

**Education Transformation Task Force**  
**Final Report**

September 5, 2012

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## Introduction

The core goal of New Jersey's education system is to ensure that all children, regardless of background or economic circumstances, graduate from high school ready for success in life. New Jersey's performance, while strong compared to most other states, falls far short of that standard. The achievement gap between economically disadvantaged students and their wealthier peers remains staggering – a sharp and disappointing reality that flies in the face of one of our most fundamental national ideals: equality of opportunity. The dramatically changed economic environment of the 21<sup>st</sup> century – characterized by increased global competitiveness and a shift from an industrial- to a knowledge-based economy – has shed a harsh light on another achievement gap. There is a growing chasm between what we require children to learn to be eligible to graduate from high school and what they actually need to learn to be truly ready for college and career.

While New Jersey boasts one of the nation's highest graduation rates, we should also be deeply concerned that a high percentage of our graduates require significant additional remediation before being able to pursue higher education. The aspiration to graduate all students ready for success in college and career is rooted in practical realities. According to the Bureau of Labor Statistics, between 1998 and 2008, the economy lost 600,000 jobs previously available to people whose highest degree was a high school diploma. During the same period, more than 10 million jobs became available to people who had obtained a college or technical degree.

From the outset of his administration, Governor Christie has called for a critical and unflinching examination of all that is, and is not, working in the State's education system. In celebrating New Jersey's many successes, the Governor has repeatedly credited the State's educators for their extraordinary contributions and selfless dedication. At the same time, he has insisted on an honest and forthright assessment of areas where we can serve our students better. Toward that end, the Governor on April 4, 2011, issued Executive Order 58 establishing an Education Transformation Task Force, consisting of accomplished educators from across the State.

E.O. 58 charged the Task Force with two interrelated responsibilities:

- 1) Review "existing accountability systems" including the Quality Single Accountability Continuum (QSAC) and provide recommendations on "a revamped accountability system, which would grant more autonomy to public schools and public school districts while maintaining strict measures of accountability in the areas of student performance, safety and fiscal responsibility."
- 2) Conduct a comprehensive review of all education-related statutes and regulations "to determine the extent to which they increase the quality of instruction for students, improve academic achievement of students, improve teaching effectiveness within schools or improve the safety and well being of students ... or are overly prescriptive."

To date, members of the Task Force have met 14 times, held four public hearings, conducted four focus groups that engaged more than 40 educators, hosted meetings with numerous stakeholder organizations and heard presentations from at least a dozen expert witnesses. The Task Force also benefited from the participation of three members of the State Board of Education.

The Task Force produced an Initial Report, which Governor Christie released to the public on September 12, 2011. Pursuant to the further direction of Executive Order 58, the Task Force respectfully submits this Final Report.

The work of the Task Force takes place in the context of perhaps the most ambitious set of organizational and directional changes in the history of the New Jersey Department of Education (Department). During the last 12 months, the Department has defined its mission – and its measure of success – in clear and unambiguous terms. All of the Department’s activities are organized around meeting the goal of preparing all students for success in college and career, regardless of their life circumstances. Though easily said, the implications of this mission are profound.

It means that the Department is committed to helping New Jersey’s many successful schools elevate their work to even higher levels. Though we should rejoice when most of a school’s seniors proudly walk across a stage in the spring, we must strive to have *all* students graduate. We also must have confidence that their diplomas signal that they are fully prepared to excel in higher education and the workplace.

Even more important, however, are the implications for our most persistently underperforming schools and the students assigned to them. Believing in the potential of every single child requires a massive shift in our collective understanding of the purpose and promise of public education. It means proclaiming proudly that our public schools exist to provide every single child, regardless of circumstances exogenous to school, with the knowledge and skills needed to succeed throughout life. We must concede that the world deals tragically bad hands to many children — burdening them with poverty, challenging home and community environments, and more — and that overcoming those challenges is extraordinarily difficult. At the same time, progress depends on our belief that talented educators and effective schools can make a profoundly significant difference in helping children achieve despite the challenges imposed by circumstances beyond their control.

