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SUBCHAPTER 1. PURPOSE, SCOPE AND DEFINITIONS

6A:23A-1.1 Purpose and scope

(a) The purpose of these rules is to assure the financial accountability of boards of education through enhanced State monitoring, oversight and authority, and to ensure that each district board of education adopts an annual budget that provides adequate resources to meet the State Constitution's mandate for a thorough and efficient system of free public schools for all children. These rules set forth the roles of the Commissioner of Education and the Executive County Superintendent in overseeing board of education budgeting and expenditures. The rules also establish mechanisms to ensure the efficient expenditure of budgeted funds in a manner consistent with a district's approved annual budget.

(b) Pursuant to these rules, the Commissioner of Education delegates to the Executive County Superintendent those powers, tasks and duties that further support efficiency of

district operation pursuant to N.J.S.A. 18A:7F-43 et seq. and that complement the powers, tasks and duties set forth in N.J.S.A. 18A:7-1 et seq.

1. The rules effectuate the provisions of P.L. 2007, c. 260, P.L. 2007, c. 63, and P.L. 2008, c. 37.

2. These rules supersede the rules at N.J.A.C. 6A:10, 6A:10A and 6A:23 where the provisions of those rules are inconsistent.

Special amendment, R.2009 d.35, effective December 18, 2008.
See: 41 N.J.R. 642(a).

In (b)1, substituted a comma for "and" preceding "P.L. 2007", and inserted ", and P.L. 2008, c. 37".

6A:23A-1.2 Definitions

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

"Adjusted for inflation" means indexed by the greater of the CPI or 2.5 percent.

"Adjusted tax levy" means the property tax levy for current purposes, excluding any debt pursuant to N.J.S.A. 18A:7F-37.

"Administrative cost" means total administrative costs as reflected in the Comparative Spending Guide and defined in the Uniform Minimum Chart of Accounts for New Jersey Public Schools and by the National Center for Educational Statistics (NCES)), as referred to at N.J.A.C. 6A:23-2.2(f)1, and other reporting directives published and distributed by the Commissioner pursuant to N.J.S.A. 18A:4-14 and N.J.A.C. 6A:23-2.

"Administrator" means as set forth in N.J.S.A. 18A:12-23.

"Annual audit" means the audit conducted pursuant to the provisions of N.J.S.A. 18A:23-1 et seq. and the Federal Single Audit Act of 1984, Public Law 98-502, amended by Public Law 104-156, of the district board of education's Comprehensive Annual Financial Report.

"Annual audit program" means the uniform program published and distributed by the Commissioner for preparation of the Comprehensive Annual Financial Report by a district board of education pursuant to N.J.S.A. 18A:4-14 and N.J.A.C. 6A:23-2.2(i).

"Authorized membership of the school board" means the full membership of the district board of education as established pursuant to Title 18A of the New Jersey Statutes.

"Base budget" means the district board of education's school budget that contains an adjusted tax levy calculated pursuant to the provisions of N.J.S.A. 18A:7F-38 and 39, State aid, other than preschool education aid, received pursuant to the provisions of N.J.S.A. 18A:7F-43 et seq., miscellaneous revenue estimated pursuant to GAAP, and designated

general fund balance; but exclusive of additional spending proposals submitted to the voters or board of school estimate.

"Bilingual education pupil" means a resident pupil enrolled in a program of bilingual education or in an English as a second language program approved by the State Board of Education.

"Board of trustees" means the public agents authorized by the State Board of Education to supervise and control a charter school pursuant to the provisions of N.J.S.A. 18A:36A-1 et seq.

"Business" means any corporation, partnership, firm, enterprise, franchise, trust, association, sole proprietorship, union, political organization, or other legal entity, but shall not include a local public school district or any other public entity.

"Capital maintenance" means as defined in N.J.A.C. 6A:26A-1.3.

"Capital outlay" means capital outlay as defined in GAAP.

"Capital project" means as defined in N.J.A.C. 6A:26-1.2.

"Capital projects fund" means the governmental fund that accounts for financial resources used to acquire or construct capital facilities (other than those of proprietary funds and fiduciary funds). The source of revenue in this fund includes the sale of bonds, grants received pursuant to N.J.S.A. 18A:7G-15, and other sources as defined in N.J.A.C. 6A:26-4.1. In the case of a charter school, the source of revenue may be a mortgage. Separate accounting is required for each capital project.

"Capital projects fund deficit" means the amount of the sum of expenditures and encumbrances for a capital project that exceeds the total amount of funds authorized for the capital project by the State, district's voters by referendum, the board of school estimate or the capital projects control board as applicable.

"Capital reserve account" means the account established by a district board of education pursuant to N.J.S.A. 18A:7G-31 and 18A:7F-41 into which monies are deposited to help finance a school district's local share of its long-range facilities plan.

"Chart of accounts" means the Department's prescribed classification structure for the accounting system that permits the standardization of reported financial data whereby analyses may be performed within and between district boards of education and on a nationwide basis using common terminology and classifications established by the NCES.

"Charter school" means a public school that is established in accordance with N.J.S.A. 18A:36A-1 et seq.

