

CHAPTER 19A
URBAN EDUCATION REFORM IN
THE ABBOTT DISTRICTS

Authority

N.J.S.A. P.L. 1999, c.138 and P.L. 1999, c.142

Source and Effective Date

R.1999 d.344, effective September 10, 1999.
See: 31 N.J.R. 2029(a), 31 N.J.R. 2924(a).

Executive Order No. 66(1978) Expiration Date

Chapter 19A, Urban Education Reform in the Abbott Districts, expires on June 30, 2000.

Chapter Historical Note

Chapter 19A, Implementation of Court Decision in *Abbott v. Burke*, was adopted as R.1997 d.377, effective July 23, 1997. See: 29 N.J.R. 3721(b). Pursuant to Executive Order No. 66(1978), Chapter 19A expired on June 30, 1998.

Chapter 19A, Implementation of Court Decision in *Abbott v. Burke*, was adopted as new rules by R.1998 d.418, effective July 20, 1998. See 30 N.J.R. 3019(a). Pursuant to Executive Order No. 66(1978), Chapter 19A expired on June 30, 1999.

Chapter 19A, Urban Education Reform in the Abbott Districts, was adopted as new rules by R.1999 d.344, effective September 10, 1999 (to expire June 30, 2000). See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

6:19A-1.1 Purpose and applicability of rules

These rules are adopted pursuant to P.L. 1999, c.142 and P.L. 1999, c.138 in order to implement educational programs necessary to provide urban education reform initiatives that ensure that public school children, including students with disabilities and limited English proficient students, from the poorer urban districts receive the educational entitlements guaranteed them by the Constitution and to meet the requirements of the decision of the New Jersey Supreme Court in *Abbott v. Burke*, decided May 21, 1998. The rules apply to "Abbott districts" as defined in N.J.A.C. 6:19A-1.2, and are adopted to ensure the provision of a thorough and efficient system of education (T&E), as defined by the Core Curriculum Content Standards, to the students attending the public schools of those districts. The rules apply to Abbott districts, in addition to the requirements of the Comprehensive Educational Improvement and Financing Act and rules otherwise promulgated to implement that act; except that where differences in rules occur, the rules herein shall take precedence.

6:19A-1.2 Definitions

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

"Abbott district" means one of the following 28 urban districts in district factor group A and B specifically identified in the appendix to *Raymond Abbott, et al. v. Fred G. Burke, et al.* decided by the New Jersey Supreme Court on June 5, 1990 (119 N.J. 287, 394) as follows: Asbury Park City, Bridgeton City, Burlington City, Camden City, East Orange City, Elizabeth City, Garfield City, Gloucester City,

Harrison Town, Hoboken City, Irvington Township, Jersey City, Keansburg Borough, Long Branch City, Millville City, New Brunswick City, Newark City, City of Orange Township, Passaic City, Paterson City, Pemberton 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 V” means the Supreme Court decision in *Abbott v. Burke*, 153 N.J. 480 (1998).

“Area cost allowance” means \$125.00 per square foot for the school year 1999–2000 unless a different amount is established by statute enacted subsequent to the effective date of this chapter. The area cost allowance used in determining preliminary eligible costs of school facilities projects shall be that of the year of application for approval of the project.

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

“Chief School Administrator” means the superintendent or administrative principal of an Abbott district, or the State district superintendent in the case of a State-operated school district.

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

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

“Department” means the New Jersey Department of Education.

“Developer” means an expert or team of experts that has effectively integrated research-based programs and strategies to develop a Department-approved whole school reform model.

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

“Early childhood expenditures” means those expenditures related to the provision of kindergarten for five-year-olds and approved preschool programs for three and four-year olds.

“Facilities efficiency standards” means standards of educational adequacy for the delivery of programs and services necessary for the attainment of the Core Curriculum Content Standards used to determine the necessity and efficiency of school construction or renovation.

“FTE” means a full-time equivalent student which shall be calculated as follows: each student in grades kindergarten through 12 shall be counted at 100 percent of the actual count of students; and the number of preschool students approved by the Commissioner to be served in the district shall be counted at 50 percent or 100 percent of the actual count of preschool students for an approved half-day or full-day program, respectively. In addition, each preschool handicapped child who is entitled to receive a full-time program pursuant to N.J.S.A. 18A:46-6 shall be counted at 100 percent of the actual count of these students in the district.

“Illustrative budget” means a budget that was developed in consultation with the WSR model developer and includes all the costs to implement a WSR model that incorporates all of the requirements of the WSR model for New Jersey schools.

“Long-range facilities plan” means the plan required to be submitted to the Commissioner by all districts pursuant to N.J.A.C. 6:19A-8.

“Particularized need” means a need that is supported by an assessment of needs of a specific population of students in a given school or for early childhood programs in the district, that has been demonstrated to be the cause of student failure in achieving the Core Curriculum Content Standards, that can be remedied or corrected by a program or service, which has been formally evaluated to demonstrate its effectiveness, and is a need that is not effectively addressed by a WSR model or a whole school alternative program design and by the required supplemental programs.

“School-based budget” means a school budget for an individual school that includes the instructional and support, staffing, programs and services designated for that school site.

“School facility” means and includes any structure, building or facility used wholly or in part for academic purposes by a district but shall exclude athletic stadiums, grandstands, and any structure, building or facility used solely for school administration.

“School facilities project” means the acquisition, demolition, construction, improvement, repair, alteration, modernization, renovation, reconstruction or maintenance of all or any part of a school facility or of any other personal property necessary for, or ancillary to, any school facility, and shall include fixtures, furnishings, equipment, site acquisition, site development, services of design professionals such as engineers and architects, construction management, legal services and financing costs incurred in connection with the school facilities project.

“School Management Team” or “SMT” means a school-based planning and decision-making team established pursuant to N.J.A.C. 6:19A-2.

“School Review and Improvement Team” or “SRI Team” means a team of Department of Education staff assigned by the Commissioner to work with Abbott schools in implementing the Court’s decision pursuant to N.J.A.C. 6:19A-1.3.

“Secondary” means middle and high school grades six through 12, except in districts having an elementary structure incorporating grades six through eight, in which case it means grades nine through 12.

“Success for All—Roots and Wings” or “SFA/R&W” means a nationally-proven research-based whole school reform model developed by Dr. Robert Slavin and other researchers at Johns Hopkins University to serve students in high-poverty urban schools who are at risk of academic failure. As used in this chapter, SFA/R&W shall include the enhancements made by Dr. Slavin to the model so as to meet New Jersey requirements.

“Supplemental Program or Service” means any program or service that exceeds the requirements of the WSR model, the whole school alternative program design, or the required secondary programs which are essential to ensure educational success for a specified population of students, and without which such students cannot achieve the Core Curriculum Content Standards.

“Unapproved costs” means the additional costs, if any, of a school facilities project which result from design factors that are not required to meet the facilities efficiency standards and were not approved by the Department as a particularized need pursuant to N.J.A.C. 6:19A-5, and which shall be borne by the district.

“Whole school alternative program design” or “design” means that whole school alternative program or “home grown proposal” established pursuant to N.J.A.C. 6:19A-4.2.

“Whole school reform implementation plan” means a comprehensive school plan that includes the necessary components to implement the WSR model or the whole school alternative program design and the required secondary programs, as well as the integration of all State, Federal and local resources to support those components.

“Whole school reform model” or “WSR model” or “model” means the whole school reform model as established in N.J.A.C. 6:19A-4.1.

“Whole school reform school” or “WSR school” means any of the 72 schools approved by the Department to implement a whole school reform model beginning in the 1998-99 school year and any school approved by the De-

partment to begin implementation of a whole school reform model during the 1999-2000 school year.

“Zero-based budget” means a budget in which there has been a concentration of all available resources to support a district’s or school’s current objectives and strategies for achieving the Core Curriculum Content Standards, after an annual assessment and determination of those objectives and strategies. It also means a budget in which resources are allocated and reallocated to support those objectives and strategies, and individual budget items are justified on the basis of needs, directly related to the achievement of those objectives and strategies.