When large, predictable swaths of our young people — low-income boys and girls, African Americans, Hispanics and others — consistently fall behind, we must honestly acknowledge that our public schools are not delivering on their promise and purpose. Poverty and other forces matter, but so do our schools. Good schools help students transcend the challenges they face, while mediocre ones are unequal to the task. Yes, there are enormous challenges associated with enabling every child to succeed. But that doesn’t take away the responsibility of adults in our public education system to organize their efforts, deploy their resources, and shape their craft to advance student learning to consistently higher levels.

For decades, many of the State's education leaders have shown an extraordinary commitment to New Jersey's children, working to change policies and practices to drastically improve achievement. But a clear-eyed accounting of our standing forces us to admit that the current order has not produced the results we so desperately need.

Results from the New Jersey Assessment of Skills and Knowledge (NJ ASK) reveals that 40 percent of third graders in New Jersey are not reading at grade level. According to the National Assessment of Educational Progress (NAEP), only a handful of states have a larger achievement gap between economically disadvantaged students and their wealthier peers. Nearly 90 percent of students entering some of our community colleges require remediation in reading, writing or math.

It is for these reasons that the Task Force applauds this administration for applying a very different approach to the work of the Department: If we are to generate substantially different outcomes, we must apply substantially different strategies. We believe that a new operating philosophy can maximize the State's impact in particular areas, better position all of our schools to succeed and ultimately lead to drastically improved student achievement.

At the heart of this new approach is a fundamentally different relationship between the State and its districts, schools, and educators.

First, the State should set the highest expectations and take the necessary steps to codify them so all districts and schools are aiming at the same very high targets -- targets that are sequenced from preschool through high school to enable a child to progress sequentially and deliberately toward college and career readiness.

Second, the State should empower educators to do what's best for students; this means freeing them from unnecessary burdens and providing them with the supports they need to innovate and succeed.

Third, the State should hold districts and schools accountable for outcomes. School and district success should result in a light touch from Trenton; failure should lead to differentiated and meaningful interventions.

It is certainly the case that every new administration talks about bringing a new approach to the work of education. This is standard fare in the world of politics and policy. But during the last year, the Department has taken numerous steps to align its work with this new philosophy.

New Jersey embraced the Common Core State Standards (CCSS), rigorous academic standards detailing what students should know and be able to do in key subjects as they progress through K – 12 schooling. The State is also serving as a governing board member of the Partnership for Assessment of Readiness for College and Careers (PARCC), the multi-state collaboration to develop challenging assessments aligned with the CCSS.

To ensure that the highest expectations touch all of our schools and inform all of the State's work, the Commissioner<sup>1</sup> appointed a College and Career Readiness Task Force. This group of experts from the worlds of elementary, secondary and higher education, and the workplace made a series of recommendations that will increase the rigor of what we teach, improve how we assess, and better align what our schools produce with the needs of our colleges, universities and employers.

With the bar set higher than ever before, the Department realized that it must do more than ever before to help the State's educators succeed. This line of work began with a survey sent to all district superintendents in the State inquiring how the Department could be a better partner and less of an obstacle in efforts to improve student achievement. The results were humbling; they indicated that in many areas the Department was seen as providing little value, and the Department actually acted as a barrier in other areas. This resulted in a number of "customer service" improvements, such as changes to data collections and the educator certification office.

However, the survey results implied a more comprehensive problem. The field was not looking for marginal changes to a few activities; it wanted a different kind of Department. In short, this required the Department to shed its historical role primarily as a compliance monitor. Rather than spending the majority of its resources ensuring that districts fill out the proper forms and adhere to a host of rules, now the Department's goal is to provide the highest-quality services to those on the front lines and to liberate successful schools to innovate while reserving more prescriptive mandates for schools failing in their core mission to educate all students at the highest levels.

This began with an overhaul of the Department. Today, instead of being organized around major federal programs or antiquated activities, the Department is organized around four building blocks that we believe will yield the greatest support for our schools and long-term benefits for the State.

The Division of Academics will help the State transition to the Common Core State Standards and implement a new set of summative assessments that correspond to their ambitious expectations. This includes developing and offering model curricula to the entire State, as well as formative assessments, model lessons, and many other tools that will help educators succeed.