"Chief school administrator" means the superintendent pursuant to N.J.S.A. 18A:17-15, or the administrative principal pursuant to N.J.S.A. 18A:17-20.5, or the State district super-

intendent pursuant to N.J.S.A. 18A:7A-35 or 18A:7A-49 in the case of a district under full or partial intervention, or the lead person of a charter school as defined at N.J.A.C. 6A:11-1.2.

“Combination pupil” means a resident pupil who is both an at-risk pupil and a bilingual education pupil as defined in N.J.S.A. 18A:7F-45.

“Commissioner” means the Commissioner of Education or his or her designee.

“Comparative Spending Guide” means the annual report of comparative financial statistics of districts compiled and published for general distribution by the Commissioner pursuant to N.J.S.A. 18A:4-30 and available on the Department’s website at <http://www.state.nj.us/njded/guide>.

“Comprehensive Annual Financial Report” or “CAFR” means the official annual report of a governmental unit containing the basic financial statements, management discussion and analysis (MD&A) and other required supplementary information and statistical data prepared in accordance with standards established by the Governmental Accounting Standards Board.

“Concentration of at-risk pupils” shall be based on pre-budget year pupil data and means, for a school district or a county vocational school district, the number of at-risk pupils among those counted in resident enrollment, divided by resident enrollment pursuant to N.J.S.A. 18A:7F-45.

“Core Curriculum Content Standards” means the student achievement standards adopted and revised every five years by the State Board of Education, pursuant to N.J.S.A. 18A:7F-46. The standards ensure that all children are provided the educational opportunity needed to equip them for the role of citizen and labor market competitor.

“County special services school district” or “CSSSD” means any entity established pursuant to N.J.S.A. 18A:46-29 et seq.

“County superintendent roundtable” means the regularly scheduled meetings in each county with the chief school administrators in that county and the executive county superintendent.

“County vocational school district” or “CVSD” means any entity established pursuant to N.J.S.A. 18A:54-1 et seq.

“CPI” means as defined at N.J.S.A. 18A:7F-45 and 18A:7F-5.

“Debt service” means as defined at N.J.S.A. 18A:7G-3 and N.J.A.C. 6A:26-1.2.

“Debt service fund” means a governmental fund used to account for the accumulation of resources for, and the payment of, general long-term debt principal and interest.

“Department” means the New Jersey Department of Education.

“Educational Service Commission” or “ESC” means Educational Service Commission established pursuant to N.J.S.A. 18A:6-52.

“Efficiency standards” means the standards established pursuant to N.J.S.A. 18A:7F-46 that are contained in Appendix E of the publication, A Formula for Success: All Children, All Communities dated December 18, 2007 and available on the Department’s website at: <http://www.state.nj.us/education/sff/reports/AllChildrenAllCommunities.pdf>. The standards shall be reestablished every three years in the Educational Adequacy Report pursuant to N.J.S.A. 18A:7F-46 beginning with the 2011-12 school year.

“Emergent circumstance” means a circumstance that must be addressed expeditiously to avoid peril to the health and safety of students and/or staff and/or to avert an operating deficit from the required implementation of the thoroughness standards.

“Emergent condition” means as defined at N.J.A.C. 6A:26-1.2.

“Energy costs” mean the cost of electricity, natural gas, and fuel oil.

“Enterprise fund” means a proprietary fund used to report activities for which a fee is charged to external users for goods and services. Activities are required to be reported if the pricing policies of the activity establish fees and charges designed to recover its costs, or if the activity meets other criteria established by Governmental Accounting Standards Board Statement No. 34, paragraph 67.

“Excess costs” means as defined at N.J.A.C. 6A:26-1.2.

“Executive County Superintendent” means the Executive County Superintendent of Schools or Acting Executive County Superintendent of Schools pursuant to N.J.S.A. 18A:7-1 et seq.

“Extraordinary costs” mean particular expenditures beyond what is customary and usual in the operation of a public school district, that are beyond the control of the school district, that are necessary to achieve a “T&E” Education as determined by the Commissioner, and where said expenditures either were not included in the original budget of the prebudget year or increased by more than four percent of the amount included in the original budget of the prebudget year.

“Fiduciary funds” means the funds used to account for assets held by a district board of education in a trustee capacity or agency capacity for others, and therefore cannot be used to support the district board of education’s own programs.

“Forensic audit” means an audit conducted in a scientific fashion and in greater depth and specificity than the annual

independent audit required by N.J.S.A. 18A:23-1, which is sufficiently thorough and complete so that an accountant, in his or her independent professional judgment, can deliver a finding as to accounts, inventories, or the presentation thereof that is of such high quality that it would be sustainable in an adversarial legal proceeding, or judicial or administrative review.

“Fund” means a fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities or balances, and changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions or limitations.

“GAAP” means the generally accepted accounting principles that are uniform minimum standards of and guidelines to financial accounting and reporting that are generally recognized as essential to effective management control and financial reporting, and are promulgated and published by the Governmental Accounting Standards Board as prescribed by the State Board pursuant to N.J.S.A. 18A:4-14.

“General fund” means a governmental fund that accounts for all financial resources of the district board of education or charter school board of trustees, except those required to be accounted for in another fund.

“Health care costs” mean the costs of medical and prescription drug insurance consistent with those benefits provided by the School Employees’ Health Benefits Program.

“Household income” means income as defined in 7 CFR 245.2 and 245.6 or any subsequent superseding Federal law or regulation pursuant to N.J.S.A. 18A:7F-45.

