

CHAPTER 10A**IMPROVING STANDARDS-DRIVEN INSTRUCTION
AND LITERACY AND INCREASING EFFICIENCY
IN ABBOTT SCHOOL DISTRICTS****Authority**

P.L. 2005, c. 132.

Source and Effective DateR.2005 d.358, effective September 22, 2005.
See: 37 N.J.R. 4043(a).**Chapter Expiration Date**

Chapter 10A, Improving Standards-Driven Instruction and Literacy and Increasing Efficiency in Abbott School Districts, expires on June 30, 2006.

Chapter Historical Note

Chapter 10A, Improving Learning and Literacy in Abbott Districts: Implementing Standards-Driven Instruction, Reforms, Programs and Services Under Abbott v. Burke, was adopted as special new rules by R.2003 d.394, effective September 9, 2003. See: 35 New Jersey Register 4759(a). Chapter 10A, Improving Learning and Literacy in Abbott Districts: Implementing Standards-Driven Instruction, Reforms, Programs, and Services Under Abbott v. Burke, expired on June 30, 2004.

Chapter 10A, Improving Learning and Literacy in Abbott School Districts: Implementing Standards-Driven Instruction and Effective and Efficient Practices Under Abbott v. Burke, was adopted as Special New Rules by R.2005 d.2, effective November 30, 2004. See: 37 N.J.R. Register 104(a). Chapter 10A expired on June 30, 2005.

Chapter 10A, Improving Standards-Driven Instruction and Literacy and Increasing Efficiency in Abbott School Districts, was Special adopted as New Rules by R.2005 d.358, effective September 22, 2005. See: Source and Effective Date.

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**APPENDIX A. SUPPLEMENTAL PROGRAMS IN
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STANDARDS****SUBCHAPTER 1. GENERAL PROVISIONS****6A:10A-1.1 Purpose and applicability of rules**

(a) These rules are adopted to implement the *Abbott v. Burke* decisions and are promulgated pursuant to P.L. 2005, c. 132 to ensure that all students in poor urban school districts receive the educational entitlements guaranteed them by the

New Jersey Constitution. The rules apply to “Abbott districts” as defined in *Abbott v. Burke*, 119 N.J. 287 (1990, *Abbott II*) and N.J.A.C. 6A:10A-1.2, and are adopted to ensure the provision of a thorough and efficient system of education as guaranteed by the New Jersey Constitution (T&E), and defined by the Court in the Abbott decisions and by P.L. 1996, c. 136, as CCCS. These rules will also ensure that the instructional needs of students are continuously assessed, that all school districts operate in a cost-effective and efficient manner, are focused on improving learning, literacy and student mastery of the CCCS, and are supported by adequate funding. Additionally, these rules establish procedures and standards for those Abbott school districts receiving DEOA funding for fiscal year 2005-2006.

(b) These rules, promulgated by the Commissioner of Education under the authority of the Fiscal Year 2006 Appropriations Act, shall be effective through June 30, 2006. To the maximum extent possible, these rules are consistent with the requirements, reporting and responsibilities imposed on Abbott schools and school districts by No Child Left Behind, P.L. 107-110. The rules shall supercede the rules in N.J.A.C. 6A:23 and 6A:23A where inconsistencies occur. In addition, Abbott school districts must comply with all other requirements of State law and regulations as set forth in Title 18A of the laws of the State of New Jersey, the New Jersey Administrative Code and the non-fiscal requirements of the Comprehensive Educational Improvement and Financing Act (CEIFA) in N.J.S.A. 18A:7F-1 et seq., and rules otherwise promulgated to implement that act; except that where differences in these rules and the CEIFA rules or other rules occur, these rules herein shall take precedence.

6A:10A-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meaning, unless the context indicates otherwise.

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

“Abbott school district” means each of the following 28 urban school districts 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 school districts

not included above but designated Abbott school districts pursuant to statute, Neptune Township and Plainfield, P.L. 1999, c. 110, and Salem City, P.L. 2004, c. 61, and such other school districts as may qualify in the future. An Abbott school district shall not include any charter school.

“Administrative cost” means total administrative costs as defined by the Comparative Spending Guide and in accordance with the Uniform Minimum Chart of Accounts for New Jersey Public Schools and the National Center for Education Statistics classifications and other reporting directives published and distributed by the Commissioner pursuant to N.J.S.A. 18A:4-14 and N.J.A.C. 6A:23-2.

“Advertised per-pupil administrative costs” means the per-pupil administrative costs as defined by the Comparative Spending Guide and advertised in the school district budget software pursuant to N.J.S.A. 18A:22-11.

“Alternative Whole School Reform Design” or “AWSRD” means a plan approved by the Commissioner on the recommendation of the chief school administrator (CSA) and the school leadership council (SLC), in the case of a school AWSRD, that documents how elementary student performance in a school or entire school district can be improved by the implementation of a comprehensive program of instruction, governance and support adapted to the documented needs of its students and/or students district-wide and which the school district has documented to be more effective than the implementation of a national WSR model.

“Annual Audit Program” means the uniform program, including the Abbott Addendum, published and distributed by the Commissioner for each district board of education for preparing the Comprehensive Annual Financial Report pursuant to N.J.A.C. 6A:23-2.2(i).

“Appropriations Act” means the unitary appropriations law covering a single fiscal year as required by the New Jersey Constitution Article 8, Section 2, paragraph 2.

“CAPA Team” means the Collaborative Assessment and Planning for Achievement (CAPA) team of educational practitioners, parents and other individuals assembled, trained and assigned by the Commissioner and the chief school administrator to implement the CAPA process in low performing schools.

“CAPA Team Report” means the written report on the CAPA Team’s findings and recommendations, developed by the CAPA Team with the SLC and school district central office, that is consistent with *Abbott X* and addresses at least the following: quality of instruction and school leadership; effectiveness of the SLC; level of parent participation, WRS model implementation, support from the Department, and the school district central office; the adequacy of supplemental programs and services to meet student needs, the status and quality of the school district’s foundational education program with reference to curriculum, professional development, instructional materials and the use of student performance

evidence and such other areas of inquiry as the Commissioner shall deem appropriate. The findings and recommendations in the Report shall result in a written Improvement Agreement consistent with *Abbott X*.

“Certified Childcare Professional” or “CCP” means a credential earned by teachers for their knowledge of early childhood development and their skills in working with young children. The credential means that the candidate has, at a minimum, 180 clock hours of continuing education credit and 720 hours of classroom experience and has passed the exam.

“Chart of Supplemental Programs” means the Supplemental Programs in Abbott Schools chart from *Abbott X*, incorporated herein by reference as the chapter Appendix A.

“Chief school administrator” or “CSA” means the superintendent of an Abbott school district, or the State school district superintendent in the case of a state-operated school district.

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

“Child Development Associate” or “CDA” means the national credential for early care and education teachers who have met the CDA competency 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 can award a CDA credential.

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

“Community and parent involvement specialist” means the school district staff member charged with furthering family/school partnerships for the preschool program. The specialist coordinates community and parent involvement plans and activities.

“Comparative Spending Guide” means the annual report of comparative financial statistics of school districts compiled and published for general distribution by the Commissioner pursuant to N.J.S.A. 18A:4-30.

“Comprehensive Annual Financial Report” or “CAFR” means as defined in N.J.A.C. 6A:23-1.2.

