance objectives:

i. Each school in the district shall develop two or more objectives based on pupil performance or behavior standards as defined in N.J.A.C. 6:8-2.6 and 2.7. The objectives shall cover a period of no more than two years.

ii. The objectives shall be developed according to the following criteria:

(1) If pupil performance is below minimum State standards as defined in N.J.A.C. 6:8-2.6, objectives to meet such standards shall be established. Benchmarks (interim performance levels) shall be set to measure the school's progress toward the achievement of minimum State standards.

(2) If pupil performance is at or above minimum State standards, challenge objectives shall be established.

iii. By August 1 of each year, the chief school administrator shall submit each school's objectives to the county superintendent for review and approval. The report on the achievement of objectives or progress towards benchmarks for the previous year shall be contained in the October 30 annual report.

iv. Each school shall achieve its pupil performance objectives by:

(1) Meeting established benchmarks for minimum State standards; and/or

(2) Achieving challenge objectives or demonstrating progress toward meeting such objectives.

v. Each school that does not meet established benchmarks for pupil performance objectives or demonstrate progress toward meeting challenge objectives for two successive years shall be assigned a technical assistance team by the county superintendent to facilitate accomplishment of these objectives.

vi. The documentation/activities for Group 1 and Group 2 school districts shall be:

(1) The quality assurance annual report; and

(2) Performance objectives.

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

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

In (a), substituted references to school report cards for references to school profiles throughout, substituted "Annually" for "By September 30 of each year" at the beginning of 1i, inserted references to Group 1 and Group 2 school districts in 1ii and 3vi, rewrote 2ii(3), substituted a reference to Group 1 and Group 2 school districts for a reference to school districts in 2iii, changed N.J.A.C. references in 3, and substituted a reference to October 30 annual reports for a reference to September 30 annual reports at the end of 3iii.

6:8-2.5 Curriculum and instruction

(a) The curriculum and instruction element shall be rated acceptable upon demonstration of performance in the following four indicators:

1. Written curriculum:

i. By September 30 of each year, the chief school administrator shall verify that there are board-approved, written curricula for all pupils including the following programs and services:

- (1) High school graduation requirements (N.J.A.C. 6:3-1.7(c)1);
- (2) Instruction in the United States Constitution (N.J.S.A. 18A:6-3);
- (3) New Jersey civics, history and geography (N.J.S.A. 18A:35-3);
- (4) Drug and alcohol education (N.J.S.A. 18A:40A-1 and N.J.A.C. 6:29-6);
- (5) Health, safety and physical education (N.J.S.A. 18A:35-5, 7, 8);
- (6) Accident and fire prevention (N.J.S.A. 18A:6-2; and
- (7) Family life education (N.J.A.C. 6:29-7.1).

ii. The district board of education shall provide a curriculum evaluation schedule for all content areas at all grade levels.

iii. The documentation/activities for Group 1 and Group 2 school districts shall be a statement of assurance submitted on the form prescribed by the Commissioner.

2. Implementation of curriculum and core curriculum content standards:

i. The district shall implement all approved curricula and include, for each curriculum area in grades K through 12, core curriculum content standards adopted by the State Board of Education in May 1996.

ii. The documentation/activities for Group 1 school districts shall be a master schedule for each school.

iii. The documentation/activities for Group 2 school districts shall be:

- (1) Written curriculum including content standards;
- (2) Lesson plans;
- (3) The master schedule;
- (4) Classroom observations; and
- (5) Staff interviews;

3. Curriculum articulation:

i. The district shall ensure that the curriculum is articulated among grades and schools in the district, and that teaching staff are involved in the process. Constituent, regional and sending-receiving districts shall also demonstrate curriculum articulation between/among districts.

ii. The documentation/activities for Group 1 and Group 2 school districts shall be a statement of assurance submitted on the form prescribed by the Commissioner; and

4. Gifted and talented programs and services:

i. The district shall make provisions for identifying pupils with gifted and talented abilities and for providing them with an educational program and services.

ii. The documentation/activities for Group 1 school districts shall be:

- (1) The written identification process; and
- (2) A sample lesson plan.

iii. The documentation/activities for Group 2 school districts shall be:

- (1) The written identification process;
- (2) Lesson plans;
- (3) Classroom observations; and
- (4) Staff interviews.

Amended by R.1998 d.457, effective September 8, 1998.
See: 30 N.J.R. 1479(a), 30 N.J.R. 3261(b).