“Immediate family member” means the person’s spouse, partner in a civil union as defined in N.J.S.A. 37:1-33, domestic partner as defined in N.J.S.A. 26:8A-3, or dependent child, residing in the same household.

“Individualized education program” or “IEP” means as defined in N.J.A.C. 6A:14-13.

“Insurance” means coverage for general liability, automobile liability, school board liability, errors and omissions, property loss or damage, and workers compensation.

“Internal control” means a process, effected by an entity’s management, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

1. Effectiveness and efficiency of operations;
2. Reliability of financial reporting; and
3. Compliance with applicable laws and regulations.

“Job description” means a written specification of the function of a position, duties and responsibilities, the extent and

limits of authority, and work relationships within and outside the school and district.

“Lease purchase payment” means as defined at N.J.A.C. 6A:26-1.2.

“Line item account” means the lowest (most specific) level of detail in the appropriations/expenditure classification.

“Local public school district” or “school district” means any local or regional school district established pursuant to N.J.S.A. 18A:8 or 18A:13, or a school district under full State intervention pursuant to N.J.S.A. 18A:7A-34, but not including a charter school established pursuant to N.J.S.A. 18A:36A-1 et seq. unless specified otherwise.

“Local share” means as calculated pursuant to N.J.S.A. 18A:7F-52 for purposes of N.J.S.A. 18A:7F-43 et seq. and for purposes of a school facilities project as defined at N.J.A.C. 6A:26-1.2 and pursuant to N.J.S.A. 18A:7G-3.

“Long-range facilities plan” or “LRFP” means the plan required to be submitted to the Commissioner by a district board of education pursuant to N.J.S.A. 18A:7G-4 and N.J.A.C. 6A:26-2.

“Member of immediate family” means the spouse, civil union partner pursuant to N.J.S.A. 37:1-33, domestic partner pursuant to N.J.S.A. 26:8A-1 et seq. or dependent child of the individual residing in the same household.

“National Center for Education Statistics” or “NCES” means the organization that publishes the Federal accounting manual, Financial Accounting for Local and State School Systems, that contains the financial accounting terminology and classifications required by N.J.S.A. 18A:4-14 for use in the chart of accounts prescribed by the Commissioner with the approval of the State Board of Education.

“Net budget” means the sum of the school district’s general fund tax levy, State aid payable pursuant to the provisions of N.J.S.A. 18A:7F-43 et seq. other than preschool education aid, miscellaneous revenue estimated pursuant to GAAP, and designated general fund balance.

“New Jersey Quality Single Accountability Continuum” or “NJQSAC” means the New Jersey Quality Single Accountability Continuum for evaluating local public school district performance established pursuant to N.J.S.A. 18A:7A-3 et seq.

“New school facility” means any new school facility, or new addition to an existing school facility characterized by an increase in the gross square footage of the facility, used wholly or in part for educational purposes by a district board of education, but excludes stadiums, grandstands, garages, facilities used for non-instructional and non-educational purposes, and any facility used solely for administration. It also excludes renovations to existing space that do not increase the gross square footage of the facility.

“Non-discretionary fixed costs” means fixed costs incurred by a school district in its operation that are outside the control of the district board of education.

“OFAC” means the Office of Fiscal Accountability and Compliance within the New Jersey Department of Education.

“Other capital project” means as defined at N.J.A.C. 6A:26-1.2.

“Permanent fund” means a fund used to report resources that are legally restricted to the extent that only earnings, and not principal, may be used for purposes that support the reporting district board of education’s programs.

“Prebudget year” as defined by N.J.S.A. 18A:7F-45, means the school fiscal year preceding the year in which the school budget is implemented.

“Prebudget year adjusted tax levy” means the adjusted tax levy of the prebudget year less approved waivers and/or separate question(s) unless explicitly approved to be permanent.

“Preliminary budget” means the budget approved by the district board of education as part of a waiver request submission to the Department prior to submission of the proposed budget required pursuant to N.J.S.A. 18A:7F-5(c).

“Presumptive efficient spending level” means the State median cost per pupil of the prebudget year as reflected in the Comparative Spending Guide by indicator for the applicable operating type and enrollment range adjusted by the increase in CPI, or the efficiency standards established pursuant to N.J.S.A. 18A:7F-46 and used in the calculation of the adequacy budget pursuant to the provisions of N.J.S.A. 18A:7F-51, whichever is more appropriate and comparable for the particular spending category under review as determined by the Commissioner.

“Proposed budget” means the budget required pursuant to N.J.S.A. 18A:7F-5(c).

“Proprietary funds” means the funds used to account for district board of education activities where the reporting focus is on the determination of operating income, financial position and cash flow. Proprietary funds include enterprise and internal service funds.

“Regional school district” means a limited-purpose or all-purpose public school district established on a regional basis pursuant to N.J.S.A. 18A:13-1 et seq.

“Relative” means an individual’s spouse, civil union partner pursuant to N.J.S.A. 37:1-33, domestic partner as defined in N.J.S.A. 26:8A-3, or the parent, child, sibling, aunt, uncle, niece, nephew, grandparent, grandchild, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half-brother or half-sister of the individual or of the individual’s spouse, civil union partner or domestic partner, whether the relative is related to the individual or the individual’s spouse,

civil union partner or domestic partner by blood, marriage or adoption.

