

CHAPTER 10

IMPROVING STANDARDS-DRIVEN INSTRUCTION AND LITERACY IN ABBOTT DISTRICTS

Authority

Fiscal Year 2004 Appropriations Act.

Source and Effective Date

R.2003 d.312, effective July 2, 2003.

See: 35 N.J.R. 3701(a).

Chapter Expiration Date

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

Chapter Historical Note

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

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 6A:10-1.1 Purpose and applicability of rules
- 6A:10-1.2 Definitions

SUBCHAPTER 2. PRESCHOOL PROGRAM

- 6A:10-2.1 Preschool program general provisions
- 6A:10-2.2 Preschool programs
- 6A:10-2.3 Three-year preschool operational plan
- 6A:10-2.4 Department of Education roles and responsibilities in the preschool program

SUBCHAPTER 3. DISTRICT REQUEST FOR ADDITIONAL SUPPLEMENTAL FUNDING

- 6A:10-3.1 Application for additional supplemental funding

SUBCHAPTER 4. APPEALS

- 6A:10-4.1 Applicability of subchapter
- 6A:10-4.2 Filing, service and documentation of petition
- 6A:10-4.3 Filing, service and documentation of answer
- 6A:10-4.4 Review of pleadings
- 6A:10-4.5 Submission of position statements and replies
- 6A:10-4.6 Commissioner review and decision

SUBCHAPTER 1. GENERAL PROVISIONS

6A:10-1.1 Purpose and applicability of rules

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

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

6A:10-1.2 Definitions

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

"Abbott district" means one of the following 28 urban districts in district factor group A and B specifically identified in the appendix to *Raymond Abbott, et al. v. Fred G. Burke, et al.* decided by the New Jersey Supreme Court on June 5, 1990 (119 N.J. 287, 394) as follows: Asbury Park City, Bridgeton City, Burlington City, Camden City, East Orange City, Elizabeth City, Garfield City, Gloucester City, Harrison Town, Hoboken City, Irvington Township, Jersey City, Keansburg Borough, Long Branch City, Millville City, New Brunswick City, Newark City, City of Orange Township, Passaic City, Paterson City, Pembertown Township, Perth Amboy City, Phillipsburg Town, Pleasantville City, Trenton City, Union City, Vineland City and West New York Town, and the following districts not included above but designated Abbott districts pursuant to P.L. 1999, c.110, Neptune Township and Plainfield, and such other districts as may qualify in the future. Abbott district shall not include a charter school located within any of these districts.

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

"Additional supplemental funding" means the discretionary funding awarded by the Commissioner to maintain the programs, services and positions from 2002-03 that the Commissioner determines to continue to be essential to the provision of a thorough and efficient education in those districts.

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

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

"Child Development Associate (CDA)" means a national credential for early care and education teachers. The credential means that the candidate has met the CDA compe-

tency standards or 120 clock hours of formal education through an agency or organization with expertise in child development or early childhood teacher preparation. Only the Council for Professional Recognition in Washington, DC can award a CDA credential.

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

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

"Commissioner" means the Commissioner of Education or the Commissioner's designee.

"Department" means the New Jersey Department of Education.

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

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

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

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

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

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

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

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

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

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

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

"School-based budget" means a budget for an individual school.

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

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

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

SUBCHAPTER 2. PRESCHOOL PROGRAM

6A:10-2.1 Preschool program general provisions

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

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

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

6A:10-2.2 Preschool programs

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

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

same date it uses in determining age eligibility for kindergarten programs.

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

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

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

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

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

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

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

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

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

ii. A validation visit by a State team; and

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

- (1) Identification of the program area(s) in need of improvement;
- (2) A detailed explanation of the steps to be taken by the district board of education and/or the department for program improvement to occur;
- (3) An outline of the time frame for implementation; and
- (4) A specific date for program reevaluation.

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

- i. Modeling, coaching and providing feedback to teachers in preschool programs to assist in implementation of the Expectations;
- ii. Providing staff development instruction for all aspects of the preschool program including district board of education and child care center provider programs;
- iii. Providing resources and support to preschool programs and when applicable make recommendations to Supervisors or Directors of early childhood preschool programs to use the expertise of district personnel or other early childhood experts to provide additional professional development as the need is identified through data collection;
- iv. Coordinating early childhood assessment in preschool programs;
- v. Coordinating parent involvement programs with other district board of education and provider staff;
- vi. Providing information on district board of education programs to the family worker, social workers, and preschool program staff; and
- vii. Planning of transition activities, programs and services between preschool programs and kindergarten programs.

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

- i. A bachelor's degree and teacher certification;
- ii. Three to five years experience teaching in preschool programs;

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

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

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

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

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

- i. Specialization in bilingual education or second language acquisition;
- ii. Specialization in special education/inclusion;
- iii. Specialization in early literacy;
- iv. A Preschool through Grade Three Certificate or an N-8 Certificate;
- v. Coursework in supervision and leadership; or
- vi. Preschool Professional Development Fellow status.