6:19A-1.3 Assignment of Department School Review and Improvement Teams

(a) The Commissioner shall designate Department staff to serve on School Review and Improvement (SRI) Teams. An SRI Team shall be assigned to each elementary and secondary school implementing Whole School Reform (WSR) pursuant to N.J.A.C. 6:19A-4. The primary role of such teams shall be to work with the School Management Teams established pursuant to N.J.A.C. 6:19A-2, schools, school district administrators, and with the developers and experts identified by the Department, in order to implement the directives of the Court. SRI Teams shall additionally serve as liaisons between schools and the Department and as sources of technical assistance in programmatic and fiscal areas.

(b) The Commissioner shall ensure that SRI Team members complete appropriate training in WSR.

6:19A-1.4 Responsibilities of local district

(a) The board, administration, teaching staff and support staff of each district shall cooperate fully with the Department and its assigned SRI Team(s) in effectuating the directives of the Court, including, but not limited to, implementation of whole school reform, school-based decision making, school-based budgeting, and identification of reallocations necessary for the implementation of required or Department-approved new programs and services.

(b) The Chief School Administrator shall ensure that each school is led by an effective principal. Where a principal is not effective, the Chief School Administrator, in consultation with the SMT and the SRI Team, shall recommend to the board the transfer or removal of that principal. The Standards for School Leaders, developed by the Interstate School Leaders Licensure Consortium, or any successor document, provides guidance to the Chief School Administrator on principal effectiveness.

1. Copies of The Standards for School Leaders can be obtained from the following sources:

The Department of Education
 Division of Executive Services
 100 Riverview Plaza, Route 29
 PO Box 500
 Trenton, NJ 08625-0500
 www.state.nj.us/education
 Council of Chief State School Officers
 1 Massachusetts Ave. Northwest
 Washington, DC 20001-1431
 www.ccsso.org

(c) The Chief School Administrator shall notify the SMT and the SRI Team assigned to a WSR school prior to the effective date of any transfer or removal of any teacher in schools implementing WSR.

(d) The board shall accord the programs and services required pursuant to this chapter the highest priority in development of the school budget and shall make such reallocations and dedicate such resources as are necessary to ensure their full implementation within the prescribed time frames. To the extent resources are insufficient after all possible reallocation at the school and district levels, the board shall apply for additional funding pursuant to N.J.A.C. 6:19A-7.

(e) The board shall seek from the Commissioner such authorizations, equivalency determinations or waivers as are necessary to permit it to implement required or approved programs in an efficient and effective manner, or to effectuate necessary reallocations. An equivalency or waiver to these rules must meet the following criteria:

1. The spirit and intent of this chapter are served by granting the equivalency or waiver;
2. The provision of a thorough and efficient education to the students in the district and the implementation of the Abbott remedy is not compromised as a result of the equivalency or waiver; and
3. There will be no risk to student health, safety or civil rights by granting the equivalency or waiver.

(f) The board shall provide for a full-time technology coordinator at each secondary school in the district and each WSR elementary school. The technology coordinators shall assist with the development and integration of educational technology consistent with the requirements of N.J.A.C. 6:19A-2, 4 and 6. The coordinator shall, in addition to such other duties as he or she may be assigned, provide assistance to the SMT as needed.

(g) The board shall provide for a full-time dropout prevention officer and a full-time staff member responsible for the coordination of health and social services and the referral of students to such services for each secondary school within the district. These staff members shall, in addition to such other duties as they may be assigned, provide assistance to the SMT as needed.

(h) The board shall implement a Department approved district wide security plan that includes a Code of Student Conduct, and one security guard for each elementary school building and one for each 225 students at the secondary level, as part of the board's plan. As part of the board's plan, it may apply for a waiver of the required number of security guards based on a demonstration that the full number is not necessary to ensure safety under the circumstances present at a particular building.

(i) Upon approval by the Department, the board shall implement its plan providing for the establishment of an alternative middle school and high school, or other comparable program to meet the needs of students who are disaffected or disruptive or who have not been successful in traditional learning environments.

(j) Upon approval by the Department, the board shall implement its plan to accommodate the transition to, and eventual full implementation of, school-based management. The board shall support changes in structure and function of central administrative staff as are necessitated by the decentralization of planning, budgeting and decision making in the district.

(k) Any early childhood program aid (ECPA) or demonstrably effective program aid (DEPA) awarded to a district, including ECPA funds placed in a reserve account, and neither expended nor encumbered, nor anticipated as revenue, in the original approved 1999-2000 budget, shall be appropriated at the direction of the Commissioner. The board shall provide an explanation for all such balances, and the Commissioner shall consider such explanation prior to directing appropriation of funds. The Commissioner shall further consider such balances during a review of any application from the district for additional funds pursuant to N.J.A.C. 6:19A-7.

(l) Pursuant to the FY 2000 Appropriations Act, there shall be a deduction from State aid of the expenses required to manage, control and supervise the implementation of that State aid. Such expenses may include, but shall not be limited to, the cost of SRI Teams assigned to the district and such consultants, developers, investigators or experts as may be required for this purpose. The board shall budget for this purpose an amount equal to two percent of the district's Abbott v. Burke Parity Remedy funding. Such deduction shall support expenses required to manage, control, supervise and implement the effective and efficient expenditure of State aid, including implementation of the educational reforms directed by the Court.

(m) The Chief School Administrator shall ensure that collaboration, articulation and continuity occurs between the early childhood program, including preschool and kindergarten, the WSR school, the middle school and the high school to ensure a smooth transition for students between grades and between schools.

(n) The Chief School Administrator shall ensure that all WSR models and all whole school alternative program designs adopted in the district are aligned to the Core Curriculum Content Standards. The Chief School Administrator shall work with the developer, the principal, and the SMT, in consultation with the Department, to ensure that all instructional materials and all instructional processes of either the WSR model or the whole school alternative program design are aligned with the Core Curriculum Content Standards.

6:19A-1.5 Accountability

Each district and school shall implement its approved district wide system of rewards to recognize schools, teachers, parents, and administrators who contribute to helping students attain the Core Curriculum Content Standards pursuant to a district plan approved by the Department. In districts and/or schools that do not maintain a pattern of improved student achievement, the Department shall pursue sanctions provided for in N.J.S.A. 18A:7F-6(b).

6:19A-1.6 Abbott districts established pursuant to P.L. 1999, c.110

The Department shall work with those districts designated Abbott districts pursuant to P.L. 1999, c.110 to develop a transition plan during the 1999-2000 school year and schedule for implementation of the requirements for Abbott districts established by this chapter. Specific timelines for development of the plan and schedule shall be established in consultation with the affected districts.

SUBCHAPTER 2. SCHOOL MANAGEMENT TEAMS

6:19A-2.1 Establishment of School Management Teams

(a) Prior to October 15, 1999, the Chief School Administrator in all Abbott districts shall submit to the Department for approval, with a copy to the board, a procedure, or an amendment to their approved procedure, for the selection, training and operation of a school-based School Management Team (SMT) in every school. The procedures submitted shall be consistent with this chapter. The purpose of the SMT is to ensure participation of staff, parents and the community in the school level decision making and to develop a culture of cooperation, accountability and commitment, all with a focus on improving student achievement.

1. Terms of office for SMT members shall be a minimum of two years except that for initial selection or election of the SMT, staggered terms shall be provided to ensure continuity of the SMT.

2. A mechanism shall be established for the selection and removal of team members when appropriate. No member of the SMT may be removed without the concur-

rence of the SRI Team except as provided for in N.J.A.C. 6:19A-2.3(d).

3. A member of the SMT shall receive no compensation for his or her services except that:

i. This provision shall not preclude rights and payments available to an employee pursuant to a collective bargaining agreement for hours beyond the school work day; and

ii. A member of the SMT may be reimbursed for reasonable expenses on an actual or a per diem basis if no payment is provided to that member pursuant to (a)3i above.

4. The SMT shall notify the SRI Team if any difficulties arise as to the functioning of the SMT.

(b) The Chief School Administrator shall provide adequate training and technical support to the SMT regarding the district's internal operating policies and procedures. The Chief School Administrator shall ensure that sufficient time and resources are allocated to the team to enable it to perform its work, including development of a WSR implementation plan pursuant to N.J.A.C. 6:19A-4.3.