“Required maintenance” means as defined in N.J.A.C. 6A:26A-1.3.

“School business administrator” or “SBA” means the school business administrator appointed pursuant to N.J.S.A. 18A:17-14.1 or any other title used for the chief financial officer of the district, such as assistant superintendent for business or assistant superintendent for finance, and requiring the school business administrator endorsement pursuant to the provisions of N.J.A.C. 6A:9-12.3(d).

“School district” means any local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes or a school district under full State intervention pursuant to N.J.S.A. 18A:7A-34, but not including a charter school established pursuant to N.J.S.A. 18A:36A-1 et seq. unless specified otherwise.

“School district vehicle” means a vehicle purchased, leased, lease-purchased or acquired without cost by gift, donation or other method by the school district regardless of funding source.

“School facilities project” means as defined in N.J.A.C. 6A:26-1.2 and pursuant to N.J.S.A. 18A:7G-3.

“School Employees’ Health Benefit Program” or “SEHBP” means the School Employees’ Health Benefit Program pursuant to N.J.S.A. 52:14-17.46.1 et seq., which shall be the successor plan to the SHBP for school employees.

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

“Sending/receiving relationship” means an agreement between two district boards of education, one of which does not have the facilities to educate in-district an entire grade(s) or provide an entire program(s), and as an alternative sends such students to a district board of education having such accommodations and pays tuition, pursuant to N.J.S.A. 18A:38-8 et seq.

“Shared service” means any educational or administrative service required to be performed by a district board of education in which the district, with board approval, is able and willing to share in the costs and benefits of that service with another district board of education, municipality, or other governmental unit, as authorized by the Interlocal Services Act at N.J.S.A. 40:8A-1 et seq. and in compliance with existing school laws at N.J.S.A. 18A, but does not include sending/receiving relationships.

“Special revenue fund” means the governmental fund that accounts for the proceeds of specific revenue sources (other

than trusts, or revenues for major capital projects) that are legally restricted to expenditures for specified purposes.

“Spending growth limitation” means the annual rate of growth permitted in the net budget of a school district, county vocational school district or county special services school district as measured between the net budget of the prebudget year and the net budget of the budget year as calculated pursuant to N.J.S.A. 18A:7F-5(d) (authorization for spending growth limitation adjustments) and 18A:7F-5a (authorization for cap banking).

“Standard operating procedures” or “SOPs” mean procedures that cover all business functions and are detailed with specific steps and instructions; are realistic based on the employment structure and business system; tie with job descriptions; and are supported by management.

“State support” means as defined at N.J.A.C. 6A:26-1.2.

“Student Activity Fund” means a fund used to account for monies derived from athletic events or other activities of pupil organizations and to account for the accumulation of money to pay for student group activities.

“Subsistence” means lodging, meals and incidental expenses associated with traveling.

“Superintendent” means the superintendent of schools appointed pursuant to N.J.S.A. 18A:17-15, or where there is no superintendent the administrative principal appointed pursuant to N.J.S.A. 18A:17-20.5, or the State district superintendent appointed pursuant to N.J.S.A. 18A:7A-35 or 18A:7A-49 in the case of a school district under full or partial State intervention.

“Surplus” means the amount of undesignated, unreserved fund balance as of July 1 of each year.

“T&E” means the thorough and efficient system of free public schools for the instruction of all children in the State between the ages of five and 18 years as required by the State Constitution and defined by the Core Curriculum Content Standards and efficiency standards established pursuant to N.J.S.A. 18A:7F-46.

“Thoroughness standards” means the Core Curriculum Content Standards as approved by the State Board pursuant to N.J.S.A. 18A:7F-46a.

“Travel expenditures” means those costs paid by the school district using local, State, or Federal funds, whether directly by the school district or by employee reimbursement, for travel by school district employees and district board of education members to the following five types of travel events:

1. “Training and seminars” means all regularly scheduled, formal residential or non-residential training func-

tions, conducted at a hotel, motel, convention center, residential facility, or at any educational institution or facility;

2. “Conventions and conferences” means general programs, sponsored by professional associations on a regular basis, which address subjects of particular interest to a school district or are convened to conduct association business. The primary purpose of employee attendance at conferences and conventions is the development of new skills and knowledge or the reinforcement of those skills and knowledge in a particular field related to school district operations. These are distinct from formal staff training and seminars, although some training may take place at such events;

3. “School district sponsored events” means conferences, conventions, receptions, or special meetings, where the school district plans, develops, implements, and coordinates the event and is the event’s primary financial backer. School district employees are actively involved in working the event and other employees may attend as participants;

4. “Regular school district business travel” means all regular official business travel, including attendance at meetings, conferences and any other gatherings which are not covered by the definitions included in 1, 2 and 3 above. Regular school district business travel also includes attendance at regularly scheduled in-state county meetings and Department sponsored or association sponsored events provided free of charge and regularly scheduled in-state professional development activities with a registration fee that does not exceed \$150.00 per employee or board member. Beginning in 2009-2010, the \$150.00 limit per employee or board member may be adjusted by inflation; and

5. “Retreats” means meetings with school district employees and school board members, at which organizational goals and objectives are discussed.

“Underbudgeted revenue” means any general fund revenue realized that exceeds the amount included in the original school district budget certified for taxes.