“Continuously Enrolled Students-District” or “CES-District” means a statistical subgroup of those students who:

1. Were enrolled in the school district by July 1, 2002 or earlier;
2. Took the 2005 New Jersey Assessment of Skills and Knowledge 3 (NJ ASK3), 4 (NJ ASK4), Grade Eight Performance Assessment (GEPA) or High School Proficiency Assessment (HSPA); and

3. Were enrolled in more than one school in the school district after July 1, 2002. Any student enrolled in an Abbott school after July 1, 2002 who transferred directly from another school in the same school district will be categorized as one of “Continuously Enrolled Students—District.”

“Continuously Enrolled Students School” or “CES-School” means a statistical subgroup of those students who:

1. Were enrolled in an Abbott school by July 1, 2002 or earlier and continued to be enrolled through the 2004-2005 school year; and
2. Took the 2005 NJ ASK3, NJ ASK4, GEPA or the HSPA.

“Core Curriculum Content Standards” or “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.

“Cost of living” means the consumer price index or CPI pursuant to N.J.S.A. 18A:7F-3.

“Demonstrably Effective Program Aid” or “DEPA” means State aid pursuant to N.J.S.A. 18A:7F-18.

“Decodable books” means books with limited vocabulary that can be understood by applying acquired phonetic skills.

“Demonstrated need” means an obstacle to improved student performance that is documented by evidence.

“Department” means the New Jersey Department of Education.

“Department Efficiency Study” or “DES” means the Department’s cost efficiency study based on the McKinsey Group analysis, to review nine key cost centers based on median spending across the following six groups: statewide, Abbott school districts, operating type and size, county, region and district factor grouping (DFG). The nine key cost centers are administration and student support salaries, health benefits, facilities, regular transportation, special education transportation, supplies and equipment, utilities, adjusted classroom instruction and purchased professional services.

“Developer” means the operator of a Department-approved Whole School Reform model.

“Distance Learning Network Aid” or “DLNA” means State aid pursuant to N.J.S.A. 18A:7F-22.

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

“District Factor Grouping” or “DFG” means an index of socioeconomic status established by the Department of Education based on the 2000 decennial census.

“Division of Abbott Implementation” or “Division” means the division within the Department responsible for implementing *Abbott v. Burke* (except facilities) and working with the Abbott school districts.

“Early Childhood Education Advisory Council” or “ECAC” means a representation of community stakeholders interested in the education and welfare of preschool-age children, organized by the school 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 Program Aid” or “ECPA” means State aid pursuant to N.J.S.A. 18A:7F-16.

“Early Learning Assessment System” or “ELAS” is an ongoing performance-based assessment process that measures the child’s progress in meeting the Preschool Teaching and Learning Expectations: Standards of Quality.

“Educational Facilities Construction and Financing Act” or “EFCFA” means P.L. 2000, c. 72.

“Effective” means a conclusion that a practice, expenditure, program or service is achieving its intended result by contributing to improved student achievement as demonstrated through site-specific evaluation employing the standards of evidence-based research and/or comparative data analysis that takes into account the demographic and economic characteristics of the students to be compared.

“Efficient” means a conclusion that a reform, program, expenditure category or service or a component thereof, maximizes the use of time, effort, and resources, including funding, as demonstrated through site-specific evaluation and comparative data analyses against standards for efficiency and comparisons with the same expenditure category in other school districts.

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

“English language learners” or “ELL” means students that have been identified as limited English proficient, pursuant to N.J.A.C. 6A:15-1.3.

“Evidence-based research” means research that applies rigorous, systematic and objective procedures to obtain reliable and valid findings. This includes research that:

1. Employs systematic, empirical methods that draw on observation and/or experiment;
2. Involves rigorous quantitative and/or qualitative data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn; and

3. Utilizes measurements and/or observational methods that yield reliable and valid information and that can be used systematically by multiple evaluators or observers.

“Face-to-face conversations” means the annual meeting between the Department and each Abbott school district to discuss the evidence of student achievement in order to agree on the instructional priorities and practices that should be given priority by the school district and reflected in its two-year report on instructional priorities and annual budget.

“Fiscal specialist” means the school district preschool program staff member responsible for managing the financial aspects of the school district’s contractual obligations with child care center providers.

“Fiscal Year 2006 Discretionary Education Opportunity Aid” or “FY 2006 DEOA” means the State funding that exceeds FY 2006 EOA, applied for by an Abbott school district and awarded by the Department, to fund specific effective and efficient foundational education and supplemental programs in 2005-2006 to enable students to achieve the CCCS.

“Fiscal Year 2006 Education Opportunity Aid” or “FY 2006 EOA” means the State funding provided to support an Abbott school district’s fiscal year budget under the presumptive budget formula or parity (as defined in *Abbott v. Burke* 136 N.J. 444 (1994) and 119 N.J. 287 (1990)), whichever is greater.

“Foundational education” means the policies, standards and practices of a school district that include a coherent and clear curriculum aligned closely to the CCCS that guides the use of instructional materials and technology, the professional development and support for certified educators; the recruitment and retention of highly qualified educators; and the provision of continuous and effective support for all schools including supervision of instructional practice, a student database and support and assistance in using evidence of student work to guide instruction and specified assistance to schools in the timely delivery of goods, services, and support required for the maintenance of a safe, orderly, clean and educationally effective environment in each school.

“Full-day, full-year” means a 10-hour day, 245 days per year of approved preschool programs. For at least 180 days, this must include a six-hour educational component meeting Department requirements at N.J.A.C. 6A:10A-2.3 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, 40 hours per week.

“GAAP” means as defined in N.J.A.C. 6A:23-1.2.

“General fund appropriation account” means the line item accounts reported in the advertised appropriations in the original budget certified for taxes.

“Improvement Agreement” means the written agreement, developed by the CAPA Team, SLC, and CSA based on the CAPA Team Report, as to strategies and objectives for improving teaching and learning, how to implement those strategies and objectives, and the responsibilities of the various stakeholders. Consistent with *Abbott X*, the Agreement, shall include either continued or improved implementation of the selected WSR model; selection of another Department-approved model; or an alternative WSR design. Following approval, the school district and the school shall present the Agreement to the Education Law Center and the community.

“In-district preschool student” means a preschool student attending a preschool program operated by the school district, as opposed to a contracted child care center provider.

“Intensive Early Literacy Program” means a program for children age three through grade three designed to ensure that all students read at grade level by the end of third grade. The core program includes curriculum and instruction that address the CCCS and the Expectations; continuous assessment of students’ needs; an emphasis on small group instruction in designated learning centers; at least a 90-minute uninterrupted literacy block for K to grade three; and a classroom library.

“Leveled books” means books that are categorized using characteristics such as length, layout, difficulty of concepts, difficulty of vocabulary and complexity of language and then placed on a gradient of reading difficulty.

“Local support team member” means Department staff assigned by the Commissioner to work with Abbott school districts in implementing Abbott programs and services.

“Low-performing school” or “LPS” means an elementary school where 50.0 percent or more of the general education students were not proficient on the 2002 ESPA Language Arts Literacy subtest, adjusted by the Commissioner.

“Master teacher” means an employee of the district board of education that models, coaches, observes and provides feedback to teaching staff in preschool programs on the planning and implementation of preschool programs and the implementation of the Preschool Teaching and Learning Expectations: Standards of Quality.

“Midpoint average median” means the average of the highest and lowest median of the six groupings used to determine efficient costs in the Department Efficiency Study.