(c) The membership of the SMT shall be broad based and representative of the student population and of the community's racial and ethnic composition.

(d) The SMT shall include the building principal, teachers, school-level support staff, parents, and community members. The SMT may include students. No one group identified above may constitute 50 percent or more of the SMT membership. Board members shall not serve on the SMT. A school district employee shall not serve as either a parent or a community member on an SMT in that district.

(e) SMT members shall be chosen either by selection or election as follows:

1. The community shall be meaningfully involved in the process.

2. The principal shall provide a broad-based notice prior to initiation of the process.

3. Teaching staff members shall be chosen by teachers, and school-level support staff members shall be chosen by school-level support staff. Parent members shall be chosen by parents except that in the event that a sufficient number of parents are not chosen by the parents, the principal may select the remaining parent members. If a student is on the SMT, that student shall be chosen by students.

4. Community members shall be selected by the principal after the principal solicits a broad base of community members for their interest in participating on the SMT, unless the SMT has been established, in which event, the SMT shall select the community members.

(f) The number of meetings, dates, locations, and times shall be decided by a majority vote of the SMT members with a goal of maximizing attendance of members. The SMT shall make all reasonable efforts to notify the community of the meeting dates, locations and times, and the meetings shall be accessible to the public. An SMT may not hold a meeting unless a majority of the SMT members are present.

(g) Any currently constituted SMT which is not in compliance with this chapter shall notify the SRI Team by October 1, 1999. The SRI Team and the SMT shall jointly develop a transition plan to bring the SMT into compliance, which may include requests for appropriate waivers of these requirements for the 1999-2000 school year if the SMT demonstrates that it has representation by parents and community members and is functioning effectively.

6:19A-2.2 Responsibilities of School Management Teams

(a) It shall be the primary responsibility of the SMT of each WSR school to develop a WSR implementation plan based on a needs assessment pursuant to N.J.A.C. 6:19A-4.3.

(b) The SMT of each WSR school, in addition to the development of the WSR implementation plan and the specific duties set forth elsewhere in this chapter, shall undertake the following in consultation with its assigned SRI Team:

1. Ensure that curriculum, instruction, and the instructional delivery system are aligned with the Core Curriculum Content Standards;
2. Review the Statewide assessment results at school and grade levels to determine program and curriculum needs and to take appropriate action to improve and enhance student achievement;
3. Ensure that a program of professional development to assist staff in the implementation of all aspects of WSR is being utilized by the school;
4. For any school that does not already have an approved school-level educational technology plan, develop and submit to the Department for approval, with a copy to the Chief School Administrator and the board, a school-level educational technology plan that is integrated with the district-level educational technology plan demonstrating how educational technology will be infused throughout all aspects of curriculum and instruction to support achievement of the Core Curriculum Content Standards, and providing for acquisition and maintenance of necessary equipment and infrastructure, appropriate professional development activities and designation of staff to implement technology activities;

5. Ensure that education programs, including co-curricular and extracurricular activities, are provided to address the Cross-Content Workplace Readiness Standards of the Core Curriculum Content Standards. At the secondary level, the curriculum should integrate academic and occupational concepts, the opportunity for students to participate in a structured learning experience, as well as programs that link the secondary years to postsecondary educational opportunities;

6. Develop a school-based system of rewards consistent with the district wide system of rewards established pursuant to N.J.A.C. 6:19A-1.5; and

7. Establish work groups as needed that include SMT members and non-SMT members to maximize participation by non-SMT members.

(c) Each SMT of a WSR school shall be authorized to undertake the responsibilities in (c)1 and 2 below after a majority vote of its members and upon approval of the SRI Team. The SRI Team shall not approve the SMT to undertake these responsibilities unless and until the SMT has had specific training in these areas. In accordance with this subsection, each SMT of a WSR school shall:

1. Approve a school-based budget in accordance with the requirements of N.J.A.C. 6:19A-4.4; and

2. Make recommendations for the appointment of a building principal, of teaching staff members, and of instructional aides for early childhood programs providing not less than three candidates to the Chief School Administrator, who may select one of the three candidates for recommendation to the board pursuant to N.J.S.A. 18A:27-4.1. The Chief School Administrator may request additional candidates from the SMT. The Chief School Administrator shall not recommend to the board any such candidates for appointment unless the SMT has recommended that candidate to the Chief School Administrator.

(d) If the SMT in a WSR school does not exercise its option pursuant to (c) above to be included in the decision making on the identified areas, the SMT shall be advised of the actions to be taken and given an opportunity to provide input and the principal shall be responsible for making decisions and/or recommendations in those areas.

(e) The SMT in a school that is not a WSR school shall work with the teaching staff members in the selection of the WSR model to be used by the school in accordance with the requirements of N.J.A.C. 6:19A-4.

6:19A-2.3 Training of School Management Team members

(a) Each member of an SMT shall obtain training pursuant to this subchapter prior to June 30, 2000.

(b) The district shall provide training to SMT members in all WSR schools during the 1999-2000 school year in consultation with the SRI Team.

1. The training shall include, but not be limited to, instruction regarding the roles, relationships and responsibilities of the SMT, development and implementation of the WSR implementation plan, needs assessment, particularized need, curriculum and instruction, teamwork, and consensus building.

2. The training, if necessary, shall also include personnel and school-based budgeting.

(c) The Chief School Administrator shall notify the SRI Team in writing when an SMT member has attended a training program that satisfies the training requirement.

(d) The Chief School Administrator shall remove an SMT member who has not fulfilled the training requirement. Any member so removed may appeal by filing a petition with the Commissioner pursuant to N.J.A.C. 6:24.

1. The Chief School Administrator shall notify the SRI Team in writing when SMT members have been removed pursuant to this provision.

1. The board shall determine age eligibility for enrollment in preschool programs provided pursuant to this subchapter using the same date it uses in determining age eligibility for kindergarten programs.

2. The board shall offer preschool programs, once implemented, for the duration of the school year.

(b) The board shall cooperate with or utilize a DHS-licensed child care provider whenever practical to implement required preschool programs and shall not duplicate programs or services otherwise available in the community. When the board enters into a contract with a DHS-licensed child care provider for the 2000-2001 school year, the contract shall be in a form provided by or approved by the Department. The board shall contract with a DHS-licensed child care provider to provide services to preschool students during the 1999-2000 school year when that provider agrees to meet the following standards:

1. Provide one teacher and one aide for every 15 students, or one teacher and two aides for every 20 students;

2. In consultation with a master teacher, provide age and developmentally appropriate expectations that are aligned with the Core Curriculum Content Standards and are integrated with the WSR model(s), or the whole school alternative program design(s) utilized in the district;

3. Require existing teachers to:

i. Work toward a bachelor's degree in six years and the proposed preschool-3 certificate, if the teacher already has Child Development Associate (CDA) or Certified Childcare Professional (CCP) credentials; or

ii. Enroll in a CDA/CCP program, attain CDA/CCP credentials within two years and work toward an associate's degree in early childhood and a bachelor's degree within six years and the proposed preschool-3 certification, if the teacher does not have a CDA/CCP or any degree;

4. Require any newly hired teachers to:

i. Have a bachelor's degree, enroll in the Department's provisional teacher program and obtain appropriate early childhood education courses, and obtain the proposed preschool-3 teacher certification by September 2001;

ii. Have an associate's degree in early childhood education and enroll in a bachelor's degree program that would lead to a teacher certification in early childhood education by September 2004; or

iii. Have a K-8 teacher's certificate, enroll in early childhood courses now, and seek the proposed preschool-3 certificate as soon as it becomes available; and

SUBCHAPTER 3. EARLY CHILDHOOD EDUCATION

6:19A-3.1 Early childhood general provisions

These rules will assist the Department in reaching its goal to ensure that all children in Abbott districts enter kindergarten ready to learn. The purpose of these rules is to ensure that quality early childhood programs are established in New Jersey. There is overwhelming evidence that an early childhood education will have long-term benefits for children, especially in disadvantaged districts. To ensure quality early childhood programs, districts are required to provide developmentally appropriate programs, under the supervision of master teachers, for the 1999-2000 school year, and the Department will provide districts, by the 2000-2001 school year, with specific guidance on developmentally appropriate standards/ expectations to provide uniform quality.