“Unrestricted State aid” means State aid as defined in N.J.S.A. 18A:7F-37.

“Unused spending authority” means the amount pursuant to N.J.S.A. 18A:7F-5a of the difference between the net budget of a school district, county vocational school district or county special services school district, and the permitted net budget as authorized pursuant to N.J.S.A. 18A:7F-5(d).

“Weighted resident enrollment” means the differentials in costs based on the efficiency standards established pursuant to N.J.S.A. 18A:7F-46(a) of providing education at the kindergarten, elementary (grades one through five), middle school (grades six through eight) and high school levels (grades nine through 12) which are determined by dividing the elementary cost per pupil into each category. The weights

are applied to resident enrollment in each category pursuant to N.J.S.A. 18A:7F-50.

Special amendment, R.2009 d.35, effective December 18, 2008.
See: 41 N.J.R. 642(a).

Added definitions "Adjusted for inflation", "Authorized membership of the school board", "Bilingual education pupil", "Capital maintenance", "Capital outlay", "Capital reserve account", "Charter school", "Combination pupil", "Concentration of at-risk pupils", "County superintendent roundtable", "Emergent circumstance", "Emergent condition", "Energy costs", "Excess costs", "Extraordinary costs", "Forensic audit", "Health care costs", "Household income", "Immediate family member", "Individualized education program", "Insurance", "Lease purchase payment", "Line item account", "Long-range facilities plan", "Net budget", "New school facility", "Non-discretionary fixed costs", "Other capital project", "Prebudget year adjusted tax levy", "Preliminary budget", "Required maintenance", "Spending growth limitation", "State support", "Subsistence", "Travel expenditures", "Underbudgeted revenue", "Unrestricted State aid", "Unused spending authority" and "Weighted resident enrollment"; in definition "Board of trustees", substituted "seq" for "sq" at the end; in definition "Capital projects fund", inserted the third sentence; in definition "Chief school administrator", inserted ", or the lead person of a charter school as defined at N.J.A.C. 6A:11-1.2"; and deleted definition "State Health Benefits Program".

SUBCHAPTER 2. EXECUTIVE COUNTY SUPERINTENDENT OF SCHOOLS

6A:23A-2.1 General powers and duties of Executive County Superintendent

(a) Each Executive County Superintendent shall exercise and perform the general powers and duties vested in him or her pursuant to N.J.S.A. 18A:7-8.

(b) Nothing in this section shall be construed or interpreted to contravene or modify the provisions of the New Jersey Employer-Employee Relations Act, P.L. 1941, c. 100, (N.J.S.A. 34:13A-1 et seq.), or to limit or restrict the scope of negotiations as provided pursuant to law, or to require an employer to enter into a subcontracting agreement which affects the employment of any employee in a collective bargaining unit represented by a majority representative during the time that an existing collective bargaining agreement with the majority representative is in effect.

6A:23A-2.2 School district regionalization and consolidation of services advisory committee

(a) Each Executive County Superintendent shall create a School District Regionalization and Consolidation of Services Advisory Committee (Advisory Committee) for the purpose of providing advice and consultation to the Executive County Superintendent on the issue of regionalization of school districts or consolidation of school district services. The Advisory Committee shall consist of representation from each district in the county and shall meet on a monthly basis. At least quarterly, county representatives from the New Jersey Leadership for Educational (LEE) Group will be invited by the Executive County Superintendent to attend and participate in the meetings of the Advisory Committee. The LEE Group is composed of the New Jersey Education Association, the

New Jersey Principals and Supervisors Association, the New Jersey School Boards Association, New Jersey Association of School Business Officials, the New Jersey Association of School Administrators, and the New Jersey Congress of Parents and Teachers. The Executive County Superintendent may designate the county superintendent roundtable as the Advisory Committee, if appropriate. If the roundtable is used, attendance by the above organizations shall include only the portion of the roundtable meeting dedicated to the issue of regionalization and consolidation of services.

(b) The Executive County Superintendent, in his or her discretion, may create one or more advisory subcommittees that address issues by subject matter, by region or by some other method. Members of the subcommittees may be local taxpayers or residents, school board members, school district employees, school district parents, local government officials, representatives of State or local education associations, or others, as deemed appropriate by the Executive County Superintendent. The membership shall reflect the diversity of the county to the extent possible.

(c) The Executive County Superintendent, in his or her discretion, shall determine the working structure of the advisory subcommittees as he or she deems most effective and efficient.

(d) The Executive County Superintendent shall coordinate the work of the advisory subcommittees and shall report on the progress of that work to the Advisory Committee at its monthly meetings.

(e) The Executive County Superintendent shall report on the progress of the advisory committee and advisory subcommittees work at the regularly scheduled county superintendent roundtables, where appropriate.

(f) The Executive County Superintendent may, in his or her discretion where necessary, take appropriate action to engage consultants to perform the work and studies required by these rules, including assisting districts in submission of applications for funds under the SHARE program pursuant to N.J.S.A. 40A:65-30.

(g) The Executive County Superintendent shall encourage the advisory subcommittees to solicit input, to the extent possible, from current school employee representatives regarding regionalization and consolidation of services proposals.