The Division of Teacher and Leader Effectiveness (Talent) will ensure that New Jersey attracts and retains the nation's best educators through an array of activities associated with recruitment, certification, evaluation, and development. Among other things, this division is creating evaluation frameworks for teachers and leaders, so districts will be better able to fairly assess their educators and then make better decisions about professional development, tenure, retention, compensation, and more.

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<sup>1</sup> Chris Cerf was sworn in as Commissioner of Education on July 31, 2012, after serving as the Acting Commissioner since January 18, 2011.

The Division of Data Research Evaluation and Reporting (Performance) will collect, analyze, and make public valuable data on the performance of our schools and districts. From new measures of student progress to sophisticated peer-group comparisons, the division will give the State's educators more tools than ever before.

The Division of Charter Schools, School Choice, Technology, Turnaround (Innovation) will recruit, develop, incubate and expand an assortment of high-quality, nontraditional educational programs. The offerings, from charter schools and turnaround operators to technology-based programs, will enable the State to make a growing number of alternatives available to families. Thus, parents will be empowered to choose the options that best meet the needs and interests of their children.

A final organizational change also reflects the Department's new focus on service, support and targeted intervention in persistently failing schools. For years, the Department has operated county offices, which undertake a number of compliance activities, such as reviewing contracts, approving budgets, overseeing the QSAC process, auditing certain expenditures and monitoring districts' observance of countless rules and regulations. As the Department's primary interface with schools and districts, the offices did important work but reinforced the view that the Department was not focused primarily on student achievement.

Committed to creating a new face to the field with a greater focus on academic success, the Department has begun development of seven field offices—Regional Achievement Centers (RACs)—that will be largely free of compliance duties, focusing exclusively on improving student achievement, particularly in the lowest-performing schools. The RACs will be staffed by master educators charged with helping schools and districts in key areas, such as instructional leadership, effective use of data, school culture, and more. In addition to providing directed support to struggling schools, the RACs will underscore the new philosophy of the Department and the new relationship between Trenton and the field.

The Department's new approach can be seen in more than its reorganization. Many of its highest-profile activities bear the signs of this seismic shift. The Office of Charter Schools was restructured to focus less on compliance and more on quality and accountability. The teacher evaluation pilot program was not a dictate from Trenton but a grant program that provided funding for professional development to voluntary partners, with transition to a statewide program scheduled for implementation over time after having benefitted from the lessons of the pilot. The State's Race to the Top 3 application sought funding for activities that would provide valuable supports to schools and districts, like model curricula, instructional tools, and professional development.

As reflected in the Governor's twin charges to the Task Force, the organizing philosophy of the work of the "new Department" during the past year is the forging of an effective partnership between two interconnected values: empowerment and accountability. Specifically, the Department must hold schools accountable for student learning at the highest levels but liberate them from excessive interference so they can craft their own pathways to success – reserving prescriptive interventions for schools whose students are consistently failing to meet ambitious college- and career-ready standards.

Through the superintendents' survey and countless conversations with educators across New Jersey, the Department learned that the State over the course of many years saddled educators with rules on every subject imaginable. The result is an accretion of provisions in statutes and regulations that ties the hands of schools and districts and stymies innovation. This not only frustrates good people trying to help students learn, it also increases costs and, on occasion, even erects obstacles to student achievement.

In the new relationship envisioned by this administration, the State should help set the destination but not mandate every step along the way. The experts in our districts and schools should have great latitude in identifying and implementing strategies for accomplishing our shared goals. In other words, the State should focus on results, not rules, and outcomes, not inputs. Within that framework, educators are liberated, empowered, and treated as true professionals.

Toward that end, the Task Force set about to identify provisions in statutes and regulations that hinder the work of our educators. In some cases, we uncovered rules that are wholly unrelated to student learning; in other cases, they are unnecessary reaches beyond statutory requirements that diminish local flexibility. The Initial Report contained more than 40 recommendations for improving departmental code.