6:19A-3.2 Full-day kindergarten

The board shall offer a full-day kindergarten program to all five-year-old students.

6:19A-3.3 Preschool programs

(a) The board shall offer a half-day preschool program to all three- and four-year-old students for the 1999-2000 school year.

5. Encourage all teacher assistants, both new hires and existing staff to:

- i. Pursue an associate's degree in early childhood education, if they already have CDA/CCP credentials; and
- ii. Pursue either the CDA or the CCP credential if they do not have CDA/CCP credentials;

6. Provide one family worker for every 40 children being served by the center. The family worker shall work with the center and the parents to ensure that the parents and their children obtain necessary health and social services.

(c) The board may request a waiver from the Department to contract with a DHS-licensed child care provider that cannot meet (b)4 above, if the provider agrees to hire new teachers with CDA/CCP credentials. To be eligible for a waiver, the board shall demonstrate that teachers with a bachelor's degree or an associate's degree in early childhood education are not available.

(d) The board shall provide a master teacher at a recommended ratio of 1 to every 20 preschool classrooms. The master teacher shall coordinate and facilitate early childhood programs and assist in the provision of early childhood professional development.

(e) The board shall ensure that family referral services are available for district-operated preschool programs.

Case Notes

Department of Education regulation permitting a school board to request a waiver from the requirement to hire teachers for preschool programs in poor, urban school districts if the school board seeks to contract with a licensed facility that cannot meet the requirements for new hires, but nonetheless agrees to hire teachers with CDA/CCP credentials, does not provide sufficient guidance for schools attempting to demonstrate that certified teachers cannot be found. *Abbott ex rel. Abbott v. Burke*, 163 N.J. 95, 748 A.2d 82 (N.J. 2000).

6:19A-3.4 Early childhood program operational plan

(a) The board shall operate its early childhood program consistent with its early childhood plan approved by the Department, which plan was developed pursuant to requirements specified in N.J.A.C. 6:19-3.2(e)2. The board shall amend its plan so that all four-year-olds and all three-year-olds are offered full-day, full-year preschool by the 2001-2002 school year. The district shall provide any necessary information to the Department to ensure that the program implementation is consistent with that plan.

(b) No additional early childhood programs or services shall be approved unless a particularized need is demonstrated pursuant to N.J.A.C. 6:19A-5.

SUBCHAPTER 4. WHOLE SCHOOL REFORM

6:19A-4.1 Adoption of whole school reform model

(a) Except as provided pursuant to N.J.A.C. 6:19A-4.2, each elementary school shall adopt a whole school reform (WSR) model by June 2000. All WSR model developers must align all instructional materials and all instructional processes in the model with the Core Curriculum Content Standards. The presumptive model shall be Success for All—Roots and Wings (SFA/R&W). Permission to use other models may be granted by the Department where the choice of such model is justified. If any elementary school shall fail to select a model or have a design approved pursuant to N.J.A.C. 6:19A-4.2 by June 2000, the Commissioner shall assign an intervention team to work with the school, and if, after the intervention, the school fails to select a model or have a design approved, the Commissioner shall direct the school to implement the presumptive model.

(b) Except as provided pursuant to N.J.A.C. 6:19A-4.2, any elementary school that is not a WSR school shall submit an application to the Department to participate in the implementation of WSR for the 2000-2001 school year. Any secondary school that has not implemented WSR may submit an application to the Department to participate in the implementation of WSR for the 2000-2001 school year. Application forms, including instructions and timelines, shall be provided by the Department for this purpose.

1. To implement an approved model, a school shall have the agreement of the developer.

2. A separate application is required for each school.

(c) Any secondary school that is not a WSR school shall submit to the Department for approval, with a copy to the board, a plan for implementation of a research-based WSR model, or a whole school alternative program design, or a comprehensive strategy that utilizes research based supplemental programs that address the Core Curriculum Content Standards no later than May 2000.

(d) Each of the following elements of whole school reform shall be addressed in a WSR model adopted by a school in an Abbott district:

1. Improved Student Performance: The model shall lead to improved student achievement focused on the Core Curriculum Content Standards, as measured by the State assessment program (Elementary School Proficiency Assessment, Grade Eight Proficiency Assessment, and High School Proficiency Test/High School Proficiency Assessment).

2. Research-Based Program: Each school shall provide a research-based program of curriculum and instruction supported by, and integrated with, an appropriate array of research-proven supplemental strategies (for example, SFA/R&W).

3. School-Based Leadership and Decision Making: The school shall maintain its own planning and decision-making structure, including establishment of an SMT pursuant to N.J.A.C. 6:19A-2, and shall be led by a strong, effective principal. The principal shall involve parents and teaching staff members in setting annual student achievement targets. School staff and members of the community shall be committed to working together in a comprehensive, concerted effort to ensure that each child achieves success and maintains his or her self-confidence and enthusiasm for learning.

4. Integration and Alignment of School Functions: The school shall use a comprehensive approach, rather than a piecemeal one, to assure effective school-level implementation pursuant to N.J.A.C. 6:19A-4.3. All school functions shall collectively support student attainment of the Core Curriculum Content Standards. The school shall have an effective and compatible program of curriculum and instruction, supported systematically by a well-planned school budget pursuant to N.J.A.C. 6:19A-4.4.

5. Educational Technology: Educational technology shall be infused in all aspects of curriculum and instruction, throughout the entire WSR model, to support achievement of the Core Curriculum Content Standards pursuant to N.J.A.C. 6:19A-1.4(f) and 2.2(b)6. Educational technology includes acquisition and maintenance of necessary equipment and infrastructure, provision of appropriate professional development activities and designation of appropriate staff to implement plans and activities.

6. Professional Development: All staff of the school shall be engaged in an organized, continuous program of staff training, focused on the acquisition of knowledge and skills directly related to the achievement of the Core Curriculum Content Standards and the implementation of the selected WSR model.

7. Safe School Environment Conducive to Learning: The school climate must be safe and conducive to learning. There shall be a code of conduct that clearly defines acceptable and unacceptable student behaviors and the consequences for them. The district shall provide required security staff and other necessary protective devices as set forth in N.J.A.C. 6:19A-1.5(h).

8. Student and Family Services/Coordination of Resources: Each elementary school shall maintain a Family Support Team or other comparable entity that encourages parent involvement in the school and in students' learning; trains parents for volunteer roles; intervenes to resolve behavioral, nutritional, attendance and other issues; receives teacher referrals of students who are not making progress; and makes referrals to appropriate health and human services agencies, including KidCare and Medicaid. Each middle and secondary school shall provide health and social services in accordance with N.J.A.C. 6:19A-1.4(i) and 6:19A-6.

9. Reward System: Each school shall establish a reward system, consistent with the district reward system established pursuant to N.J.A.C. 6:19A-1.5, that includes a system of rewards to recognize teachers, parents, and administrators who contribute to helping students attain the Core Curriculum Content Standards.

(e) Additionally, the following requirements shall be met:

1. The school principal and staff shall make an informed choice to use the WSR model;

2. The district administration and school staff must agree to fully implement the model within three years and maintain implementation of the model after the initial three years;

3. All requirements of the developer shall be addressed. An agreement shall be signed by the district, the school and the developer to implement the model in accordance with the developer's and the Department's requirements;

4. There shall be a clear commitment by the district administration, school staff, parents and community to faithful replication of the model selected;

5. Extensive professional development shall be implemented according to the requirements of the developer and the Department;

6. The district shall allocate the necessary resources to implement the model, and the school shall use the allocated resources for this purpose;

7. The school shall integrate all local, State and Federal resources into the funding of one WSR implementation plan;

8. The school shall restructure all existing programs to focus on the WSR model being implemented; and

9. A plan shall be in place to continue to reduce class size to 1:21 for grades K through three and 1:23 for grades four through six. The plan shall also include an aide in kindergarten.