“NCLB” means the Elementary and Secondary Education Act (ESEA) as amended by the Federal No Child Left Behind Act of 2001, P.L. 107-110.

“Needs assessment” means a continuous process of evaluation of student academic work and non-instructional barriers to improved learning that prevent students from mastering the CCCS and graduating from high school. The assessments may include the remedies that are non-instructional in character and also programs and services found on the Chart of Supplemental Programs.

“Newly-contracted classroom” means any provider classrooms approved by the Department to serve preschool students in the upcoming school year.

“NJ ASK4” means the New Jersey Assessment of Skills and Knowledge. NJ ASK4 is the State test for fourth grade students that replaced the ESPA and that is used to measure achievement of the CCCS.

“NJ ASK3” means the New Jersey Assessment of Skills and Knowledge, the State test for third-grade students used to measure achievement of the CCCS.

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

“Office” means the Office of Early Childhood Education in the Abbott Division of the Department of Education.

“Other reimbursable expenditures” means the reimbursement of out-of-pocket expenses for all other types of expenditures not related to an employee who is in travel status on official business of the school district.

“Preschool Expansion Aid” means the category of State funding to be used for the increase in the approved preschool costs from 2001-2002 for school districts with Abbott status in 2001-2002 to the current budget year for the projected expansion of preschool programs in Abbott school districts as defined in the annual Appropriations Act. For any school district receiving Abbott status after 2001-2002, the increase in approved budgeted cost will be based on the year Abbott status was obtained.

“Preschool intervention and referral team” means a team of specialists charged by the school district to work with school district administrators, center directors, master teachers, preschool classroom staff parents and school district child study team members to increase inclusion of children classified as disabled in general preschool classrooms and to decrease the number of referrals for special education.

“Preschool Professional Development Fellow status” means successful completion of the Department’s master teacher training course.

“Preschool Teaching and Learning Expectations: Standards of Quality” or “Expectations” means the Department

publication issued July, 2004 which describes expectations for preschool children's learning outcomes and expectations for high quality preschool teaching and programming.

"Presumptive Budget for FY 2006" means the budget that was calculated as the 2004-2005 base budget increased by 2.5 percent or cost of living, whichever is greater, plus approved incremental new school facility costs, as agreed to by the Department and school district.

"Reallocation" means the transfer of funds from the school or the school district current or proposed budget items to another budget item(s) with the condition, consistent with *Abbott V*, that funds may not be withdrawn from or reallocated within the budget if that will undermine or weaken either the school's foundational education program or already existing supplemental programs.

"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 to assess and improve preschool learning environments that is approved by the Department.

"School-based budget" means the annual budget for an individual school.

"School district two-year report on instructional priorities" means the operational plan for the 2006-2007 school year, that implements foundational education and supplemental programs and services, and addresses the special needs of English language learners and students classified as disabled. The plan shall be approved by the school district board of education and submitted to the Commissioner for approval on November 15, 2005.

"School Leadership Council" or "SLC" means a collaborative school-based planning and advisory body established at N.J.A.C. 6A:10A-5.3.

"School two-year report on instructional priorities" means the operational plan for the 2006-2007 school year, documented by student performance by NCLB subgroups and CES on State assessments that specifies instructional improvements for literacy, math and science with special references to English Language Learners and students classified as disabled, to be submitted for approval by the school principal and SLC to the school district by November 1, 2005 to be revised in accordance with these rules. The report shall be updated annually thereafter.

"Supplemental programs and services" means those programs and services not already required by State or Federal law, but that are supported by school and school district needs assessments of resources required to improve instructional performance. Included are those programs and

services incorporated into the *Abbott X* Chart of Supplemental Programs.

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

"Travel expenditures" means the expenditures for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the school district.

"Unbudgeted revenue" means any general fund revenue realized during the budget year that was not included in the original school district budget certified for taxes.

"Under-budgeted revenue" means any general fund revenue realized during the budget year that exceeds the amount included in the original school district budget certified for taxes.

"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 that will serve as a planning tool for the school district's preschool program so that the preschool program will be responsive to the needs of the child.

"Whole school reform" means the school-based implementation of a school district- and Department-approved coherent design for curriculum, instructional strategies, continuous assessment and support for teachers that focuses on the particular academic needs of students in each school.

"Whole school reform model" or "WSR model" or "model" means the whole school reform model approved by the Commissioner.

SUBCHAPTER 2. PRESCHOOL PROGRAM

6A:10A-2.1 Preschool program general provisions

(a) On May 21, 1998, New Jersey's Supreme Court mandated that all eligible children resident in New Jersey's Abbott school districts be given the opportunity of a high quality preschool education beginning at age three, 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 achieve educational success. 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

(b) Four Abbott school districts selected for phase one to plan for the creation of smaller and more personalized learning environments for students in grades six through 12 shall work with the Department and its consultants. The goal of this work is to test the standards and practices that are incorporated herein by reference as Appendix B to this chapter leading to the implementation of small learning communities or small schools in those four school districts by September 2006 if possible. The lessons learned from this work shall be used to modify the standards for secondary education included herein before their application to all Abbott school districts.

(c) By September 2005, all school districts shall create a planning team to address issues of greater academic rigor, personalization, and professional development, as well as implications for budget and facility needs. The planning team shall be appointed by the superintendent to be representative of principals, content supervisors, teachers, senior instructional leadership, school counselors, the community and the board of education. The teams shall address the essential components of the secondary education program, which are called Abbott Secondary Education Regulations, which include:

1. Implementation of the first phase of small organizational structures as set forth in (b) above;

2. Greater personalization for all secondary students so that by the target date, September 2008, schools are organized to implement the standards for personalization of education as modified by the results of the first phase, unless the school district can demonstrate that the goals are being achieved by alternative means;

3. A P-12 curriculum that is fully aligned to the CCCS to prepare all students in grades six through eight for college preparatory coursework in high school and all students in grades nine through 12 for collegiate instruction after graduation. All courses prescribed by the curriculum shall be in place by January 2008. All students who enter secondary schools after this date shall take a course of study that, however organized, prepares them for college-level work. All courses required for graduation shall:
 - i. Be developed, reviewed, evaluated and revised by a broad cross-section of teachers, content supervisors and principals;
 - ii. Satisfy the CCCS and core proficiency indicators and standards in each content area;
 - iii. State clearly the purpose of instruction including the essential content to be mastered in each course with interim benchmarks and assessments and final assessments; and
 - iv. Organize instruction by themes, including projects that involve more than one discipline, integrate career interests, and with other suggested activities intended to reduce boredom and increase engagement;

4. Instruction that engages students to produce both high quality work and increased student satisfaction. School districts shall survey student engagement and learning, and assess teachers' abilities to teach the content of the CCCS as follows:
 - i. Apply teaching strategies to accommodate individual learning styles and interests;
 - ii. Assign only student work that requires grade-level or higher performance from all students;
 - iii. Engage all students with independent and group learning projects across disciplines;
 - iv. Assist students who are struggling and challenge students who have attained proficiency to deepen and broaden their learning;
 - v. Offer all honors, advanced level courses, and Advanced Placement (AP) courses to all students who satisfy the pre-requisites. Independent individual or group study courses may be offered with the approval of the school principal and superintendent of schools. A variety of electives shall be available;
 - vi. Offer collaborative professional development to increase collegiality, a culture of inquiry and the use of student work to improve teaching and learning and to meet the goals of school district and individual professional improvement plans to include:
 - (1) Teacher and administrator Professional Improvement Plans (PIP) that incorporate the professional development planned to improve implementation of this subchapter; and
 - (2) Evaluation of secondary principals that is based on implementation of the standards and practices of this subchapter;