Since then, teams of educators, supported by Department staff, reviewed every line of existing State education administrative code to identify regulations that do not effectively and efficiently boost student achievement, preserve fiscal responsibility or protect student health and safety. This Final Report includes 428 proposed changes to State regulations for the Department's consideration and possible submission to the State Board of Education in the form of 20<sup>2</sup> chapters of revised code. The same group also reviewed the entire body of State education law, also focusing on the goal of reducing the burden on our schools and districts, freeing them to do their best work.

With regard to both statutes and regulations, the Task Force acknowledges that the work must continue. While the body of its recommendations is substantial by any measure, the volume and complexity of the legal overlay on the State's education system warrants a continuing process of review and revision. In some areas, the Task Force recognizes that it only has scratched the surface. The legal environment in which schools and districts operate took decades to construct. Dismantling the parts that are unmoored from the State's core mission of effectively preparing every child for success will require a great deal more time and effort than the time the Task Force was given to complete its work. We strongly recommend that the Department, in collaboration with the Legislature and the State Board, continue this deregulatory initiative for the foreseeable future.

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<sup>2</sup> The Task Force reviewed all 29 chapters of regulatory code and recommended changes in 20 chapters. Revised regulations from a 21<sup>st</sup> chapter are recommended for transfer into one of the 20 chapters. Additional details are provided in the regulatory sections of the report.

With greater autonomy comes greater accountability -- the second charge of this Task Force. If the State is to be less prescriptive about means, it must be zealous about ends. The Department is committed to untying the hands of educators so they can accomplish great things for students. But flexibility is not an end itself; it is only as valuable as the results it yields.

Under the approach we recommended in the Initial Report, the State will assiduously monitor student, subgroup, school, and district outcomes to ensure success. Where deficiencies appear, especially at the school level, the State will deliver differentiated interventions and responses tightly tailored to specific needs. In instances where improved results do not materialize, the State will exercise its existing authority to respond with increasing vigor. No school will be allowed to underperform in perpetuity.

The Task Force's Initial Report recommended a path forward for a new accountability framework built along these lines. The Department's Elementary and Secondary Education Act (ESEA)<sup>3</sup> flexibility request, approved by the federal government, follows that guidance closely. With the application's approval, the State is now free from many of the federal law's most onerous provisions. The Department is also better positioned to build a new relationship with schools and districts by focusing on accountability for results and providing increased freedom for successful schools. Most importantly, the Department is far better able than ever before to concentrate its efforts where they matter most -- schools that are experiencing persistent academic failure, either in the aggregate or for defined subsets of students, most notably those from economically challenged circumstances. In particular, the Department, acting principally through the RACs, will focus its greatest attention on the State's lowest-performing schools ("Priority") and those in which subgroups are struggling mightily ("Focus").

To be sure, the State will continue to monitor and set targets for the performance of all schools and districts, including the achievement levels of historically underserved subgroups. Indeed, many of its reform strategies will be universally applicable. They include, but are not limited to, a new educator evaluation system that incorporates new data systems that link student and educator information into a unified growth algorithm, and a comprehensive mandate to implement the Common Core State Standards along with a corresponding set of college- and career-ready assessments.

The State's most direct interventions in schools, however, will be differentiated based on the degree of failure -- with highly prescriptive "turnaround" mandates limited to the schools in greatest need of dramatic change. Consistent with the vision of empowered, accountable educators, the State will provide far greater information than ever before to district and school leaders to enable them to craft interventions tailored to local needs. This expansive set of data in the form of a robust report card will include a wide array of indicators, such as peer-group comparisons, sub-group progress, student-growth

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<sup>3</sup> As described in the Task Force's Initial Report, the federal Elementary and Secondary Education Act (ESEA), initially enacted in 1965, is the primary statute that provides for federal funding for primary and secondary education through programs including Title I for disadvantaged students. The most recent reauthorization of ESEA is titled the No Child Left Behind Act of 2001. The Department's ESEA flexibility request was approved in February 2012.

scores and a number of metrics associated with college- and career-readiness, all presented to show progress toward specific State-generated targets.