In (a), changed N.J.A.C. reference in 1i(1), inserted references to Group 1 and Group 2 school districts in 1iii and 3ii, substituted a reference to core curriculum content standards for a reference to content standards in the introductory paragraph of 2, substituted a reference to core curriculum content standards for a reference to curriculum content standards in 2i, inserted a new 2ii, recodified former 2ii as 2iii and inserted a reference to Group 2 school districts, and rewrote 4.

Case Notes

Commissioner's monitoring function under the Public School Education Act to measure and achieve a thorough and efficient education for all public school children, failed to accomplish that goal and operated largely as a self-improvement system. *Abbott by Abbott v. Burke*, 119 N.J. 287, 575 A.2d 359 (1990).

Driver education not mandated and may be offered outside of regular school day, *Parsippany-Troy Hills Education Assn. v. Bd. of Ed., Parsippany-Troy Hills Twp., Morris Cty.*, 7 N.J.A.R. 236 (1981), affirmed 188 N.J.Super. 161, 457 A.2d 15 (App.Div.1983), certification denied 94 N.J. 527, 468 A.2d 182 (1983).

Contention that driver education courses should not be offered to public school students only as evening course. *Bergenfield Education Assn. v. Bd. of Ed. Bergenfield Boro., Bergen Cty.*, 6 N.J.A.R. 150 (1980), remanded per curiam Docket No. A-2615-81 (App.Div.1983).

Apportionment of pupils not effected by enrollment in performing arts program affirmed. *Board of Education of the City of Asbury Park v. Board of Education of the Red Bank Regional School District*, et seq., 97 N.J.A.R.2d (EDU) 464.

Educational opportunities for exceptionally gifted and talented pupils were provided by school district even though homogeneous grouping and pull-out classes were not provided. *Kanter v. Mountain Lakes Board of Education*, 95 N.J.A.R.2d (EDU) 454.

180 day school year. Atty. Gen. F.O. 1975, No. 19.

1. Eighth grade assessment:

6:8-2.6 Pupil performance: skills and competencies

(a) The pupil performance: skills and competencies element shall be rated acceptable upon demonstration of performance in the following two indicators:

i. Beginning in July 1993, 75 percent of eighth-grade pupils in the district shall score at or above the minimum level of proficiency established by the State Board of Education on the Eighth-Grade Early Warning Test (EWT) in mathematics, reading and writing. Matrix sampling of each school using the National Assessment of Educational Progress (NAEP) test exercises shall demonstrate that a percentage, as determined by the State Board of Education, of eighth-grade pupils tested shall achieve the minimum level of proficiency in science and social studies (civics, geography and history).

ii. Beginning in July 1996, eighth-grade district pupil performance in mathematics, reading, writing, science and social studies (civics, geography and history) shall be assessed using State-developed assessments that measure core curriculum content standards adopted by the State Board of Education. Proficiency levels and performance standards shall be established by the State Board of Education.

iii. The documentation/activities for Group 1 and Group 2 school districts shall be:

- (1) Results of the EWT;
- (2) Results of the NAEP matrix sampling; and
- (3) Pupil performance objectives, if required.

2. Eleventh grade assessment:

i. Beginning in July 1994, 85 percent of eleventh-grade pupils in the district shall score at or above the minimum level of proficiency established by the State Board of Education on the Grade 11 High School Proficiency Test (HSPT) in mathematics, reading and writing.

ii. Beginning in July 1996, eleventh-grade district pupil performance in mathematics, reading, writing, science and social studies (civics, geography and history) shall be assessed using State-developed assessments that measure core curriculum content standards. Proficiency levels and performance standards shall be established by the State Board of Education.

iii. The documentation/activities for Group 1 and Group 2 school districts shall be:

- (1) Results of the HSPT; and
- (2) Student performance objectives, if required.

Amended by R.1998 d.457, effective September 8, 1998.
See: 30 N.J.R. 1479(a), 30 N.J.R. 3261(b).

In (a), substituted a reference to two indicators for a reference to five indicators in the introductory paragraph, deleted former 1, 4 and 5, recodified former 2 and 3 as 1 and 2, substituted references to core curriculum content standards for references to content standards in 1ii and 2ii, and inserted references to Group 1 and Group 2 school districts in 1iii and 2iii.

Case Notes

Evidentiary hearing was not required before Commissioner of Education removed local school board and ordered creation of state-operated school district on ground that district was not providing thorough and efficient system of education. *Contini v. Board of Educ. of Newark*, 286 N.J.Super. 106, 668 A.2d 434 (A.D.1995).