5. The Department shall work with school districts to develop indicators and benchmarks for evaluating the implementation of the standards and practices for secondary education and for measuring student achievement. These measures shall be reported at multiple levels (small learning community, school, and school district) and shall include such items as:
 - i. Student and teacher attendance rates;
 - ii. The number and percentage of ninth graders completing Algebra I successfully;
 - iii. Instructional time/days missed due to in-school and out-of-school suspensions and other disciplinary infractions;
 - iv. Grades and completion rates for all courses required to be completed for graduation;
 - v. Performance of students on state assessments;

vi. Persistence of students from grade level to grade level and to graduation from high school; and

vii. Enrollment in, persistence with, and completion of postsecondary education;

6. By March 1, 2006, each Abbott school district shall submit a study of all students who graduated by Special Review Assessment (SRA) in the school year ended June 30, 2005. The study shall include a review of the courses taken in grades nine through 12, with the grades achieved, and the attendance record for each year. There shall be a determination of the proportion of SRA graduates who satisfactorily completed the courses required for graduation and their scores on the HSPA tests in each discipline and for each time the test was taken; and

7. The Secondary Education Advisory Committee, formed in 2004-2005, shall continue to function, advising the Department on the implementation of the secondary education initiative and promoting the initiative Statewide.

6A:10A-3.3 School district two-year report on instructional priorities

(a) The Department shall meet with the CSA to share the results of the school district and Department analyses of student achievement as a part of the face-to-face conversation held by the Department with each school district. The Department and CSA shall seek to agree on the priorities to be included in the school district's two-year report on instructional priorities to cover the years beginning July 1, 2006.

(b) By November 15, 2005 and annually thereafter, each Abbott district board of education shall submit a school district two-year report on instructional priorities in a form prescribed by the Department. The primary purpose of the report is to indicate the progress the school district is making in guaranteeing that all Abbott students are taught the content of the CCCS. The report shall also include the progress the school district is making in the implementation of a high-quality preschool program that is aligned with the Expectations. The report shall include specific instructional goals, measures of progress, and a schedule for the 2006-2007 school year that shall be updated annually. The report shall also indicate the progress the school district is making in serving all eligible preschool children and the plan for achieving that goal, and in the implementation of a high-quality preschool that is aligned to the Expectations. In preparing the report, school districts shall review the Chart of Supplemental Programs to determine remedies that may be effective in meeting the school districts' particular needs. In accordance with N.J.A.C. 6A:10A-4.3(d)1, the school district shall include the programs, services or positions in the school district report on instructional priorities that exceed the baseline on the Chart together with the documentation of need and effectiveness. The report shall have two sections:

1. A section on five foundational education standards and practices that reflect the school district's capacity to teach the CCCS:

i. The status of the school district's P-12 curriculum gauged by the standards for curriculum set forth in N.J.A.C. 6A:10A-3.1(a);

ii. The status of the school district's professional development program against the standards set forth in N.J.A.C. 6A:10A-3.1(b);

iii. The status of the school district's capacity to use evidence of student performance and to report to schools, the public, and the Department against the standards set forth in N.J.A.C. 6A:10A-3.1(c);

iv. The status and effectiveness of school district policies and practices to recruit, support, and retain qualified teachers and principals and to identify, mentor, and train potential leaders; and

v. The status of the school district's capacity to assist schools where a disproportionate number of students do not master the CCCS; and

2. A section on specific instructional goals and practices to include the following seven areas:

i. In the area of preschool, the school district's two-year plan to achieve enrollment of at least 90 percent of the universe of eligible children, to fully include Head Start programs, to assess continuously the specific educational needs of its children, to continue to increase the quality of preschool programs in school district and provider settings, and to align the educational practices in the preschool program with the curricular and instructional practices of the school district's K through 3 grades. The plan shall include the elements set forth in N.J.A.C. 6A:10A-2 and previously included in the preschool three-year operational plan and shall be submitted on a form to be provided by the Department. The plan shall include, but not be limited to, the following items:

(1) Procedures for ensuring that the preschool program offered by the local Head Start program meets the requirements at N.J.A.C. 6A:10A-2.2(b) where applicable;

(2) Student needs as determined by at least the ELAS, the reports of preschool intervention and referral teams, reports of master teachers, the school district's self evaluation, and demographic information from the Uniform Preschool Enrollment Form;

(3) Facilities required to reach presently unserved children and the recruitment plan to enroll them;

(4) Level of implementation of the Department-approved preschool curriculum and plans for reaching and maintaining high-quality;

not contribute sufficiently to improved student achievement, shall work with the school district central office to determine if a different, Department-approved model can be adopted to strengthen teaching and learning.

3. Where the school district and school agree that the students in that school would benefit most from a distinctive and alternative design of instruction and governance, the CSA shall apply to the Commissioner for approval of the school AWSRD. Such applications shall be submitted at any time the following standards and procedures have been met and shall include:

i. Evidence and school and school district analyses of the academic performance of the school longitudinally, by NCLB subgroup and CES to highlight particular student needs that can best be met by an instructional design distinctive to that school and the reasons that the students in that school are not better served by participating in a district-wide AWSRD;

ii. An instructional framework that emphasizes language arts literacy, science and mathematics, is aligned to the CCCS and is modified for special populations (bilingual/ESL and disabled) as needed;

iii. A modified or initial school two-year report on instructional priorities and annual budget that specifies how the design will be implemented, the schedule and sequence for implementation, and the costs as reflected in the school budget as approved by the SLC; and

iv. A plan for reviewing and evaluating the AWSRD that includes the specific interim benchmarks and assessments to be used.

(e) A school district central office that concludes, in cooperation with its elementary schools, that students in that school district would be best served by one design or model of instruction, professional development, assessment, and support for teachers and students shall apply to the Commissioner for approval of a district-wide AWSRD. Such applications shall be submitted to the Department and shall include:

1. Evidence and school and school district analyses of the academic performance of the school district longitudinally, by NCLB subgroup and CES to highlight particular student needs that can best be met by an instructional design distinctive to all school district schools;

2. The extent to which the school district meets the criteria set forth by the foundational education standards as described in N.J.A.C. 6A:10A-3.1(a) through (d);

3. The extent to which the AWSRD coincides with the school district two-year report on instructional priorities and provides evidence for its academic priorities in literacy, math and science;

4. The status of Intensive Early Literacy standards and practices, including the schedule and sequence for full implementation and the articulation with middle grades literacy standards (grades four and five);

5. The status of the school district's implementation of the articulation of practices and standards of quality preschool education and Intensive Early Literacy;

6. The coherence of the mathematics curriculum and practices, including the school district's progress with increasing rigor in lower grades and establishing curriculum links in support of greater GEPA proficiency and student mastery of Algebra I and higher-order thinking skills; and

7. If applicable, status of CAPA recommendations, including the level of technical assistance and follow-up support provided by the school district to address the CAPA report findings.