6:19A-4.2 Whole school alternative program design

(a) Any elementary school that is not a WSR school may apply to adopt and implement a whole school alternative program design, rather than select an established WSR model. The school shall submit an application to the Commissioner that demonstrates the following:

1. There is substantial evidence of high school achievement in that school for at least the last three years;

2. The whole school alternative program design addresses the elements of whole school reform set forth in N.J.A.C. 6:19A-4 by meeting each of the whole school alternative program design criteria set forth in this section; and

3. The school has informed the district of the school's commitment to adopt and implement a whole school alternative program design, and the district has demonstrated its commitment to support the school and its implementation of the whole school alternative program design.

(b) An eligible school shall submit an application to the Department by March 1, 2000. The Department shall develop a rigorous process, involving outside experts, to review applications for approval to implement a whole school alternative program design. A school shall be notified of the Department's decision by May 2000. A school whose application is not approved shall select a Department-approved WSR model pursuant to this subchapter.

(c) An application for approval to implement a whole school alternative program design shall include the following:

1. A Needs Assessment: Each school shall conduct a needs assessment that is based on the elements of Whole

School Reform set forth in N.J.A.C. 6:19A-4, and on student achievement of the Core Curriculum Content Standards. The needs assessment shall describe which elements of whole school reform currently exist, which ones are missing, and how the missing components will be addressed. The needs assessment shall include:

- i. The academic needs of students;
 - ii. The health and social needs of students;
 - iii. The availability, current capacity and needs of community resources;
 - iv. The curricular, instructional (regular and specialized), programmatic, and staffing needs of the school in the Core Curriculum Content Standards, including visual and performing arts, comprehensive health/physical education, language arts literacy, mathematics, science, social studies and world languages;
 - v. The professional development needs of teachers;
 - vi. The facilities needs; and
 - vii. An estimate of the resources necessary at the school level to fund the design;
2. **Effective Research-Based Methods and Strategies:** There shall be reliable research supporting the key components of a design and evidence of effective practices, including evidence that the program has worked successfully in the applicant school and/or in other schools with similar characteristics. The design shall identify the research that supports each of its key components;
3. **A Comprehensive Program Design:** The design shall:
- i. Align and coordinate all instructional programs to the Core Curriculum Content Standards;
 - ii. Address educational needs of children with limited English proficiency, children with disabilities and early childhood education programs;
 - iii. Address student needs during the instructional day and include strategies for early intervention for those students who are not making progress (for example, ongoing assessment of student achievement);
 - iv. Address summer and after-school supplemental programs where needed, through the application for particularized need established in N.J.A.C. 6:19A-5.1;
 - v. Integrate educational technology in all aspects of curriculum and instruction to support achievement of the Core Curriculum Content Standards as set forth N.J.A.C. 6:19A-4.1(d)5;
 - vi. Ensure that there shall be sufficient management and support personnel to facilitate planning and operating of all instructional programs; and

vii. Be comprehensive. The design shall incorporate a common vision and mission for the school and include the integration of effective programs and strategies;

4. **Emphasis on Reading Literacy:** The design shall include an intensive reading literacy component. The design shall be based upon national models to ensure that every student will be reading at grade level by the end of the third grade;

5. **Class Size Reduction:** The design shall reduce class size in grades K through three to 21 children and in grades four through six to 23 children or demonstrate a program of smaller class sizes geared to more effective learning, including reading class size reduction;

6. **Faculty Buy-In and Support Within the School:** The school shall demonstrate that the school staff is committed to the design. Additionally, the school staff shall have a meaningful involvement in decision making, development and implementation of the design. The school shall provide evidence that support is based on consensus or on an 80 percent approval vote by school staff;

7. **Parental Involvement:** The design shall provide for meaningful parental involvement in decision making, including participation on the SMT, instructional program, and implementation of the design;

8. **An Instructional Facilitator:** A teaching staff member shall be designated to ensure that all the elements of the design are properly implemented and coordinated;

9. **Professional Development:** The design shall provide high-quality and continuous staff professional development and training and shall comport with current continuing education regulations. Teachers shall be provided with the knowledge and resources necessary to implement the design, including in-service training and support in the form of facilitation and peer assistance. Professional development shall be designed to help teachers assist students in achieving and sustaining significantly higher levels of proficiency;

10. **Goals, Benchmarks, Evaluation and Accountability:** Student performance shall be tied to the Core Curriculum Content Standards and the State's proficiency tests. The design shall establish interim benchmarks and assessment mechanisms to achieve the goals. A continuous evaluation mechanism and an accountability system shall be developed as part of the design;

11. **Coordination and Referral of Resources in the Community:** There shall be a mechanism in place to ensure effective utilization, referral and coordination of school and community resources, including Federal, State and local, including KidCare and Medicaid, to address problems faced by the child and to maximize the child's opportunity to learn. This shall include a school-based family support team trained to meet health, nutritional and social services needs of the child;

12. Adequate Facilities: The district's long-range facilities plan shall demonstrate adequate facilities to ensure the successful implementation of the design. There shall be facilities sufficient for the delivery of art, special education, music, science and world languages consistent with the approved curriculum and instruction;

13. School-Based Budgeting: The design shall require the use of school-based budgeting to ensure that an analysis of the entire school budget is conducted to allocate funds sufficient to support the school curriculum based on the Core Curriculum Content Standards and all required and needed secondary programs;

14. A Safe and Secure Learning Environment: The design shall ensure that sufficient security is provided to the school so that a safe and secure environment shall be provided for learning. The districts' student code of conduct shall be implemented as part of the design;

15. Articulation Among Whole School Reform Programs and Schools: The school's design shall address the need for articulation within the school, between the school and other schools in the district, and with the central office; and

16. School-Based Leadership: A School Management Team shall be established and function in each school in accordance with N.J.A.C. 6:19A-2.

6:19A-4.3 Submission of WSR implementation plan

(a) On or before December 1, 1999, the SMT of each school participating in WSR shall develop and submit to the Department, with a copy to the Chief School Administrator and the board, a WSR implementation plan based on a needs assessment which integrates all local, State and Federal resources and has been developed in accordance with the guidelines and requirements of the Department and the program developer. At a minimum, the plan shall:

1. Be developed with the involvement of school staff, parents, community members and other stakeholders, in consultation with the Department and with the developer;
2. Be consistent with the school's Department-approved application for participation in WSR;
3. Include goals, measurable objectives, activities, timelines, budget data, and an evaluation plan;
4. Include a timeline leading to full implementation of WSR within three years of Department selection;
5. Ensure that curriculum is aligned with the Core Curriculum Content Standards and is articulated among the grades in the school;
6. Include collaboration, articulation and continuity with the middle or high school, as appropriate, that the students will attend to ensure a smooth transition to the next grade level; and

7. Be approved by the Chief School Administrator, school principal and the SMT.

(b) The WSR implementation plan shall also include the following:

1. The school-level educational technology plan required in N.J.A.C. 6:19A-2.2(b)4; and
2. The class-size-reduction plan required in N.J.A.C. 6:19A-4.1(e)9.

(c) A WSR implementation plan adopted at the secondary level shall incorporate all programs and services specified in N.J.A.C. 6:19A-6.1. Additionally, the plan shall address reducing the dropout rate, increasing the graduation rate, improving attendance and reducing class size.

(d) No programs or services beyond those required by the WSR model, approved design, or required programs shall be approved unless a particularized need is demonstrated pursuant to N.J.A.C. 6:19A-5.1.

6:19A-4.4 School-based budgets

(a) The principal shall prepare a school-based budget as follows:

1. The principal shall consult with staff and the SMT as to the programs, staff and other goods and services that will be needed to implement or maintain the selected WSR model, or the design and required secondary programs.
2. The principal shall prepare a budget proposal in a format prescribed by the Commissioner that compares the proposed budget to both the current year appropriations and the illustrative budget for the selected WSR model.
3. Where proposed staff or other expenditures exceed the illustrative budget standards, the principal shall advise the SMT and specifically identify where those standards are exceeded so that the SMT can prepare a demonstration of particularized need pursuant to N.J.A.C. 6:19A-5 for each category that exceeds the illustrative budget for approval by the Department.
4. Except where prohibited by Federal law, all local, State and Federal funds shall be considered general funds available for WSR activities, notwithstanding any restrictions that would otherwise apply.
5. The budget shall be developed assuming available revenues based on 1998-99 audited amounts and those allocated for 1999-2000. Additionally, it shall account for anticipated revenue increases and reflect the resources necessary to implement WSR and required secondary programs and Department-approved particularized needs as applicable.
6. Where funds available within the 1999-2000 budget, together with anticipated revenue increases, are not sufficient to support the proposed 2000-01 budget, all avail-

able school-level resources shall be reallocated for the purpose of implementing WSR, required secondary programs, and, as applicable, particularized needs approved pursuant to N.J.A.C. 6:19A-5.1.