Commissioner's monitoring function under the Public School Education Act to measure and achieve a thorough and efficient education for all public school children, failed to accomplish that goal and operated largely as a self-improvement system. *Abbott by Abbott v. Burke*, 119 N.J. 287, 575 A.2d 359 (1990).

6:8-2.7 Pupil behavior

(a) The pupil behavior element shall be rated acceptable upon demonstration of performance in the following four indicators:

1. Pupil attendance:

i. The average daily attendance rate for each district shall average 90 percent or higher as calculated for the three years prior to the school year in which the district is monitored.

ii. Each school with a three-year average below 90 percent shall develop performance objectives to improve pupil attendance, pursuant to N.J.A.C. 6:8-2.4(a)3.

iii. The documentation/activities for Group 1 school districts shall be:

- (1) The "New Jersey School Register Summary" provided by the Department; and
- (2) Pupil performance objectives, if below State standard.

iv. The documentation/activities for Group 2 school districts shall be:

- (1) The "New Jersey School Register" provided by the Department;
- (2) The "School Register Summary Report", prepared by the Department of Education; and
- (3) Pupil performance objectives, if below State standard;

2. Dropouts:

i. The dropout rate for pupils in grades seven through 12 shall not exceed 10 percent, as calculated for the year prior to the school year in which the district is monitored.

ii. Dropouts are defined as students who were 16 years of age or older who failed to complete the school year.

iii. Each school with a three-year average dropout rate exceeding 10 percent, as calculated for the year prior to monitoring, shall develop performance objectives to reduce the dropout rate, pursuant to N.J.A.C. 6:8-2.7(a)2.

iv. The documentation/activities for Group 1 and Group 2 school districts shall be:

- (1) The fall report (consolidated enrollment; dropout information);
- (2) The application for State school aid; and
- (3) Pupil performance objectives, if required;

3. Guidance and counseling:

i. The district shall provide all pupils with a board-approved program of guidance and counseling services.

ii. The documentation/activities for Group 1 school districts shall be:

- (1) A written description of guidance and counseling services; and
- (2) Board minutes.

iii. The documentation/activities for Group 2 school districts shall be:

- (1) A written description of guidance and counseling services;
- (2) Board minutes;
- (3) Staff interviews; and
- (4) School visits; and

4. Substance abuse prevention:

i. The district shall develop and implement a board-approved substance abuse prevention program for all grades which includes:

- (1) Policies and procedures in accordance with N.J.A.C. 6:29-6, the substance abuse code;
- (2) Provisions for evaluation, intervention and treatment/referral services by appropriately certified staff;
- (3) Reporting, notification and examination procedures;
- (4) Curriculum and instruction consistent with N.J.A.C. 6:29-6.6 and N.J.S.A. 18A:40A-16;
- (5) Cooperation with local law enforcement in accordance with Enforcement of the Drug-Free School Zone Code, N.J.A.C. 6:3-6; and
- (6) Cooperation with local municipal alliance committees and other appropriate organizations and agencies.

ii. The documentation/activities for Group 1 and Group 2 school districts shall be a statement of assurance submitted on the form prescribed by the Commissioner.

Rewrote the section.

6:8-2.8 Teaching staff and professional development

(a) The teaching staff and professional development element shall be rated acceptable upon demonstration of performance in the following five indicators:

1. Certified teaching staff:

i. The district shall employ teaching staff members who hold appropriate certificates for each area of assignment pursuant to N.J.A.C. 6:11.

ii. The documentation/activities for Group 1 school districts shall be a desk audit of the fall certificated staff report at the county office.

iii. The documentation/activities for Group 2 school districts shall be:

- (1) The fall certificated staff report;
- (2) Classroom visits;
- (3) Teacher schedules; and
- (4) Staff lists;

2. Evaluation of teaching staff:

i. The district shall observe and evaluate tenured and nontenured teaching and administrative staff pursuant to N.J.A.C. 6:3-4.1, 4.2 and 4.3.

ii. The documentation/activities for Group 1 school districts shall be the observation/evaluation schedule.

iii. The documentation/activities for Group 2 school districts shall be:

- (1) The observation/evaluation schedule; and
- (2) Observation/evaluation reports;

3. Professional improvement plans:

i. The district shall develop and cause to be implemented annual professional improvement plans for each teaching staff member pursuant to N.J.A.C. 6:3-4.1, 4.2 and 4.3.

ii. The documentation/activities for Group 1 school districts shall be the observation and evaluation schedule.

iii. The documentation/activities for Group 2 school districts shall be:

- (1) A review of professional improvement plans and
- (2) Interviews with teaching staff members;

4. Professional development plan:

i. The district shall develop and implement a multi-year plan for professional development containing the following components:

Amended by R.1998 d.457, effective September 8, 1998.
See: 30 N.J.R. 1479(a), 30 N.J.R. 3261(b).