(f) The Department shall review requests for school or school district AWSRDs based on the following:

1. The applications for school AWSRD shall be reviewed by the Department based on the following standards:

i. Confirmation that at least three years of data have been analyzed documenting that current models fail to support student mastery of core curriculum content standards, as evidenced by performance on state and local assessments;

ii. The instructional framework consists of a comprehensive design that emphasizes language arts literacy and mathematics, pursuant to N.J.A.C. 6A:10A-3.1(a);

iii. The school two-year report on instructional priorities and annual budget specifies, when appropriate, how the AWSRD will be implemented, the schedule and sequence for implementation, and the costs as reflected in the school budget as approved by the SLC; and

iv. Evidence of the specific interim benchmarks and assessments used to evaluate AWSRD.

2. All applications for school district AWSRD shall be reviewed by Department staff based on the following standards:

i. The school district shall produce at least three years of evidence and analyses of the academic performance of the school district longitudinally, by NCLB subgroup and CES;

ii. The school district shall document the extent to which the criteria set forth by the foundational education standards as described in N.J.A.C. 6A:10A-3.1(a) through (c);

iii. The school district AWSRD coincides with the District Report on Instructional Priorities or proposes revisions to the Report;

iv. The school district is fully implementing Intensive Early Literacy standards and practices in all schools pursuant to N.J.A.C. 6A:10A-3.1(d);

v. The school district shall provide evidence documenting its progress with implementation of the articulation of practices and standards of quality preschool education and Intensive Early Literacy;

vi. The school district shall provide evidence documenting its progress with implementation of coherence of the mathematics curriculum and practices pursuant to N.J.A.C. 6A:10A-3.1(a); and

vii. If applicable, the school district shall provide documentation of the status of technical assistance and follow-up support provided by the school district to address the CAPA report recommendations.

(g) The CSA shall insure that class size is reduced in every school to 21 in grades kindergarten through three, 23 in grades four and five, and 24 in grades six and beyond. Class size requirements may be temporarily suspended until a school facility's rehabilitation or replacement has been completed, if the SLC can successfully demonstrate the effective utilization of existing space and the need for such temporary suspension.

6A:10A-4.4 School district responsibilities for schools making insufficient academic progress

(a) The chief school administrator (CSA) in any school district with low performing schools (LPS) shall work with the Department and the CAPA leader to provide required information and ensure the participation of all relevant school district staff in the review of school district supports for LPS.

1. The CAPA and CSA meeting shall precede school assessment visits and shall include attention to the status of efforts to provide all schools with a coherent curriculum, targeted professional development, data and analyses of student performance, and profiles of the LPS.

2. The CSA shall designate central office staff to serve as members of, and liaison to, the CAPA team(s).

(b) On completion of the draft reports for each school, the CSA shall reach agreement with the CAPA team, the Department and the LPS principal(s) on the specific steps to be taken to improve student achievement for each school, and the school district's responsibilities, which agreement shall be termed the Improvement Agreement, subject to the Commissioner's approval and public distribution consistent with *Abbott X*.

SUBCHAPTER 5. THE ABBOTT SCHOOL'S ROLE IN STANDARDS-BASED INSTRUCTION

6A:10A-5.1 Role of the school principal in improving standards-based instruction and learning

(a) The Abbott school principal's role is to create the conditions so that all students master the CCCS. An Abbott school principal shall participate visibly and actively in the instructional life of the school and, further, ensure:

1. That the faculty and other staff and the students are focused on teaching and learning, and that the measure of the school is in the academic achievement of its students;

2. The establishment of a culture of inquiry and professional growth among school staff leading to improved teaching and learning;

3. Growth of parent and family engagement in the instructional life of their children and support for the school including facilitating opportunities for families, teachers and other school staff to work together with the school principal for the purpose of connecting parents and guardians to the academic work of their children with particular emphasis on instructional expectations, the content of instruction and homework assistance;

4. The effective development and operation of the SLC, including SLC member professional development;

5. Effective relations with the school district central office, model developers, or other providers of professional development and technical assistance; and

6. Should the school be designated LPS, that all required information is provided to the CAPA teams and that the faculty, staff, and SLC participate as needed in the assessment of the school.

6A:10A-5.2 Preparation, review and implementation of the school two-year report on instructional priorities and the school budget

(a) By November 1, 2005, each Abbott school shall complete a two-year report on instructional priorities for the years beginning July 2006 based on the evidence of student work and accomplishment that gives the best hypotheses to explain the reasons for both low and improved performance and specifies the specific actions to be taken to improve teaching and learning. The report shall be submitted to the school district central office in a format provided by the Commissioner to include at least the following:

1. A detailed assessment of student performance that includes analysis of state assessments reported by NCLB subgroups and by CES, other assessments required by the Abbott Division (ELAS and K-2 norm or criterion-referenced non-state tests), or school district, with the percentage of first and third graders reading on grade level in June 2005, a compilation of the results from interim

audit opinion have been corrected and to have that correction confirmed by the auditor;

2. The school district did not incur a deficit in its most recent fiscal year as documented by its CAFR. School districts that incurred a deficit in that year shall file a plan by December 1 following the CAFR balance sheet date that the conditions producing the deficit have been corrected and that sufficient financial controls are in place to prevent a recurrence as confirmed by the auditor for the fiscal year in which the deficit occurred and approved by the Department;

3. The school district continues to participate in all available cost-savings programs that include the Alliance for Competitive Energy Services (ACES), the Alliance for Competitive Telecommunications (ACT), the New Jersey School Boards Association Insurance Group (NJSBAIG) or a joint insurance fund, the New Jersey State Health Benefits Plan or continues to demonstrate savings equal to or greater than the savings that would have been generated by participating in these cost-savings programs, and is current in submitting all claims for reimbursable costs under the Federal E-rate program for encouraging the use of the Internet;

4. The school district's Auditor's Management Report submitted with the CAFR did not contain repeat audit findings. School districts that had repeat audit findings in the Auditor's Management Report submitted with the June 30, 2005 CAFR shall certify by December 1, 2005, that the conditions resulting in the repeat audit findings have been corrected as confirmed by the auditor;

5. The school district maintains an accurate, complete, and timely roster of position control to certify the actual number of employees who are being paid for work performed, and that the roster is integrated with the school district's payroll system;

6. The school district produces timely and accurate monthly Board Secretary and School Treasurer reports within 45 days of the month's end, and pursuant to N.J.S.A. 18A:17-10, the Annual Report by August 1;

7. The school district applies for, and implements, Federal grant programs in a timely and appropriate manner and does not return funds to the Federal government;

8. The school district does not incur penalties and interest payments for late payments and that it takes full advantage of discounts for prompt payment;

9. The school district has a curriculum that meets the standards set forth in N.J.A.C. 6A:10A-3.1(a). School districts that are determined by the Department by December 1, 2005 to be without such a curriculum shall document substantial progress in creating such a curriculum on a schedule set by the Department; and

10. The school district in which one or more schools was designated as a "school in need of improvement" for

the fourth consecutive year by NCLB, shall demonstrate that it is implementing any written agreement reached with the Department during 2005-2006.

(b) As further conditions of the receipt of DEOA, the school district shall:

1. Provide evidence that it has maximized enrollment of eligible students in the Special Education Medicaid Initiative (SEMI) program and participated in "EasyIEP" or any State-mandated program designed to maximize Medicaid enrollment of eligible students; and taken appropriate measures to ensure reimbursement for costs incurred while providing services to eligible students;

2. Submitted in final form the data elements requested for inclusion in a Statewide data warehouse within 60 days from the Department's initial request or its request for additional information, whichever was later; and

3. Taken appropriate steps to refinance all outstanding debt for which a three percent net present value savings threshold is achievable.