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

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

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

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

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

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

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

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

1. The process for identifying the information needed by the kindergarten teachers about the preschool program, and vice-versa;

2. Methods for communicating information about individual children to their new kindergarten teacher, in particular the results of the on-going performance based assessment system;

3. The process for providing this information to the kindergarten and preschool teachers;

4. The plan developed by the district board of education to ensure a seamless transition from preschool to kindergarten for the preschool children; and

5. The process for providing information to parents about the kindergarten program and the transition plan from preschool to kindergarten.

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

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

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

(a) The Department of Education shall provide services that include, but are not limited to, the following:

1. On-site technical assistance in the development of the three-year preschool operational plan, including the development of program goals and objectives for a high quality preschool program and other technical assistance as requested by the district board of education;

2. Review and approval of the three-year preschool operational plan;

3. Professional development opportunities to the district board of education early childhood supervisors or early childhood directors in the form of monthly or bi-monthly meetings to provide information and technical assistance to the district board of education from the Department;

4. Professional development opportunities to the master teachers;

5. Assistance with the self-study and validation process and the development of a program improvement plan where areas of non-compliance are identified;

6. Providing copies of the complete three-year preschool operational plan including the district and child care center provider budget forms, a copy of the Uniform Preschool Enrollment Form, a list of State-approved reliable independent observers, a copy of the State-approved Abbott preschool contract, as well as copies of other information available from the Department and requested or needed by the district board of education;

7. Opportunities to be involved in State planning and policy development for the preschool program; and

8. Providing funds necessary to implement a high quality preschool program.

SUBCHAPTER 3. DISTRICT REQUEST FOR ADDITIONAL SUPPLEMENTAL FUNDING

6A:10-3.1 Application for additional supplemental funding

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

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

1. Undesignated general fund balances in excess of two percent;

2. Salary appropriations for vacant positions in excess of the district's average salary for the position title;

3. Salary breakage for replacement of retiring staff during the upcoming budget year;

4. Positions, programs and services or other appropriations not required for all students to achieve the CCCS and to read at grade level by completion of the third grade;

5. Positions, programs and services or other appropriations that are not effective and/or efficient;

6. Appropriations in excess of actual documented need as contained in the approved district and school three-year operational plans; and

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

(c) The Department shall review the districtwide budget to determine if all available resources, reallocations and other factors have been incorporated. The Department shall review comparative school-level expenditure analyses between schools and across districts in conjunction with reviewing student achievement data to assess the effectiveness and efficiency of expenditures. In making the determination as to whether an existing program, service or expenditure should be exempt from reallocation, in whole or in part, the Department shall consider whether:

1. The existing program, service or other expenditure is school-based and directly serving the students in the school;
2. The existing program, service or other expenditure has demonstrated measurable results in enhancing student achievement;
3. Elimination of the existing program, service or other expenditure would undermine the foundational education program of the school; and
4. The existing program, service or other expenditure is being delivered in the most efficient possible manner.

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

1. Confirmation that the district filed a complete budget application and supporting documentation to the Department on the date specified and is consistent with this chapter and the district specifies guidance provided by the Department;
2. That the district has responded to the Department's review of its application for additional supplemental funding and has made available all information requested;
3. Documentation by the district, confirmed by the Commissioner, that the additional funds sought cannot be achieved by:
 - i. Reallocating from non-instructional expenditures, programs no longer effective or efficient in the realization of the educational remedies set forth by the Court, or other discretionary components funded by State and local revenues, which can be delayed or eliminated; or
 - ii. Attaining economies and efficiencies in the delivery of services and programs;
4. Evidence by the district that an essential program or service is unable to be funded through reallocation and that without additional supplemental funding the core instructional programs will be negatively affected. The core instructional program for the school year will be the programs, services and essential positions provided in the 2002-2003 school year that continue to be essential to the achievement of a thorough and efficient education and shall include any documented increase in non-discretionary expenditures including, but not limited to, contracted salary increases, increases in health benefits, and increases in special education tuition; and

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

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

1. The application should document the nature of the unanticipated expenditures or unforeseen circumstances and the impact on the current approved budget.
2. The Department's review of the separate application shall be consistent with the provisions in (d) above.
3. Upon review of the current status of the district's approved budget, the needs of the district as presented in the application and the proximity of the application submission to the end of the school year, the Department may direct the reallocation of general fund balances below two percent prior to approving additional resources.
4. Amounts approved by the Commissioner in response to the district's separate application will be available for expenditure during the school year.
5. The revenue shall be recognized through the establishment of an accounts receivable subject to appropriation in the subsequent year's Appropriations Act, or by a supplemental appropriation.

(f) Any board requesting additional supplemental funding shall ensure that all spending is necessary and aligned with the objectives and strategies for achieving the CCCS and ensuring all students read at grade level by the end of third grade. Expenditures related to Department-approved pre-school program plans and programs related to helping all students achieve the CCCS and read at grade level by the end of third grade shall be given the highest priority.

SUBCHAPTER 4. APPEALS

6A:10-4.1 Applicability of subchapter

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

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

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

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

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

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

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

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

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

6A:10-4.4 Review of pleadings

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

to the Department or considered by the Department in rendering the decision.

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

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

6A:10-4.6 Commissioner review and decision

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

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

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