- (1) Teaching staff needs;
- (2) Link to pupil performance;
- (3) Relationship to professional improvement plans;
- (4) Integration with curriculum development; and
- (5) Follow-up evaluation.

ii. The documentation/activities for Group 1 school districts shall be a desk audit of the Quality Assurance Annual Report at the county office.

iii. The documentation/activities for Group 2 school districts shall be:

- (1) Interviews with teaching staff; and
- (2) A review of the quality assurance annual report; and

5. Teaching staff appointments:

i. The chief school administrator shall recommend formal appointment of all teaching staff members to the district board of education.

ii. The documentation/activities for Group 1 school districts shall be a statement signed by the chief school administrator.

iii. The documentation/activities for Group 2 school districts shall be:

- (1) The review of board minutes; and
- (2) An interview with the chief school administrator.

Amended by R.1998 d.457, effective September 8, 1998.
See: 30 N.J.R. 1479(a), 30 N.J.R. 3261(b).
Rewrote the section.

Law Review and Journal Commentaries

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

Case Notes

Monitoring regulations are designed to evaluate performance. *Rotondo v. Carlstadt-East Rutherford Regional High School Dist.*, Bergen County, 276 N.J.Super. 36, 647 A.2d 174 (A.D.1994).

Board was not bound to follow recommendation of chief school administrator regarding reemployment of teacher. *Rotondo v. Carlstadt-East Rutherford Regional High School Dist.*, Bergen County, 276 N.J.Super. 36, 647 A.2d 174 (A.D.1994).

6:8-2.9 School resources: finance and facilities

(a) The school resources: finance and facilities element shall be rated acceptable upon demonstration of performance in the following eight indicators:

1. State aid:

i. The district shall accurately report enrollment and other data necessary for State aid calculations by October 15.

ii. The most recent adjusted aid data shall demonstrate that aid is at least 95 percent accurate. Adjustments due to district errors shall be less than five percent of the total aid. The district shall meet this performance standard for at least five of seven years, including the year monitored.

iii. The documentation/activities for Group 1 and Group 2 school districts shall be the Application for State School Aid.

2. Generally Accepted Accounting Principles (GAAP):

i. The district shall implement a uniform system of double entry bookkeeping and GAAP accounting in accordance with N.J.A.C. 6:20-2A.

ii. The documentation/activities for Group 1 and Group 2 school districts pursuant to N.J.A.C. 6:20-2A shall be:

- (1) The general ledger (double entry bookkeeping);
- (2) Required subsidiary journals and ledgers; and
- (3) Monthly and annual reports in compliance with the uniform system prescribed by the State Board of Education; and
- (4) The annual audit;

3. Overexpenditure of funds:

i. The district board of education shall implement adequate controls to prevent the overexpenditure of any funds or yearly deficit in major accounts in accordance with N.J.A.C. 6:20-2A.10.

ii. The documentation/activities for Group 1 and Group 2 school districts shall be:

- (1) The annual audit;
- (2) The board secretary's monthly financial reports to the district board of education and the district board of education's Comprehensive Annual Financial Report;
- (3) Official notification of deficit from the district board of education; and
- (4) Board minutes;

4. Annual audit and recommendations:

i. By November 5, the district shall file an annual audit of accounts and financial transactions with the Division of Finance in accordance with N.J.S.A. 18A:23-1 et seq.

ii. The district board of education shall implement a plan resulting in the correction of all audit recommen-

dations. Recommendations shall not be repeated for the two years immediately preceding monitoring.

iii. The documentation/activities for Group 1 and Group 2 school districts shall be:

- (1) The district's annual audit and audit synopsis;
- (2) The corrective action plan for audit recommendations; and
- (3) Board minutes;

5. Transportation contracts:

i. The district shall administer school transportation contracts.

ii. All transportation contracts shall be submitted to the county superintendent for approval in accordance with N.J.S.A. 18A:39-2 and 3 and N.J.A.C. 6:21-16.1.

iii. The documentation/activities for Group 1 and Group 2 school districts shall be:

6. Health and safety:

i. The district shall comply annually with health and safety requirements pursuant to regulation, including, but not limited to, N.J.A.C. 6:22 and 6:53.

ii. The documentation/activities for Group 1 and Group 2 school districts shall be:

- (1) The New Jersey Department of Education checklist for the evaluation of school buildings and
- (2) School visits;

7. Comprehensive maintenance plan:

i. The district board of education shall develop and implement a multi-year (three to five years) comprehensive maintenance plan. The comprehensive maintenance plan shall be both corrective and preventative, including the interior and exterior conditions of each school building and grounds. The plan shall address each of the major systems and areas of: heating/ventilating/air conditioning, mechanical, plumbing, electrical, structural and grounds.

ii. The documentation/activities for Group 1 school districts shall be a desk audit of the district's comprehensive maintenance plan.

iii. The documentation/activities for Group 2 school districts shall be:

- (1) The district's comprehensive maintenance plan;
- (2) Implementation records;
- (3) The current and prior years' budget;
- (4) The annual audit;
- (5) Board minutes;
- (6) School visits; and

(7) Staff interviews;

8. Facilities master plan—substandard classrooms:

i. The district board of education shall review and revise the long-range facilities master plan at least once every five years, pursuant to N.J.A.C. 6:22-7.1.

ii. The long-range facilities master plan shall be approved by the county superintendent pursuant to N.J.A.C. 6:22-7.1(b).

iii. The district board of education shall approve and implement a plan to upgrade or eliminate all substandard classrooms pursuant to N.J.A.C. 6:22-6.1.

iv. The temporary use of trailers shall be approved by the Office of Educational Facility Planning.

v. A district with a school or schools on split sessions shall fail to meet the standards of this indicator.

vi. The documentation/activities for Group 1 and Group 2 school districts shall be:

- (1) The district's long-range facilities master plan;
- (2) The application for initial approval/renewal of substandard instructional areas; and
- (3) School visits.

Amended by R.1998 d.457, effective September 8, 1998.
See: 30 N.J.R. 1479(a), 30 N.J.R. 3261(b).

In (a), inserted references to Group 1 and Group 2 school districts throughout, inserted a new 7ii, recodified former 7ii as 7iii and inserted a reference to Group 2 school districts, and substituted a reference to the Office of Educational Facility Planning for a reference to the Bureau of Facility Planning in 8iv.

Case Notes

Rejection of bids due to inefficiency in repair contract affirmed. *C & A Window Service v. State Operated School District of the City of Newark, Essex County*, 97 N.J.A.R.2d (EDU) 433.

6:8-2.10 State and Federally mandated programs and services

(a) The State and Federally mandated programs and services element shall be rated acceptable upon demonstration of performance in the following two indicators:

1. Review of mandated programs and services:

i. Regularly-scheduled reviews will be conducted in each district by the appropriate division of the State Department of Education to determine compliance according to State or Federal law or regulation. The mandated reviews shall cover the following areas:

- (1) Affirmative action;
- (2) Bilingual education;
- (3) English as a second language;
- (4) Desegregation; and
- (5) Special education.

ii. If the district is rated compliant as a result of the review, it shall not be required to undergo additional monitoring as part of the seven-year monitoring cycle.

iii. If the district is rated noncompliant as a result of the review, it shall develop and implement a corrective action plan. The status of the corrective action plan shall be reviewed prior to monitoring.

iv. The documentation/activities for Group 1 and Group 2 school districts shall be State Department of Education program and service review reports and corrective action plans, if required; and

2. Grants management:

i. Each district shall expend funds allocated through grants for State and Federally mandated programs and services in accordance with the contract.

ii. the documentation/activities for Group 1 and Group 2 school districts shall be State Department of Education program and service review reports.

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

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

In (a)1i, deleted former (2) and (7) through (9), and recodified former (3) through (6) as (2) through (5).

6:8-2.11 Findings

(a) The monitoring team shall record its findings on each element required by this chapter, using worksheets prescribed by the Commissioner of Education.

1. The monitoring team shall meet with the chief school administrator and board secretary at an exit conference to review its findings and outline future directions for the districts.

2. The county superintendent of schools shall send a formal notification of the findings to the chief school administrator and board secretary within 20 workdays of the completion of the monitoring visit.

3. The formal notification of findings shall include:

i. Completed worksheets;

ii. A recommendation to the Commissioner of the certification status of the district; and

iii. A statement of future actions to be taken by the district, if necessary.

4. The district shall, within 60 days of the receipt of the formal notification, discuss the findings of the monitoring team at a regular or special meeting of the district board of education.