(b) The Chief School Administrator shall provide the principal with all appropriate resources and assistance as needed to develop the school-based budget.

(c) As appropriate, the school business administrator shall work with the principal in development of the school-based budget. The school business administrator shall provide the SMT with a school-based budget orientation that, at a minimum, shall include a workshop on the chart of accounts, budget forms, and the illustrative budget for the selected WSR model.

(d) The principal shall seek input from the SMT on the proposed school-based budget. Once SMT input has been provided, the principal shall submit the budget to the Chief School Administrator and board for comments.

(e) In consultation with the SMT, the principal shall prepare a response that addresses each comment received from the Chief School Administrator and the board along with the action taken, if any.

(f) If the SMT has exercised its option to be involved in decision making on the school-based budget pursuant to N.J.A.C. 6:19A-2.2(c), then it shall take action to approve the budget. If the SMT has not exercised its option pursuant to N.J.A.C. 6:19A-2.2(c) the principal shall certify the budget.

(g) The principal shall submit the approved or certified budget to the Department with the Chief School Administrator's and the board's comments and the SMT's responses to those comments.

(h) Upon approval of the school-based budget by the Commissioner, the board shall allocate adequate funds in the 2000-01 district budget for those elements approved by the Commissioner, and may allocate additional funds for those elements not approved by the Commissioner, provided the board does not apply for additional State aid pursuant to N.J.A.C. 6:19A-7.1.

6:19A-4.5 WSR implementation issues

(a) A WSR school that is having difficulty with implementation of the whole school reform model that was selected shall convene the superintendent, principal and SMT to meet as a team to discuss issues; to determine, in consultation with the SRI Team and developer, necessary next steps based on the needs of the school; and to explore all possible options for addressing identified needs, including application to the Department for approval to select another WSR model or to implement a whole school alternative program design. The Department shall approve an application to implement another WSR model or an application to implement a whole school alternative program design pursuant to this subchapter only if the school demonstrates to the satisfaction of the Commissioner that:

1. Implementation of the WSR model was not consistent with the elements of whole school reform as set forth in this chapter;

2. The model or design that the school is applying to implement is capable of producing student results which exceed the results that the WSR model is capable of achieving; and

3. The model or design meets all of the criteria set forth in N.J.A.C. 6:19A-4.2 or 4.1 and resolves the problems which led to the selection of the model or design.

(b) The principal or the developer shall bring to the attention of the Department any school not demonstrating satisfactory progress in student achievement and a meeting shall be convened with the SRI Team, the developer, and the SMT to develop a corrective action plan that includes a timeline and sets benchmarks toward reaching the goal of improving student achievement in that school.

SUBCHAPTER 5. SUPPLEMENTAL PROGRAMS

6:19A-5.1 Demonstration of particularized need

(a) The SMT, in consultation with the principal and Chief School Administrator in any school participating in implementation of WSR during the 1999-2000 school year or any secondary school, may consider whether there exists a demonstrated particularized need for additional supplemental educational programs or services over and above existing WSR or required secondary programs which are essential to ensure educational success for a specified population of students, and without which such students cannot achieve the Core Curriculum Content Standards.

(b) To determine whether a particularized need exists, the SMT shall first undertake a needs assessment which shall include:

1. An assessment of student achievement in meeting Core Curriculum Content Standards and identification of particular populations of students not meeting such standards;

2. Where the Core Curriculum Content Standards are not being met, a determination that failure of those students is caused by particularized needs which are not capable of being addressed by existing WSR or required secondary programs at the school level, and an explanation as to why the existing WSR or required secondary programs are insufficient to meet the identified need(s);

3. An inventory of currently used programs and services targeted to the area(s) of need, together with an assessment of their effectiveness and efficiency in meeting such need, and an explanation as to why they are insufficient to meet the identified need(s); and

4. A review of community resources which could be used to address the identified area(s) of need and an explanation as to why they are not being used.

(c) Upon finding a particularized need, the SMT shall recommend to the board, with a copy to the SRI Team, the appropriate supplemental programs and services, which shall be documented by evidence that the programs and services have worked successfully in the school and/or in other schools with similar characteristics and proven to address the identified need.

1. In those instances where a board does not agree that the SMT has demonstrated a particularized need for a program or service or does not agree that the recommended program or service is essential in order to enable those students to achieve the Core Curriculum Content Standards, the board shall provide to the SMT a detailed statement of the reasons for its determination.

2. In those instances where the board determines that a particularized need for a recommended supplemental program or service has been demonstrated, and that the program or service is essential for success by a specific population of students in achieving the Core Curriculum Content Standards over and above existing WSR or required secondary programs or services, the board shall submit its proposed plan for the program to the Department for approval in accordance with the provisions of N.J.A.C. 6:19A-5.2.

3. In those instances where the board determines that resources are insufficient to support the supplemental programs or services approved pursuant to N.J.A.C. 6:19A-5.2 after all possible reallocation at the school and district levels have been made, the board shall apply to the Department for additional State aid in accordance with the requirements of N.J.A.C. 6:19A-7.

6:19A-5.2 Application for supplemental programs or services

(a) Upon determination by the board that a particularized need for a recommended supplemental program or service has been demonstrated to the board pursuant to N.J.A.C. 6:19A-5.1 and that the program or service is essential for the success of a specific population of students in achieving the Core Curriculum Content Standards, over and above existing WSR or required secondary programs or services, the board shall submit its proposed plan for the program or service to the Department for approval. Applications for such approval shall be submitted on forms provided by the Department and shall at a minimum include:

1. The particularized needs assessment undertaken pursuant to N.J.A.C. 6:19A-5.1(b);

2. A demonstration that one or more public hearings have been held in order to obtain parent, student, teaching staff and citizen input on the application;

3. A general description of the supplemental program(s) or service(s) and an explanation of the particular-

ized need(s) which shall be met in order to enable those students to achieve the Core Curriculum Content Standards;

4. A demonstration that the supplemental program(s) or service(s) is documented by evidence that the program(s) or service(s) have worked successfully in the school and/or in other schools with similar characteristics and is proven to address the identified need(s);

5. A plan for evaluating the continuing effectiveness and efficiency of the supplemental program(s) or service(s);

6. A demonstration that the requested supplemental program(s) or service(s) will not delay or impede implementation of, and does not duplicate, WSR or secondary programs and services required elsewhere in this chapter;

7. A recommendation of elimination or modification of existing programs or services identified as less than effective and efficient, or which would overlap with the proposed new program or service; and

8. An operating budget for the purpose of the supplemental program(s) or service(s).

(b) The Chief School Administrator may apply for supplemental programs and/or services for the district's preschool program if a demonstrated particularized need exists for further supplemental educational programs or services over and above existing WSR or required secondary programs which are essential to ensure educational success for a specified population of preschool students, and without which such preschool students cannot achieve the Core Curriculum Content Standards. To determine whether a particularized need exists, the district shall undertake a needs assessment pursuant to N.J.A.C. 6:19A-5.1. Upon a determination by the board that a particularized need exists for a preschool supplemental program(s) or service(s), the board shall submit its proposed plan for the program(s) or service(s) to the Department for approval pursuant to (a) above.

(c) Supplemental programs or services that are not approved by the Department pursuant to N.J.A.C. 6:19A-5.2 cannot be included in a district wide budget that requests additional State aid pursuant to N.J.A.C. 6:19A-7.

(d) Any application for supplemental programs or services denied by the Department may be appealed to the Commissioner pursuant to the provisions of N.J.A.C. 6:19A-9.