6A:23A-2.3 Consolidation and sharing of services; joint and cooperative purchasing

(a) The Executive County Superintendent, in consultation with the Advisory Committee, shall study the consolidation of local public school districts' administrative services, to the extent practical. In particular, the Executive County Superintendent shall focus on identifying opportunities for consolidation of administrative services in the following types of districts:

10. If the recommendation of the Executive County Superintendent also includes an alternative approach for consolidating or sharing administrative or management services, the information in (b)1 through 8 above, as applicable, related to the alternative approach(es) shall be included in the plan.

Amended by R.2009 d.394, effective December 21, 2009.

See: 41 N.J.R. 2381(a), 41 N.J.R. 4721(a).

In (a), substituted "other than preschool or kindergarten through grade 12 operating" for "existing all purpose regional" and "in the county" for "(pre-K or K to grade 12)"; and in (b)3vi and (b)3vii, deleted "and N.J.S.A. 18A-49" following "31.7".

6A:23A-2.6 Transportation efficiency study

(a) Each Executive County Superintendent shall complete a study of pupil transportation services in the county no later than July 12, 2009 pursuant to N.J.S.A. 18A:7F-57. The purpose of the study shall be to determine ways to provide pupil transportation services in a more cost-effective and efficient manner. The study shall be transmitted upon completion to the Commissioner and to the Legislature pursuant to N.J.S.A. 52:14-19.1.

(b) For the study of pupil transportation services pursuant to (a) above, the Executive County Superintendent will examine ways to promote coordination and regionalization of pupil transportation services of public school districts and nonpublic schools including, but not limited to:

1. The coordination of bus routes, bell schedules and school calendars within the county for both public and nonpublic schools;
2. Staggering bell schedules in order to implement a tiered system of busing within the school district and with adjoining school districts;
3. Centrally coordinating transportation for out-of-district special education placements, including practices and/or policies in place to more effectively provide for special education transportation services;
4. Consolidating transportation services in combinations of two or more school districts;
5. Establishing a consolidated countywide transportation system by jointure agreement or county-based service provider;
6. Analyzing district school bus routing and scheduling to encourage the use of efficient routing practices;
7. Improving cooperation between local boards of education and nonpublic school administrators leading to more efficient and effective student transportation services; and
8. Soliciting input from current public school district transportation employee representatives and school employee representatives regarding ways to institute efficiencies and savings.

6A:23A-2.7 Shared special education services

(a) The Executive County Superintendent shall promote and facilitate the sharing of special education services consistent with Individuals with Disabilities Education Act, P.L. 105-17, (IDEA) requirements as follows:

1. Coordinate with the Department to maintain a real time Statewide and district-wide database that tracks the types and capacity of special education programs being implemented by each local school district and the number of students enrolled in each program to identify program availability and needs;

2. Coordinate with the Department to maintain a Statewide and district-wide list of all special education students served in out-of-district programs and a list of all public and private entities approved to receive special education students that includes pertinent information such as audit results and tuition charges;

3. Serve as a referral source by maintaining information on placement options available in other local school districts and their tuition rates for school districts that do not have appropriate in-district programs for individual special education students;

- i. When school personnel serving on a IEP team are considering that a student's IEP be implemented in a special class program that is not available in-district, they shall inform the Executive County Superintendent of the age of the student and the class type that they are considering.

- ii. The Executive County Superintendent shall identify whether such special class programs are available in other local districts and if there are vacancies. The Executive County Superintendent shall inform the district of any available in-district programs for the consideration of the IEP team.

- iii. Prior to making a determination regarding the student's placement, the school district shall convene a meeting of the IEP team to consider all placement options, including placements identified by the Executive County Superintendent, and shall identify the appropriate placement in the least restrictive environment according to the requirements of N.J.A.C. 6A:14.

- iv. After an IEP team determines a placement other than one of the placement options identified by the Executive County Superintendent, the school district shall provide a written explanation as to why the placement option selected was the appropriate one for the purpose of identifying program gaps and needs within local public programs;

4. Conduct regional planning, identify the program needs of the county and work with school districts in the development of in-district special education program options;

5. Identify special class programs within school districts of the county serving students with like IEPs that may be appropriately consolidated within legally permissible class size limits within one school or school district;

6. Maintain a list of appropriately licensed and/or certified professionals or appropriate county entities, and their fees, available to provide related services such as speech, physical therapy or occupational therapy, on an as needed basis;

7. Maintain a list of appropriately licensed or certified professionals or appropriate county entities, and their fees, able to participate or provide appropriately licensed and/or certified professionals to participate on or supplement local school district child study teams;

8. With consideration of school districts' size, classification rates, types of classifications, caseloads, geographic proximity, staffing, budget constraints or other available information, investigate the feasibility of two or more school districts sharing of special education staff members, including a director, child study teams and related services providers, and make a formal written recommendation, as appropriate;

9. Prepare and circulate within the county an inventory by school district of surplus or idle equipment used by students with special needs; and

10. Provide assistance to school districts in budgetary planning for resource realignment and reallocation to direct special education resources into the classroom through shared service arrangements and other methods.

Amended by R.2009 d.394, effective December 21, 2009.

See: 41 N.J.R. 2381(a), 41 N.J.R. 4721(a).

In (a)1 and in the introductory paragraph of (a)3, inserted "local"; in (a)3ii, deleted the last sentence; and in (a)4, substituted "program options" for "programs to meet those needs".