6:8-2.12 Certifying a district with or without conditions

(a) The following pertains to certification without conditions:

1. For each district that receives an acceptable rating on all indicators in the eight elements required by this chapter, the county superintendent of schools shall submit a summary report of findings and a recommendation for certification to the Commissioner of Education. The

Commissioner, with approval of the State Board of Education, shall notify the district of State certification for a period of seven years.

(b) The following pertain to certification with conditions:

1. When a district does not meet the required standards of the evaluation of school districts pursuant to this subchapter, the county superintendent of schools shall meet with the chief school administrator and board secretary to review the identified deficiency(ies) and determine if the district:

i. Can correct the identified deficiency(ies) without additional diagnostic monitoring or technical assistance within a period of time not to exceed 12 months; or

ii. Should be directed by the Commissioner to enter Level II.

2. Following the meeting with the school district representatives, the county superintendent of schools, in consultation with the Assistant Commissioner, Division of Field Services, shall recommend to the Commissioner that the district be granted certification with conditions or be directed to Level II pursuant to N.J.A.C. 6:8- 3.1.

i. Any district rated as unacceptable may, with approval of the district board of education, petition the county superintendent of schools to rescind the rating by presenting written documentation of its performance on indicators rated as unacceptable. The Assistant Commissioner, Division of Field Services, shall rule on petitions where there is a lack of agreement on acceptable performance.

3. Within 30 days of the county superintendent's recommendation, the district shall be formally notified by the Commissioner of Education that the district is certified with conditions and that the deficiency(ies) must be corrected within the specified period of time.

4. The district shall proceed with the correction of monitoring deficiencies according to established timelines.

5. At the conclusion of the established timeline for correction of deficiencies, the county superintendent of schools, in consultation with the Assistant Commissioner, Division of Field Services shall determine the validation necessary to document the district's current status with regard to previously approved indicators.

6. The county superintendent of schools shall verify the district's correction of deficiencies and its current status with regard to previously approved indicators; and shall, in consultation with the Assistant Commissioner, Division of Field Services, recommend to the Commissioner that the district be:

i. Recommended to the State Board of Education for certification;

ii. Granted an extended amount of time to correct deficiencies; or

iii. Directed by the Commissioner to enter Level II monitoring pursuant to law.

(1) The district board of education of a school district which is directed to enter Level II monitoring may appeal that decision to the State Board of Education pursuant to N.J.S.A. 18A:7A-14A(2).

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

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

In (b), changed N.J.A.C. references and substituted references to the Division of Field Services for references to the Division of County and Regional Services throughout.

SUBCHAPTER 3. RULES FOR LEVEL II AND III DISTRICTS

6:8-3.1 Level II districts

(a) A district which is directed by the Commissioner to enter Level II monitoring shall be examined by an external review team appointed by the county superintendent of schools. The review team shall consist of members qualified by training and experience to examine specific conditions within the district. The entire cost of the activities associated with the external review team shall be paid by the Department of Education.

(b) The Commissioner shall direct the county superintendent to establish an open public meeting within the district that is duly advertised and posted whereby parents, school employees and community residents may meet with the county superintendent and external review team to discuss their concerns regarding the district.

(c) In conjunction with the Department of Education, and at the direction of the Commissioner, the external review team shall determine which aspects of the district's operation to examine. The examination may be limited to identified deficiencies within the district or may include all aspects of the district's operations such as education, management, governance and finance.

(d) The external review team shall, in addition, examine conditions in the community which may adversely affect the ability of pupils to learn.

(e) Within 30 calendar days after its review, the external team shall submit a report to the Commissioner of Education. The report shall include:

1. Findings, conclusions and directives to be used by the district in the development and implementation of a corrective action plan to achieve certification; and

2. Recommendations as to the technical assistance the district will require to effectively implement the corrective action plan.

(f) In addition, the external team may recommend measures to be taken to mitigate adverse community conditions which affect the ability of pupils to learn.

(g) The Commissioner shall transmit, within 15 calendar days from receipt, the findings of the external review team and shall direct the district to develop a corrective action plan to implement the recommendations.

(h) The district, within 30 days of formal notification, shall discuss the findings of the external team at a regular or special meeting of the district board of education.

(i) Within 60 calendar days of formal notifications, the chief school administrator shall submit a corrective action plan approved by the district board of education to the Commissioner for approval.

(j) In reviewing the district's corrective action plan, the Commissioner shall determine the cost of implementing the plan and shall identify those aspects of the plan which are already contained in the district's current expense budget.

(k) The Commissioner, where appropriate, shall reallocate funds within the district's budget to support the corrective action plan. Any line item transfers of reallocated funds shall have prior approval of the Commissioner.