SUBCHAPTER 6. REQUIRED PROGRAMS IN SECONDARY SCHOOLS

6:19A-6.1 Implementation of required programs in secondary schools

(a) Prior to December 1, 1999, the SMT of a secondary school, in consultation with the Chief School Administrator,

the principal and the SRI Team, shall submit a revised plan for implementation of required programs in secondary schools to the Department for approval, with a copy to the Chief School Administrator and the board. The plan shall include the means of implementing the following required secondary programs and services and shall include:

1. A mechanism for access to the health and social services identified by the SMT as being essential for the educational achievement of students, through utilization of existing district staff, programs and services, and through coordination of and referral to community-based providers;

2. A school security program, consistent with the requirements of N.J.A.C. 6:19A-1.4(h), appropriate to the building's circumstances and needs, including development of a Code of Student Conduct and review of any existing student behavior policies to ensure maximum effectiveness;

3. A mechanism for identifying students requiring placement in the district's alternative education program(s) as required in N.J.A.C. 6:19A-1.4(i);

4. School-to-work or college transition programs that address the Cross-Content Workplace Readiness Standards of the Core Curriculum Content Standards. The curriculum should integrate academic and occupational concepts, provide an opportunity for students to participate in a structural learning experience, as well as include programs that link the secondary years to postsecondary educational opportunities;

5. Infusion of educational technology into all aspects of the curriculum and instructional program to support achievement of the Core Curriculum Content Standards, including provision for acquisition and maintenance of necessary equipment and infrastructure, appropriate professional development activities and designation of staff to implement technology activities; and

6. A focused, ongoing program of professional development for all building staff, including administrative, teaching and support staff, designed to meet the specific needs of the school and its students as such needs relate to implementation of WSR and achievement of the Core Curriculum Content Standards.

(b) The revised plan shall be submitted to the Department on the form provided for this purpose, and shall at a minimum include:

1. An inventory of existing supplemental programs and services targeted to the area(s) of need, together with an assessment of their efficacy and efficiency;

2. Recommendations for elimination or modification of programs or services judged less than efficacious and efficient, or which overlap with the proposed new program or service;

3. A review of community resources which could be used to address the area(s) of need;

4. Recommendations for the programs and services needed to implement the SMT's plan, and the operating budget necessary to provide them;

5. Approval by the Chief School Administrator, the principal and the head of the SMT, if other than the principal; and

6. The Department-approved plan set forth in N.J.A.C. 6:19A-4.1(c).

(c) The board shall accord the programs and services listed under (a) above the highest priority in development of the 2000-2001 school budget, making such reallocations and dedicating such resources as are necessary to ensure their full implementation by the 2000-2001 school year. To the extent resources are insufficient, after all possible reallocations at the school and district levels to support the required secondary programs, the board shall apply to the Department of Education for additional funding pursuant to N.J.A.C. 6:19A-7.

(d) No additional secondary programs and services shall be approved unless a particularized need is demonstrated pursuant to N.J.A.C. 6:19A-5.

SUBCHAPTER 7. REQUEST FOR ADDITIONAL STATE AID

6:19A-7.1 Application for additional State aid

(a) A board shall submit an application for additional *Abbot v. Burke* State aid as part of the original district wide budget to be submitted pursuant to N.J.S.A. 18A:7F-5(c) and 6(c). The application shall include a demonstration that resources are insufficient to support all programs required by *Abbott V*, and further reallocation would weaken the district's foundational education programs; and/or the board has determined that resources are insufficient to support Department-approved supplemental program(s) or service(s) and further reallocation would weaken the district's foundational education programs.

(b) As part of an application for additional *Abbott v. Burke* State aid the board shall provide an itemized accounting of priorities in reverse priority order in an amount equal to the additional *Abbott v. Burke* State aid requested.

(c) The board shall consider all available resources, reallocations and other factors before submitting an application for additional *Abbott v. Burke* State aid as follows:

1. Undesignated general fund balances in excess of three 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 or other expenditures not approved by the Commissioner as part of the school-based budget during the review of WSR school-based budgets;
5. All new programs and services not approved by the Department as required for WSR, early childhood education, required secondary programs or local particularized needs. Nothing shall preclude the board from seeking additional local school taxes or other local funding over and above the minimum school tax levy for such purposes;
6. Capital expenditures that should be amortized over several years or that can be deferred without jeopardizing the health or safety of the occupants of the building; and
7. Appropriations in excess of actual documented need.

(d) The Department shall review the itemized accounting of priorities submitted as required in (b) above, as well as the district wide budget, to determine that consideration has been given to all available resources, reallocations and other factors. The Department shall review the materials submitted and other district records and supporting documentation as considered necessary. In making the determination as to whether an existing program, service or expenditure should be exempt from reallocation, in whole or 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 the achievement levels of students in the school;
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.

(e) If during the 1999-2000 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 *Abbott v. Burke* State aid shall be filed consistent with the provisions of this subchapter. The separate application shall also document the nature of the unanticipated expenditures or unforeseen circumstances and the impact on the current approved budget. The Department's review of the separate application shall be consistent with the provisions of (d) above and will consider the current status of the approved budget. Amounts approved by the Commissioner in re-

sponse to the district's separate application will be available for expenditure during the 1999-2000 school year. The revenue shall be recognized through the establishment of an accounts receivable subject to appropriation in the FY 2001 Appropriations Act.

(f) Any board requesting additional State aid shall apply a zero-based approach in preparing the district wide budget for the 2000-01 school year. The board shall ensure that all spending is necessary and aligned with the objectives and strategies for achieving the Core Curriculum Content Standards during the 2000-01 school year. The board shall prioritize all programs, services and other expenditures. Expenditures related to Department-approved early childhood education plans, WSR school-based budgets, required secondary programs and local particularized needs, shall be given the highest priority. School level programs and services and other direct services to students shall be given priority over central office, other noninstructional and indirect costs. The cost of maintaining existing effective programs and services shall be accounted for separately from the expansion of existing programs and services unless required by Abbott V. Maintenance of an existing program or service shall be given higher priority than expansion of that program or service. Nothing shall preclude a board from giving higher priority to an expanded program or service over the maintenance of another existing program or service.

(g) 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 22-8, and when necessary, for the application for additional State aid pursuant to the requirements of (a) above.

SUBCHAPTER 8. FACILITIES

6:19A-8.1 Long-range facilities plan

(a) Each district that has not already done so shall prepare and submit to the Commissioner a long-range facilities plan that details the district's school facilities needs and the district's plan to address those needs for the ensuing five years. This long-range facilities plan shall incorporate the facilities efficiency standards and demonstrations of local particularized needs established pursuant to N.J.A.C. 6:19A-5 and may include any other space to be funded locally.

(b) No school facilities project approval pursuant to this subchapter shall be granted unless and until the district has filed a long-range facilities plan and the plan has been approved by the Commissioner.

(c) Notwithstanding (b) above, where a district has filed a long-range facilities plan, the Commissioner may grant ap-

proval for specific priority projects that meet the following standards:

1. The project is necessary to protect the health and safety of students, including upgrading of the electrical system, or to serve preschool students, and the project involves a building which will continue its existing use, and the district agrees that the project should be approved separate from the long-range facilities plan; or

2. The project was submitted to the Department for review prior to the submission of the long-range facilities plan, and the project is consistent with the long-range facilities plan, and the district agrees that the project should be approved separate from the long-range facilities plan.

(d) An amendment to a long-range facilities plan may be submitted at any time to the Commissioner for review and approval.

(e) Each long-range facilities plan shall include a cohort survival methodology, or other methodology approved by the Commissioner, accompanied by a certification of a qualified demographer retained by the district that serves as the basis for identifying the capacity and program needs detailed in the long-range facilities plan.

(f) The long-range facilities plan shall include an educational adequacy inventory of all existing school facilities in the district, the identification of all deficiencies in the district's current inventory of school facilities which includes the identification of those deficiencies that involve emergent health and safety concerns, and the district's proposed plan for future construction and renovation. The long-range facilities plan submissions shall conform to the guidelines, criteria and format prescribed by the Commissioner.

(g) Each district shall determine the number of "unhoused students" for the ensuing five-year period calculated pursuant to the provisions of this subchapter.

(h) The Commissioner shall review each proposed school facilities project to determine whether it is consistent with the district's long-range facilities plan and whether it complies with the facilities efficiency standards and the area allowances per FTE student derived from those standards.