SUBCHAPTER 3. ADMINISTRATOR AND BOARD MEMBER ACCOUNTABILITY

6A:23A-3.1 Review of employment contracts for superintendents, assistant superintendents and school business administrators

(a) The Executive County Superintendent shall review and approve, for all superintendents, deputy superintendents, assistant superintendents and school business administrators in school districts, county vocational school districts, county special services school districts and other districts, except charters, within the county under the supervision of the Executive County Superintendent:

1. New employment contracts, including contracts that replace expired contracts for existing tenured and non-tenured employees;

2. Renegotiations, extensions, amendments, or other alterations of the terms of existing employment contracts that have been previously approved by the Executive County Superintendent; and

3. Provisions for contract extensions where such terms were not included in the original employment contract or are different from the provisions contained in the original approved employment contract.

(b) In counties where there is no Executive County Superintendent, the Assistant Commissioner for Field Services shall review and approve all above contracts.

(c) The contract review and approval shall take place prior to any required public notice and hearing pursuant to N.J.S.A. 18A:11-11 and prior to the board approval and execution of those contracts to ensure compliance with all applicable laws, including, but not limited to, N.J.S.A. 18A:30-3.5, 18A:30-9, 18A:17-15.1 and 18A:11-12.

1. The public notice and public hearing required pursuant to N.J.S.A. 18A:11-11 is applicable to a board of education that renegotiates, extends, amends, or otherwise alters the terms of an existing contract with a superintendent of schools, deputy superintendent, assistant superintendent, or school business administrator. It does not apply to new contracts, which includes contracts that replace expired contracts for existing employees in one of these positions, whether tenured or not tenured. Nothing precludes a board of education from issuing a public notice and/or holding a public hearing on new contracts, including new contracts that replace expired contracts for existing tenured and non-tenured employees.

(d) In connection with the Executive County Superintendent's review of the contract, the board of education shall provide the Executive County Superintendent with a detailed statement setting forth the total cost of the contract for each applicable year, including salary, longevity (if applicable), benefits and all other emoluments.

(e) The contract review and approval shall be consistent with the following additional standards:

1. Contracts for each class of administrative position shall be comparable with the salary, benefits and other emoluments contained in the contracts of similarly credentialed and experienced administrators in other districts in the region with similar enrollment, academic achievement levels and challenges, and grade span.

2. No contract shall include provisions that are inconsistent with the travel requirements pursuant to N.J.S.A. 18A:11-12 and N.J.A.C. 6A:23A-7 including, but not limited to, the provisions for mileage reimbursement and reimbursement for meals and lodging in New Jersey. Any contractual provision that is inconsistent with law is superseded by the law.

3. No contract shall include provisions for the reimbursement or payment of employee contributions that are either required by law or by a contract in effect in the district with other teaching staff members, such as payment of the employee's State or Federal taxes, or of the employee's contributions to FICA, Medicare, State pensions and annuities (TPAF), life insurance, disability insurance (if offered), and health benefit costs.

4. No contract shall contain a payment as a condition of separation from service that is deemed by the Executive County Superintendent to be prohibited or excessive in nature. The payment cannot exceed the lesser of the calculation of three months pay for every year remaining on the contract with proration for partial years, not to exceed 12 months, or the remaining salary amount due under the contract.

5. No contract shall include benefits that supplement or duplicate benefits that are otherwise available to the employee by operation of law, an existing group plan, or other means; for example, an annuity or life insurance plan that supplements or duplicates a plan already made available to the employee. Notwithstanding the provisions of this section, a contract may contain an annuity where those benefits are already contained in the existing contract between that employee and the district.

6. Contractual provisions regarding accumulation of sick leave and supplemental compensation for accumulated sick leave shall be consistent with N.J.S.A. 18A:30-3.5. Supplemental payment for accumulated sick leave shall be payable only at the time of retirement and shall not be paid to the individual's estate or beneficiaries in the event of the individual's death prior to retirement. Pursuant to N.J.S.A. 18A:30-3.2, a new board of education contract may include credit of unused sick leave days in accordance with the new board of education's policy on sick leave credit for all employees.

7. Contractual provisions regarding accumulation of unused vacation leave and supplemental compensation for accumulated unused vacation leave shall be consistent with N.J.S.A. 18A:30-9. Contractual provisions for payments of accumulated vacation leave prior to separation can be included but only for leave accumulated prior to June 8, 2007 and remaining unused at the time of payment. Supplemental payments for unused vacation leave accrued consistent with the provisions of N.J.S.A. 18A:30-9 after June 8, 2007 as well as unused vacation leave accumulated prior to June 8, 2007 that has not been paid, shall be payable at the time of separation and may be paid to the individual's estate or beneficiaries in the event of the individual's death prior to separation.

8. Contractual provisions that include a calculation of per diem for 12-month employees shall be based on a 260-day work year.

9. No provision for a bonus shall be made except where payment is contingent upon achievement of measurable specific performance objectives expressly contained in a contract approved pursuant to this section, where compensation is deemed reasonable relative to the established performance objectives and achievement of the performance objectives has been documented to the satisfaction of the district board of education.

10. No provision for payment at the time of separation or retirement shall be made for work not performed except as otherwise authorized above.