(l) The district shall implement the corrective action plan activities within one year of the Commissioner's formal notification that the plan has been approved. The Commissioner shall ensure that technical assistance is provided to the district to implement the corrective action plan.

1. Until the district is certified, the county superintendent of schools shall assess the progress of the district in implementing the corrective action plan and shall submit quarterly reports to the Assistant Commissioner, Division of Field Services.

2. The county superintendent of schools, upon completion of the district's corrective action plan activities shall determine whether the standards for certification have been achieved and shall submit a formal report to the Assistant Commissioner, Division of Field Services.

3. The Assistant Commissioner, Division of Field Services, shall submit to the Commissioner of Education a formal report which recommends that the district be:

i. Recommended to the State Board of Education for certification;

ii. Recommended to the State Board of Education for certification with conditions pursuant to N.J.A.C. 6:8-2.12.

iii. Granted an extended amount of time to correct deficiencies; or

iv. Directed by the Commissioner to enter Level III Monitoring pursuant to law.

(1) The board of education of a school district which is directed to enter Level III monitoring may appeal that decision to the State Board of Education pursuant to N.J.S.A. 18A:7A-14c(3).

Amended by R.1998 d.457, effective September 8, 1998.
See: 30 N.J.R. 1479(a), 30 N.J.R. 3261(b).

In (l), substituted references to the Division of Field Services for references to the Division of County and Regional Services throughout, inserted a new 3ii, and recodified former 3ii and 3iii as 3iii and 3iv.

Case Notes

Commissioner's monitoring function under the Public School Education Act to measure and achieve a thorough and efficient education for all public school children, in practice failed to accomplish that goal and operated largely as a self-improvement system. *Abbott v. Abbott v. Burke*, 119 N.J. 287, 575 A.2d 359 (1990).

6:8-3.2 Level III districts

(a) A district which fails to correct the deficiencies noted in the Level II evaluation process shall be directed by the Commissioner to enter Level III monitoring.

(b) When a district which has undergone an external review is directed to enter Level III monitoring, the Commissioner shall prepare an administrative order directing the corrective actions which shall be taken by the district.

1. The corrective actions shall be based on the findings and conclusions of the external review team and the monitoring of the Level II plan by the county superintendent.

2. The Commissioner shall ensure that technical assistance is provided to the district to implement the corrective actions.

3. If the Commissioner determines, based on the findings of the Level II or Level III review team, that conditions within the district may preclude the successful implementation of a corrective action plan, he shall direct that a comprehensive compliance investigation be conducted by the State Department of Education pursuant to N.J.A.C. 6:8-3.3. In the case of a Level III review, the Commissioner may order any necessary action to insure the security of the books, papers, vouchers and records of the district in accordance with N.J.S.A. 18A:7A-14c.

4. In reviewing the district's corrective action plan, the Commissioner shall determine the cost of implementing the plan and shall identify those aspects of the plan which are already contained in the district's current expense budget.

5. The Commissioner, where appropriate, shall reallocate funds within the district, or take whatever other measures deemed necessary and appropriate to insure implementation of the corrective action. Any line item transfers of reallocated funds shall have prior approval by the Commissioner.

6. The district shall implement the corrective action plan within one year of the Commissioner's formal issuance of the administrative order.

i. Monthly, until the district is certified, the county superintendent shall monitor and assess the progress of the district in implementing the corrective action plan and shall submit quarterly reports to the Assistant Commissioner, Division of Field Services.

ii. The county superintendent, upon completion of the district's corrective action plan, shall determine whether the standards for certification have been met and shall submit a formal report to the Assistant Commissioner, Division of Field Services.

iii. The Assistant Commissioner, Division of Field Services, shall submit to the Commissioner a formal report which recommends that the district be:

(1) Recommended to the State Board of Education for certification; or

(2) Directed by the Commissioner to undergo a comprehensive compliance investigation pursuant to N.J.A.C. 6:8-3.3.

(c) When a district which has not had a comprehensive examination of all aspects of the district's operations by an external review team is directed to enter Level III, the Commissioner shall designate the county superintendent to appoint an external review team, whose members shall be qualified by training and experience to examine the conditions in the district.

1. Within three months, in conjunction with the Department of Education, the team shall examine all aspects of the district's operation, including, but not limited to education, governance, management and finance.

2. Within 30 calendar days after its review, the external team shall report its findings and conclusions, including directives to be used in the preparation of a corrective action plan to achieve certification, to the Commissioner.