(c) Notwithstanding (a) and (b) above, the Commissioner may, for a school district that fails to meet the requirements of (a)3 or (b) above, reduce the award of DEOA in lieu of withholding all DEOA, by the amount of potential savings and/or increase in Federal funding that would be realized by those measures.

(d) School districts shall file a timely audit of their 2004-2005 accounts and financial transactions pursuant to N.J.S.A. 18A:23-1 et seq. The Department shall review the audit to calculate available resources and reallocations, including, but not limited to, a reallocation of the school district's undesignated general fund balance in excess of two percent and DEPA, ECPA and DLNA carryover, and adjust the school district's fiscal year 2006 DEOA and EOA awards to reflect the June 30, 2005 revenues, carryovers and excess surplus available for the 2005-2006 budget. The Department shall also review June 30, 2005 encumbrances included in the CAFR that are cancelled July 1, 2005 or later or have not been liquidated by September 30, 2005. Such encumbrances, other than construction and other long term contracts, shall be cancelled and the funds that become available as a result of the cancellation of those encumbrances shall result in an adjustment to the school district's award of 2006 DEOA and EOA under the presumptive budget formula if those funds would have created excess surplus at June 30, 2005 had the open purchase order been cancelled at that time. Year-end encumbrances shall not include goods or service that have been received or rendered on or before June 30; general supplies for instructional and non-instructional activities; new purchases of additional equipment; services that do not start prior to year end; or services that do not benefit the year ending June 30, 2005. The adjustments to the school district's fiscal year 2006 DEOA and EOA awards shall be applied first to DEOA and second to EOA, but shall not reduce EOA below EOA formula funding (which includes spending for

regular education as defined in *Abbott v. Burke*, 136 N.J. 444 (1994) and 119 N.J. 287 (1990) in each Abbott school district that equals the average per pupil spending of New Jersey school districts in the "I" and "J" categories of the District Factor Groups).

(e) If, during the school year, the district board of education determines that, due to unanticipated expenditures or unforeseen circumstances, additional funds are required to ensure that the instructional needs of students continue to be met, a separate request shall be filed consistent with the provisions of this subchapter.

1. The request shall document the nature of the unanticipated expenditures or unforeseen circumstances; the impact on the current approved budget; the specific budget lines and account numbers the additional funds shall be used to fund and that all available resources, reallocations, reductions and cost efficiencies have been implemented before submitting a request for a mid-year award.

2. The request shall also contain a certification by the school district that essential instructional programs or services cannot be funded through further reductions or reallocations and that without additional funds the foundational education program or existing supplemental programs will be negatively affected.

3. The Department's review of the request shall be consistent with the provisions in this subchapter and shall consider the current status of the approved budget.

4. The Department shall review the school district's request for emergent additional funds in a uniform and consistent manner to determine:

i. That the request is complete. The Department shall notify the school district of required information that is missing;

ii. That the district board of education considered all available resources, reallocations, reductions and under-budgeted revenues before submitting a request;

iii. That the school district properly reallocated inefficient spending from school district central office administrative accounts or from any other accounts identified as inefficient in the process described in N.J.A.C. 6A:10A-7.2;

iv. That the school district is attaining economies and efficiencies in the delivery of services and programs; and

v. That the school district certified that essential programs and services cannot be funded through reallocation and that without additional funds the foundational education program or existing supplemental programs will be negatively affected.

5. Upon review of the status of the school district's approved budget, the needs of the school district as presented in the request and the proximity of the request 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 or order the reallocation of funds from accounts that are projected to be under spent.

6. Amounts approved by the Commissioner in response to the school district's separate request shall be available for expenditure during the current school year.

7. The revenue shall be recognized through the establishment of an account(s) receivable subject to appropriation in the subsequent year's appropriations act, or by a supplemental appropriation.

8. The initial appropriation equal to the revenue recorded in (e)6 above shall be recorded in an account designated by the Department and shall be available only for the purposes identified in the award letter from the Department. All transfers out of that account require the Department's prior approval.

9. All transfers into and out of accounts mid-year additional funding was awarded to fund referred to in (e)1 above, from the date of the request through the end of the school year, require Commissioner approval prior to the transfer of funds.

6A:10A-7.2 Cost efficiency

(a) Each district board of education shall ensure that all spending is necessary and aligned with the objectives and strategies for efficiently achieving the CCCS and ensuring all students read at grade level by the end of third grade. Expenditures related to Department-approved preschool programs and helping all students achieve the CCCS and read at grade level by the end of third grade shall be given the highest priority.

(b) Each district board of education shall ensure economies and efficiencies are being attained in the delivery of programs and services through the use of, but not limited to, the Department Efficiency Study and a review of administrative cost limits. The review of administrative costs limits is to ensure that advertised per pupil administrative costs do not exceed the lower of the following:

1. The school district's adjusted, as of February 1, pre-budget year per pupil administrative costs as reported in the proposed budget; or

2. The per pupil administrative cost limit for the school district's region as defined in N.J.A.C. 6A:23A-2.4(b)3.

(c) Each school district shall review its proposed spending using the Department's Efficiency Study, which will be distributed with the budget guidance and software.

1. The Department Efficiency Study shall compare median per pupil spending in the following nine cost centers to identify areas where the school district spending may be inefficient: administration and student support salaries, health benefits, facilities, regular transportation, special education transportation, supplies and equipment, utilities, adjusted classroom instruction and total educational purchased services.

2. The Department Efficiency Study shall compare proposed spending in nine major cost centers with other school districts in the following groups: Statewide, Abbott school districts, operating type and size, county, region and DFG.

3. The Department shall discuss with the CSA and the school business administrator any cost centers that exceed the midpoint average median of the six groupings to determine if cost savings can be achieved.

4. Any cost reductions that are agreed to by the Department and the school district shall be applied to the following priorities in the following order:

- i. Spending for more effective instruction;
- ii. Spending for greater efficiency;
- iii. Funding for inflation; and
- iv. Reductions in the school district's request for DEOA.

5. School districts are encouraged to maximize the efficiency information presented in the Department Efficiency Study and other tools provided by the Department.

6. Consistent with *Abbott V*, a school district shall be afforded a reasonable opportunity to demonstrate that higher than normal expenditures are justified by individual circumstances.

(d) Each Abbott school district shall document that it operates in an efficient and economical manner as demonstrated by its adherence to practices and standards that shall include at least the following:

1. The school district's CAFR to be submitted by November 7, 2005 does not include any material qualifications or an adverse opinion by the auditor to the school district's adherence to generally accepted accounting principles and financial management. School districts that received a qualified or adverse audit opinion shall certify by December 1, following the CAFR balance sheet date, that the reasons for the qualified or adverse audit opinion have been corrected and to have that correction confirmed by the auditor;

2. The school district did not incur a deficit in the most recent fiscal year as documented by its CAFR. School districts that incurred a deficit in that year shall file a plan by December 1 following the CAFR balance sheet date that

the conditions producing the deficit have been corrected and that sufficient financial controls are in place to prevent a recurrence as confirmed by the auditor for the fiscal year in which the deficit occurred and approved by the Department;

3. The school district's Auditor's Management Report submitted with the CAFR did not contain repeat audit findings. School districts that had repeat audit findings in the Auditor's Management Report submitted with the June 30, 2005 CAFR shall certify by December 1, 2005, that the conditions resulting in the repeat audit findings have been corrected as confirmed by the auditor;