11. No contract shall include a provision for a monthly allowance except for a reasonable car allowance. A reasonable car allowance cannot exceed the monthly cost of the average monthly miles traveled for business purposes multiplied by the allowable mileage reimbursement pursuant to applicable law and regulation and New Jersey Office of Management and Budget (NJOMB) circulars. If such allowance is included, the employee cannot be reimbursed for business travel mileage nor assigned permanently a car for official district business. Any provision of a car for official district business must conform with N.J.A.C. 6A:23A-6.12 and be supported by detailed justification. No contract can include a provision of a dedicated driver or chauffeur.

12. All superintendent contracts shall include the required provision pursuant to N.J.S.A. 18A:17-51 which states that in the event the superintendent's certificate is revoked, the contract is null and void.

13. No contract shall include a provision for additional compensation upon the acquisition of a graduate degree unless the graduate degree is conferred by a duly accredited institution of higher education as defined in N.J.A.C. 6A:9-2.1. No contract shall include a provision for assistance or tuition reimbursement, or for additional compensation, for graduate school coursework, unless such coursework culminates in the acquisition of a graduate degree conferred by a duly accredited institution of higher education as defined in N.J.A.C. 6A:9-2.1.

(f) Any actions by the Executive County Superintendent undertaken pursuant to this subchapter may be appealed to the Commissioner pursuant to the procedures set forth at N.J.A.C. 6A:3.

Special amendment, R.2009 d.35, effective December 18, 2008.
See: 41 N.J.R. 642(a).

In (e)2, inserted "and N.J.A.C. 6A:23A-7"; and added (e)13.

6A:23A-3.2 Required actions relative to early termination of superintendent

(a) Pursuant to N.J.S.A. 18A:17-20.2a, the district board of education shall submit to the Commissioner for prior approval an early termination of employment agreement for its superintendent that includes the payment of compensation as a condition of separation.

(b) Early termination of employment agreements shall only be for involuntary separation of the superintendent where the district board of education documents that the separation agreement is in the best interests of the district's students and/or district's operations.

(c) No payment of compensation as a condition of separation shall be made when such separation is the result of:

1. Indictment for a felony unless subsequently cleared or acquitted;
2. Conviction of a felony;
3. Documented cause such as gross mismanagement, purposeful waste or fraud;
4. Revocation of certification; or
5. Finding(s) of ethical violations by the School Ethics Commission.

(d) No early termination of employment agreement shall contain payment of compensation as a condition of separation when the existing employment contract already contains provisions for compensation as a condition of separation.

(e) No early termination of employment agreement shall include payment for unspecified future work or for work not actually performed, such as a retainer for unspecified consultation or for advice subsequent to separation.

(f) Early termination agreements shall not include the value of any accrued, unused sick days except as permitted by N.J.S.A. 18A:30-3.5.

(g) Early termination agreements containing compensation for separation cannot exceed the lesser of the calculation of three months pay for every year remaining on the contract with proration for partial years, not to exceed 12 months, or the remaining salary amount due under the contract, except as noted in (g)1 below:

1. The value of any accrued, unused vacation days shall not exceed the sum of accrued, unused vacation days as of June 8, 2007, unused vacation days accrued in the school year in which the separation agreement is entered and unused vacation days accrued in the year preceding the school year in which the separation agreement is entered, to the extent permitted by N.J.S.A. 18A:30-9, provided payment for accrued, unused vacation days is an express provision of the existing contract.

(h) No early termination of employment agreement shall include extended payment, or payment for retroactive salary increases, bonuses, overtime, longevity, accrued vacation or other time benefit, or any other benefit neither expressly contained in the employment agreement being terminated early nor earned according to performance or other criteria established in the agreement.

Special New Rule, R.2009 d.35, effective December 18, 2008.
See: 41 N.J.R. 642(a).

6A:23A-3.3 Certification review under certain conditions

The State Board of Examiners shall review the certification of the superintendent and SBA of the district pursuant to N.J.S.A. 18A:6-38.2 when the appointment of a State monitor pursuant to N.J.S.A. 18A:7A-55 is authorized.

Special New Rule, R.2009 d.35, effective December 18, 2008.
See: 41 N.J.R. 642(a).

6A:23A-3.4 Noncompliance with GAAP, review of certification of a SBA

The Commissioner, pursuant to N.J.S.A. 18A:6-38.3, shall recommend to the State Board of Examiners that it review the certification of the district's SBA when any school district's accounting system and financial reports are not in compliance with GAAP within one year of March 15, 2007.

Special New Rule, R.2009 d.35, effective December 18, 2008.
See: 41 N.J.R. 642(a).

SUBCHAPTER 4. SCHOOL DISTRICT FISCAL ACCOUNTABILITY

6A:23A-4.1 Additional powers of Commissioner to achieve fiscal accountability

(a) The Commissioner may appoint an external entity to perform a compliance audit of a district's general fund spending upon identification that the district may be spending State education funds for purposes that are not in compliance with State education laws and regulations.

(b) The final report shall include, as applicable:

1. Specific findings of:
 - i. Spending that was not in compliance with Federal and State law and regulations;
 - ii. Procedural noncompliance with Federal and State law and regulations;
 - iii. Noncompliance with GAAP and/or generally accepted business practices;
 - iv. Weaknesses in the system of internal controls; and
 - v. Questionable or inefficient spending practices;
2. The cause of each finding;
3. Specific corrective recommendations; and
4. The school district response to each finding and recommendation.