3. If the Commissioner finds, based on the findings of the Level II or Level III review team, that conditions within the district may preclude the successful implementation of a corrective action plan, he or she shall direct that a comprehensive compliance investigation be conducted by the State Department of Education pursuant to N.J.A.C. 6:8-3.3 and may order any necessary action to insure the security of the books, papers, vouchers and records of the district in accordance with N.J.S.A. 18A:7A-14c.

4. Within 30 calendar days of the receipt of the report, the Commissioner shall prepare an administrative order directing the corrective actions which shall be taken by the district based upon the findings and conclusions of the Level III external review team and the county superintendent's monitoring of the Level II plan.

5. The Commissioner shall insure that technical assistance is provided to the district in order to implement the corrective actions.

6. In reviewing the district's corrective action plan, the Commissioner shall determine the cost of implementing the plan and shall identify those aspects of the plan which are already contained in the district current expense budget.

7. The Commissioner, where appropriate, shall reallocate funds within the district's budget or take whatever other measures deemed necessary and appropriate to support the district's corrective action plan. Any line item transfers of reallocated funds shall have prior approval by the Commissioner.

8. The district shall implement the corrective action plan within one year of the Commissioner's formal issuance of the administrative order.

i. Monthly, until the district is certified, the county superintendent shall monitor and assess the progress of the district in implementing the corrective action plan and shall submit quarterly reports to the Assistant Commissioner, Division of Field Services.

ii. The county superintendent, upon completion of the district's corrective action plan shall determine whether the standards for certification have been achieved and shall submit a formal report to the assistant commissioner, Division of Field Services.

iii. The Assistant Commissioner, Division of Field Services, shall submit to the Commissioner a formal report which recommends that the district be:

(1) Recommended to the State Board of Education for certification; or

(2) Directed by the Commissioner to undergo a comprehensive compliance investigation pursuant to N.J.A.C. 6:8-3.3.

Amended by R.1998 d.457, effective September 8, 1998.
See: 30 N.J.R. 1479(a), 30 N.J.R. 3261(b).

In (b) and (c), changed N.J.A.C. references and substituted references to the Division of Field Services for references to the Division of County and Regional Services throughout.

Case Notes

Commissioner's monitoring function under the Public School Education Act to measure and achieve a thorough and efficient education for all public school children, failed to accomplish that goal and had operated largely as a self-improvement system. *Abbott v. Abbott v. Burke*, 119 N.J. 287, 575 A.2d 359 (1990).

6:8-3.3 Comprehensive compliance investigation

(a) A comprehensive compliance investigation shall be conducted under the direction of the Assistant Commissioner, Division of Field Services, under one of the following circumstances:

1. The review team's report indicates that conditions exist within the district that may preclude the successful implementation of a corrective action plan; or

2. After completion of the corrective action plan activities, a district fails to achieve certification and does not demonstrate reasonable progress toward meeting certification standards, pursuant to N.J.A.C. 6:8-2.3 through 2.10.

(b) The director of the Department of Education's compliance unit shall organize and supervise an investigatory team to assess conditions in the district.

1. A comprehensive audit of the district's governance, management and fiscal operations shall be conducted by a private auditing agency under contract to the Department of Education.

2. The compliance unit shall conduct a thorough investigation of the district's programmatic, fiscal and management activities.

(c) The director of the Department of Education's compliance unit shall submit a report of investigatory findings to the Assistant Commissioner, Division of Field Services.

(d) Based on the report of investigatory findings, the Assistant Commissioner shall submit to the Commissioner a recommended administrative order outlining such corrective action as is deemed necessary.

(e) The Commissioner, after a plenary hearing before an administrative law judge pursuant to N.J.S.A. 52:14B-1 et seq., may order the implementation of an administrative order requiring the district to implement the corrective action.

Amended by R.1998 d.457, effective September 8, 1998.
See: 30 N.J.R. 1479(a), 30 N.J.R. 3261(b).

In (a) and (c), substituted references to the Division of Field Services for references to the Division of County and Regional Services; and in (a)2, changed N.J.A.C. reference.

6:8-3.4 Corrective action by Commissioner of Education

Any noncertified district which does not demonstrate reasonable progress toward compliance with the provisions of N.J.S.A. 18A:7A-1 et seq. (Public School Education Act of 1975) and New Jersey Administrative Code Titles 6 and 6A, Education, and toward the resolution of major problems shall be subject to further intervention by the Commissioner of Education, as provided by law.

Amended by R.1998 d.457, effective September 8, 1998.
See: 30 N.J.R. 1479(a), 30 N.J.R. 3261(b).

Inserted a reference to Title 6A.