4. The school district continues to participate in all available cost-savings programs that include the Alliance for Competitive Energy Services (ACES), the Alliance for Competitive Telecommunications (ACT), the New Jersey School Boards Association Insurance Group (NJSBAIG) or a joint insurance fund, the New Jersey State Health Benefits Plan, and is current in submitting all claims for reimbursable costs under the Federal E-rate program use of the Internet, or demonstrates savings equal to or greater than the savings that would have been generated by participating in these cost-savings programs;

5. The school district maintains an accurate, complete, and timely roster of position control to certify the actual number of employees who are being paid for work performed, and that the roster is integrated with the school district's payroll system. The school district shall work towards ensuring the database within the Roster of Position Control system includes, but is not limited to, the following items:

- i. A permanent position tracking number;
- ii. Status of the position (that is, filled, vacant, abolished, etc.);
- iii. Position title;
- iv. Base salary;
- v. Expenditure account codes;
- vi. Full-time equivalent value;
- vii. Building the position is assigned to; and
- viii. Employee name;

6. The school district produces timely and accurate monthly Board Secretary and School Treasurer reports within 45 days of the month's end, and pursuant to N.J.S.A. 18A:17-10, the Annual Report by August 1;

7. The school district applies for, and implements, Federal grant programs in a timely and appropriate manner and does not return funds to the Federal government;

8. The school district does not incur penalties and interest payments for late payments and it takes full advantage of discounts for prompt payment;

9. The school district shall document that it has maximized enrollment of eligible students in the Special Education Medicaid Initiative (SEMI) program and participated in "EasyIEP" or any State-mandated program designed to maximize Medicaid enrollment of eligible students;

10. The school district submitted in final form the data elements requested for inclusion in a Statewide data warehouse within 60 days from the Department's initial request or its request for additional information, whichever is later; and

11. Taken appropriate steps to refinance all outstanding debt for which a three percent net present value savings threshold is achievable.

(e) In accordance with N.J.S.A. 18A:55-2, the Commissioner may withhold State aid from school districts that have not demonstrated compliance with (d) above.

(f) Each school district that expects to open a new school facility during 2006-2007 shall submit to the Department, no later than November 30, 2005, a request for incremental new school facility costs, on a form provided by the Department. The Department shall review the request and make a determination as the amount necessary to meet the incremental new facility costs.

SUBCHAPTER 8. ABBOT FINANCIAL REPORTING AND SCHOOL LEVEL BUDGETS

6A:10A-8.1 School-level budget and financial reporting requirements

(a) Each Abbott district board of education shall conform to the following requirements:

1. The district board of education shall consider Comprehensive Education Improvement and Financing Act (CEIFA) generated revenue and all other State, local and Federal revenue as revenue available for the general fund unless expressly restricted by Federal law or written contract, for the purpose of implementing the school and school district the two-year report on instructional priorities.

2. The district board of education shall apply for school-wide status under Title 1, Part A of the Elementary and Secondary Education Act of 1965 (ESEA) for each eligible school in the school district, as reauthorized under the No Child Left Behind Act of 2001 or submit a Federal waiver request of the poverty criteria to enable the school to operate a school-wide program and combine Federal, State and local funds.

3. Any appropriation balances remaining at the end of the year shall lapse and be commingled with the general fund balance of the school district after reserving for year-

end encumbrances at the school level, except where prohibited by any Federal law.

4. The district board of education shall maintain separate accounts for three-year and four-year regular education; special education inclusion classroom costs; and, special education self-contained and other special education costs and any other Abbott cost category included on supporting documentation item 15 in the school district budget that the school district prepares a detailed budget for, in the special revenue fund section of the school district budget in accordance with GAAP and N.J.A.C. 6A:23-2.

5. Early Childhood Program Aid (ECPA) and Demonstrably Effective Program Aid (DEPA) are non-lapsing sources of funds. A district board of education shall classify ECPA and DEPA that is not expended or encumbered by June 30 of the budget year as deferred revenue. The Commissioner shall direct the appropriation of the deferred revenue in the subsequent year pursuant to N.J.A.C. 6A:10A-7.1(d).

6. Preschool Expansion Aid, Early Childhood Program Aid, other State aids and local funds may be used to support the Department approved preschool budget.

7. Funds transferred from the general fund to the enterprise fund to fund a food service deficit shall not be considered general fund expenditures for the purposes of calculating audited excess surplus at June 30.

8. Funds transferred from the general fund to the special revenue fund to record the full cost of preschool programs shall not be considered general fund expenditures in calculating audited excess surplus at June 30.

9. Any district board of education receiving DEOA, including the portion of EOA for fiscal year 2006 attributable to DEOA, in the current year or requesting DEOA in the subsequent budget year shall not establish a tuition reserve at June 30 of the current year as provided for in N.J.A.C. 6A:23-3.1(f)8.

6A:10A-8.2 District and school-level transfers during the budget year

(a) A district board of education may transfer surplus or other unbudgeted or under-budgeted revenue between April 1 and June 30 only upon the approval of the transfer by the Assistant Commissioner for Abbott Implementation, as the Commissioner's designee, pursuant to N.J.S.A. 18A:22-8.1. To request approval of such transfers, a district board of education shall submit to the Assistant Commissioner for Abbott Implementation:

1. Documentation of approval of the transfer by a two-thirds affirmative vote of the authorized membership of the school board;

2. Certification by that same membership that the transfer is necessary to achieve the efficiency and

employees and board members is limited in scope, educationally necessary and fiscally prudent, including requiring that all work-related travel and other reimbursable expenditures:

1. Are directly related to and within the scope of the employee's or board member's current work responsibilities;
2. Do not exceed State travel reimbursement guidelines as established by the Department of Treasury in NJOMB circular letter 06-02, incorporated herein by reference, found at <http://www.state.nj.us/infobank/circular/cir0602b.htm>, including any amendments or revisions thereto; and
3. Are in compliance with OMB Circular A-87, incorporated herein by reference, found at http://www.whitehouse.gov/omb/circulars/a087/a87_2004.html.

(d) Each district board of education shall include in its policy the following:

1. A maximum travel expenditure amount that may be allotted in the annual budget for such travel expenditures including, but not limited to, conferences, conventions, staff training, seminars and workshops;
2. Per diem rates for meals which shall not exceed the per diem rates included in NJOMB circular letter 06-02;
3. The requirement to maintain detailed documentation that demonstrates compliance with its travel policy;
4. The requirement that such travel occur only upon prior written approval of the chief school administrator and board of education;
5. The requirement that travel occur only upon prior approval of the board of education;
6. The provision that purchases of and reimbursements for alcohol, laundry, valet service and entertainment and meals in excess of the per diems established in NJOMB circular letter 06-02, including any amendments or revisions thereto are prohibited;
7. The requirement that employees and board members document their effort to secure lowest convenient price for hotels and airfares; and
8. The requirement that all travel outside the Mid-Atlantic region deemed critical to the instructional or operational needs of the school district where the projected cost exceeds \$1,000 shall be submitted to the Department for approval on the form prescribed by the Department. The request for travel approval outside of the Mid-Atlantic region shall be submitted to the Assistant Commissioner in the Division of Abbott Implementation at least three months prior to the travel date.

(e) Upon returning from the conference, convention, staff training, seminar or workshop, the employee or board member attending shall document how the trip benefited the

students, teaching staff or administration of the school and school district.