(i) If the Commissioner determines that the school facilities project complies with the facilities efficiency standards and the district's long-range facilities plan and does not exceed the area allowance per FTE student derived from those standards, the Commissioner shall calculate the preliminary eligible costs of the project pursuant to the formulas set forth in this subchapter.

(j) If the Commissioner determines that the school facilities project is inconsistent with the facilities efficiency standards or exceeds the area allowances per FTE student derived from those standards, the Commissioner shall notify the district.

1. The Commissioner shall approve area allowances in excess of the area allowances per FTE student derived from the facilities efficiency standards if the board of education or State district superintendent, as appropriate, demonstrates that school facilities needs related to required programs cannot be addressed within the facilities efficiency standards and that all other proposed spaces are consistent with those standards.

2. The Commissioner may waive a facilities efficiency standard if the board of education or State district superintendent, as appropriate, demonstrates to the Commissioner's satisfaction that the waiver will not adversely affect the educational adequacy of the school facility, including the ability to deliver the programs and services necessary to enable all students to achieve the Core Curriculum Content Standards.

3. To house the district's central administration, a district may request an adjustment to the approved areas for unhoused students of 2.17 square feet for each FTE student in the projected total district school enrollment, if the proposed administrative offices will be housed in a school facility and the district demonstrates either that the existing central administrative offices are obsolete or that it is more practical to convert those offices to instructional space. These square footage figures shall be adjusted to coincide with any statute passed after adoption of this chapter. To the extent that existing administrative space will continue to be used for administrative purposes, the space shall be included in the formula set forth in this subchapter. If the Commissioner approves excess facilities efficiency standards or additional area allowances pursuant to this paragraph and (i)1 and 2 above, the Commissioner shall calculate the preliminary eligible costs based upon the excess area allowances or facilities efficiency standards pursuant to the formulas set forth in this subchapter. In the event that the Commissioner does not approve the excess facilities efficiency standards or additional area allowances, the district may either modify its submission so that the school facilities project meets the facilities efficiency standards, or pay for the unapproved costs.

(k) The Commissioner shall establish, in consultation with the districts, a priority ranking of all school facilities projects in the districts based upon his determination of critical need. School facilities projects in the districts involving health and safety factors including upgrading of the electrical systems, or preschool and other projects as necessary shall be given the highest priority among all district projects.

(l) Preliminary eligible costs for construction of new school facilities and additions to school facilities, characterized by an increase in the square footage of the school facility, shall be approved only if necessary for reasons of unhoused students and shall be calculated as follows:

Preliminary eligible costs = AUxC
 where

AU is the approved area for unhoused students; and
 C is the area cost allowance.

(m) Preliminary eligible costs shall be calculated as follows for reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities that were originally constructed by the district or that the district purchased more than five years prior to the date of approval by the Commissioner and that have not been previously approved by the Commissioner within the prior 15 years; provided that the 15-year requirement may be waived by the Commissioner if the district satisfactorily demonstrates that extraordinary circumstances apply.

Preliminary eligible costs = R x A

where

R = the replacement costs of the facility = GA x C

and where

GA is the gross area (square footage) of the existing school facility or portion thereof being reconstructed, remodeled, altered, modernized, renovated or repaired;

C is the area cost allowance; and

A is a factor determined by the age of the school facility, the measure of which commences with occupancy of the school facility, according to the following table:

<u>Age of the School Facility</u>	<u>A</u>
15 years or less	zero
16 years or more and less than 26 years	50%
26 years or more and less than 41 years	60%
41 years or more	85%

For the purposes of this subchapter, the age of the school facility shall be a composite measure of the age of individual sections of the building determined in accordance with a method approved by the Commissioner. The Commissioner may adjust "A" for a district that demonstrates that additional renovation expenditures are necessary to address health and safety, including electrical systems, and preschool conditions or obsolescence. Notwithstanding the provisions of this subchapter, all school facilities shall be deemed suitable for rehabilitation unless a pre-construction evaluation undertaken by the district demonstrates to the satisfaction of the Commissioner that the structure might pose a risk to the safety of the occupants even after rehabilitation, or that rehabilitation is not cost-effective.

(n) Preliminary eligible costs for new construction done in lieu of renovations shall be determined in accordance with the methodology for new construction, with preliminary eligible costs determined pursuant to (l) above, only when the decision to replace a school facility is supported by a feasibility study conducted by the district, and either the age

of the building being replaced is 41 years or greater or the Commissioner determines that extraordinary circumstances apply. When new construction done in lieu of renovations qualifies as new construction, the approved area for unhoused students shall be determined by the Commissioner, with consideration of the existing school facilities in the district.

(o) The number of unhoused students shall be calculated as the number of FTE students who are projected to be enrolled in preschool handicapped, preschool, kindergarten, grades one through 12, and special education services pupil educational programs provided in a district within five years, which are in excess of the functional capacity of the district's current school facilities or the functional capacity of the school facilities which will be available within five years other than the school facilities for which the preliminary eligible costs are determined, based upon the district's long-range facilities plan. This calculation shall be adjusted to coincide with any statute passed after adoption of this chapter. The determination of unhoused capacity shall separately consider projected enrollments and functional capacities at the early childhood and elementary (preschool through grade five), middle (grades six through eight), and high school (grades nine through 12) levels. For the purpose of calculating the district's unhoused students, special education services students shall be considered part of the grade level to which the students' chronological age corresponds. In the event that the Commissioner approves a school facilities project which involves the construction of a new school facility to replace an existing school facility, which shall accommodate both the unhoused students and the students in the existing school facility, the calculation of the number of unhoused students shall include the number of students currently attending the existing facility which is to be replaced.

(p) Approved area for unhoused students (AU) shall be determined according to the following formula and shall be adjusted to coincide with any statute passed after adoption of this chapter:

$$AU = (UEC \times SEC) + (UE \times SE) + (UM \times SM) + (UH \times SH) \text{ where}$$

UEC, UE, UM, UH are the numbers of unhoused students in the early childhood, elementary, middle, and high school enrollment categories, respectively; and

SEC, SE, SM, SH are the area allowances per FTE student in the early childhood, elementary, middle, and high school enrollment categories, respectively.

The minimum area allowance per FTE student shall be as follows:

Elementary School (including early childhood)	125 square feet
Middle School	131 square feet
High School	151 square feet

(q) The facilities efficiency standards for determining spaces requiring a demonstration of particularized need established pursuant to N.J.A.C. 6:19A-5.1 and excess cost

areas shall be the school building space assumptions used to calculate the area allowances per FTE student in (p) above. The Commissioner shall provide each district with a copy of the facilities efficiency standards and shall publish them in the New Jersey Register.

Public Notice: Facilities Efficiency Standards.
See: 31 N.J.R. 2984(a).

SUBCHAPTER 9. APPEALS

6:19A-9.1 Applicability of subchapter

An aggrieved applicant for Department authorization to improve or amend an existing program, adopt a supplemental program or service, implement a required secondary program, build or renovate a school facility or seek additional *Abbott v. Burke* State aid may appeal to the Commissioner in accordance with the provisions of this subchapter.

6:19A-9.2 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 45 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 a copy of the determination from which the appeal is taken.

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

Amended by R.2000 d.137, effective April 3, 2000.
See: 31 N.J.R. 4173(a), 32 N.J.R. 1177(a).

In (a), changed N.J.A.C. reference in the introductory paragraph.

6:19A-9.3 Filing, service and documentation of answer

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.

Amended by R.2000 d.137, effective April 3, 2000.
See: 31 N.J.R. 4173(a), 32 N.J.R. 1177(a).
Changed N.J.A.C. reference.

6:19A-9.4 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. 6:19A-9.5 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.

6:19A-9.5 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. 6:19A-9.4, the petitioner shall file a letter memorandum setting forth with particularity 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.

6:19A-9.6 Commissioner review and decision

(a) If the Commissioner retains the matter pursuant to N.J.A.C. 6:19A-9.5, upon receipt of the filings set forth above, or expiration of the time for their submission, the Commissioner shall review the total record before him or her and render a written decision.

(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.

(d) Commissioner decisions rendered pursuant to this subchapter shall be final agency decisions and shall be appealable to the Appellate Division of the Superior Court.