(f) Prior Department approval is required if an event has a total cost that exceeds \$2,500 or more than two employees or board members are attending the same event. The request for travel approval shall be submitted to the Assistant Commissioner in the Division of Abbott Implementation at least one month prior to the travel date.

(g) Any district board of education that does not comply with the requirements as set forth in this section shall be subject to sanctions as deemed appropriate by the Commissioner, and authorized pursuant to N.J.S.A. 18A:4-23 and 24.

(h) Any district board of education that violates its established maximum travel expenditure as set forth in (d) above may be subject to reduction of state aid in an amount equal to the excess expenditure, pursuant to P.L. 2005, c.132.

SUBCHAPTER 9. APPEALS

6A:10A-9.1 Applicability of subchapter

(a) An aggrieved applicant from any Department decision arising from this chapter with the exception of decisions on early childhood program and budget applications and school district budgets may appeal to the Commissioner in accordance with the provisions of N.J.A.C. 6A:10A-9.2 through 9.6.

(b) Appeals of Department decisions on Early Childhood program and budget applications shall proceed in accordance with the provisions of N.J.A.C. 6A:10A-9.7.

(c) Appeals of Department decisions on school district budgets shall proceed in accordance with the provisions of N.J.A.C. 6A:10A-9.8.

6A:10A-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, Controversies and Disputes, and shall generally proceed as a contested case except as noted in this subchapter. Service of the petition is required on the Attorney General of the State of New Jersey, and should be directed to the Department of Law and Public Safety, Division of Law, P.O. Box 112, Trenton, New Jersey 08625-0112; Attention: Education and Higher Education Section.

1. Except as provided in N.J.A.C. 6A:10A-9.7 and 9.8, 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 a 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:10A-9.3 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, Controversies and Disputes. Nothing in this subchapter shall preclude the filing of a motion to dismiss in lieu of an answer.

1. Except as provided in N.J.A.C. 6A:10A-9.7 and 9.8, any answer filed pursuant to this subchapter shall be filed within 20 days of the date of receipt of the petition.

6A:10A-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. 6A:10A-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.

6A:10A-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. 6A:10A-9.4, 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:10A-9.6 Commissioner review and decision

(a) If the Commissioner retains the matter pursuant to N.J.A.C. 6A:10A-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. 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.

6A:10A-9.7 Early childhood program appeals

(a) In accordance with the June 23, 2003 order of the New Jersey Supreme Court set forth at 177 *N.J.* 578 (2003), appeals of Department decisions on Early Childhood Program and budget applications shall proceed as follows:

1. The Department shall issue program and budget decisions to school districts on or before the fifteenth of January, which decisions shall include, at a minimum, the approved amount of the early childhood budget, and a list of each proposed program and expenditure not approved by the Department, with specific reasons for denying the program or expenditure;

2. A school district shall have 30 days from the date of the Department's determination to file an appeal otherwise meeting the requirements of N.J.A.C. 6A:10-9.2(a) and (b) with the Commissioner of Education, who shall forthwith transmit the matter to the Office of Administrative Law;

3. The Office of Administrative Law shall make its recommendation on the school district appeal within 40 days of the date of the filing of the appeal with the Commissioner, through an initial decision, which shall include an itemization of the record;

4. The Commissioner of Education shall issue a final decision within 25 days of the decision of the Office of Administrative Law;

5. Any appeal from the final decision of the Commissioner shall be filed with the appellate division within six days of the Commissioner's decision; and

6. The Appellate Division shall expedite any appeal from the Commissioner's final decision.

(b) Notwithstanding the provisions of any rule to the contrary, Department answers to Early Childhood Program appeal petitions shall be filed not later than three days from receipt of a petition, and shall be filed directly with the Office of Administrative Law.

6A:10A-9.8 Abbott school district budget appeals

(a) In accordance with the May 21, 2003 order of the New Jersey Supreme Court, appeals of Department decisions on Abbott school district budgets shall proceed as follows:

1. The Department shall issue budget decisions to school districts on or before the last business day in May of the pre-budget year;

2. A school district shall have seven days from the date of the Department's determination to file an appeal otherwise meeting the requirements of N.J.A.C. 6A:10A-9.2(a) and (b) with the Commissioner of Education, who shall forthwith transmit the matter to the Office of Administrative Law;

3. The Office of Administrative Law shall make its recommendation on the school district appeal within 50 days of the date of the filing of the appeal with the Commissioner, through an initial decision of the Administrative Law Judge, which shall include an itemization of the record;

(c) Notwithstanding the provisions of any rule to the contrary, exceptions to initial decisions of the Office of Administrative Law in Early Childhood Program appeal matters shall be filed within five days of the date of mailing of the initial decision, and reply exceptions shall be filed within two days of receipt of exceptions.

4. The Commissioner of Education shall issue a final decision within 25 days of the decision of the Office of Administrative Law;

5. Any appeal from the final decision of the Commissioner shall be filed with the appellate division within five days of the Commissioner's decision: and

6. The Appellate Division shall expedite any appeal from the Commissioner's final decision.

(b) Notwithstanding the provisions of any rule to the contrary, Department answers to Abbott school district budget appeal petitions shall be filed not later than three days from receipt of a petition, and shall be filed directly with the Office of Administrative Law.

(c) Notwithstanding the provisions of any rule to the contrary, exceptions to initial decisions of the Office of Administrative Law in Abbott school district budget appeal matters shall be filed within five days of the date of mailing of the initial decision, and reply exceptions shall be filed within two days of receipt of exceptions.

APPENDIX A

Supplemental Programs in Abbott Schools

In *Abbott V*, the Supreme Court directed implementation of supplemental programs and services in Abbott schools. In some program areas, the Court established a “baseline” as the minimum requirement. In others, the programs are required without a baseline, but the design of the program must be based on need. In still others, the program is not required, but must be implemented and designed as needed.

In all program areas, the Court “stressed the importance of having the particularized needs of these children drive the determination of what programs should be developed,” concluding that the “provision of supplemental programs involving necessary services should not be detached from the actual needs of individual Abbott schools and districts.”

The determination of need must guide school and district plans and budgets in all program areas. Thus, where the Court established a baseline, schools must either provide the baseline or, depending on need, adjust it to provide none, less or more than the baseline, or an alternate design.

	Required Program Areas With Baseline	Objectives	Baseline	Options
1.	Full-day kindergarten	(1) to help children at risk become effective learners in first grade (2) to increase the benefits deriving from the half day program (502)	provide full day kindergarten by September '99	none
2.	Early reading literacy	(1) to assure that each student reads “at the appropriate level” (495) (2) to prevent children from falling behind and needing remediation. (3) to intervene early and intensively if a student is experiencing difficulty in achievement (554)	(1) 90 minute reading block each day (all schools) (2) regular progress assessment of each student (all schools) (3) instructional facilitator (all schools) (4) reduce 1-3 reading class size to 15 (SFA schools) (5) 20 minutes of daily one-to-one tutoring by a certified teacher for each student in grades 1-3 not reading on grade level (SFA schools) (6) 20 minutes of daily small group tutoring by a certified teacher for students in higher elementary grades not reading on grade (SFA schools)	yes
3.	Elementary Parent Involvement	(1) to recruit parents to join parent participation programs and become involved with the schools and their schoolchildren (II, 373) (2) to involve parents in school decision-making (S,14) (3) to foster parenting skills and career development (S, 14) (4) increased parental education to support students’ learning at home (556)	(1) parent liaison (2) parent representation in school management	yes