The approved ESEA flexibility request thus aligns well with the Department's new approach. For successful (and even moderately successful) schools, the State sets ambitious performance targets, mandates certain statewide strategies, bathes educators in a remarkably rich and usable set of information, requires all districts to hold annual public discussions about their school's progress or lack thereof, and allows local educators to take the lead on improvement activities with the support and guidance of the State, as warranted. However, schools and districts that are failing or trending toward failure not only are held accountable but also are subject to comprehensive State-directed strategies focused on turning them around as quickly as possible. The Task Force strongly endorses the Department's proposed accountability system together with its strategy of differentiated supports and interventions.

The Task Force believes that New Jersey should consider two additional steps in the realm of educational accountability. The first is a revision of the Quality Single Accountability Continuum (QSAC), the State's statutory system for monitoring district performance, which was adopted in March by the State Board of Education. As described at length in the Initial Report, QSAC suffered from a number of weaknesses, including a heavy reliance on input measures and inadequate focus on student achievement. Its replacement is a single statewide accountability system that incorporates the principles outlined above.

The second is the creation of an "Achievement School District" (ASD) that would enable the Commissioner to take control of a persistently underperforming school when a district has failed over a period of years to get the job done. States as varied as Tennessee, Michigan and Louisiana have embraced similar strategies, and comparable legislation is pending in New York and Connecticut. This new policy would reinforce the Department's focus on schools, rather than on districts, as the primary agents of change. It also addresses a shameful reality the Task Force feels compelled to highlight. For too many generations of children, we as a State have gnashed our teeth, wrung our hands and then essentially ignored a group of more than 100 schools that utterly fail to educate thousands of the State's deserving students. The time has come to declare unambiguously that our patience is exhausted and that we will no longer tolerate the existence of what U.S Secretary of Education Arne Duncan has termed "dropout factories" and other schools where a majority of students can neither read nor do basic math.

In addition, the Task Force notes that the process for returning State-operated districts to local control is ripe for reevaluation. As noted in the Interim Report, QSAC's system for returning local control places a far greater emphasis on indicators of "capacity" than measures of academic achievement. A better system would allow the State to focus less on districts as a whole, while intervening intensely and directly in failing schools. To be sure, there are some districts that have exhibited failure on such a persistent and ubiquitous basis that comprehensive State intervention may be the only plausible alternative – and the State should retain the authority to act in such circumstances. Indeed, for anyone

skeptical of the potential benefits of State control, the Task Force recommends that he or she read the voluminous documentary history that formed the basis for takeover in Newark Public Schools in 1995 and compare the dire and often corrupt circumstances of that time with Newark's current trajectory.

Most poor-performing districts are complex. Newark, for example, has many of the worst performing schools in the State – but also some of the best, with others seemingly on a path to improvement. Significant aspects of Newark's management have historically been in such disarray that the central office has at times been more of a hindrance to many progressive principals and educators than a help. Especially under the new district leadership, there are promising, if early, signs of improvement in key areas such as school leadership, rational organizational structure, effective use of academic data, increased family engagement, dropout prevention strategies, and a broader array of successful public school options from which parents can choose. In such districts, circumstances may warrant consideration of a new governance structure characterized by 1) greater local empowerment; 2) a continued role for the State, at least on a transitional basis; and 3) a clear mutual understanding that the State retains its full authority to execute transformation strategies in any persistently failing school that the district's efforts have failed to address. QSAC, the Task Force observes, may be too blunt and undifferentiated an instrument to allow for consideration of this kind of nuanced approach.

Taken together, the Task Force's work in the areas of both deregulation and accountability aligns with and supports the administration's vision of setting high expectations, empowering educators, focusing on student achievement, increasing accountability and urgently addressing the State's lowest-performing schools. Though this Task Force's work has focused specifically on deregulation and accountability, they are merely constituent parts of the Department's broader narrative -- one the Task Force strongly endorses. The Governor and Commissioner are seeking to bring about change in New Jersey's education system by fundamentally altering the State's relationship with schools and districts. In submitting this Final Report, the Task Force hopes that its work, specifically in the areas of accountability and deregulation, will contribute materially to that change.

## Accountability Systems

In our Initial Report, the Task Force recognized the limitations inherent to both the Quality Single Accountability Continuum (QSAC) – New Jersey’s district-based accountability system – and No Child Left Behind (NCLB) – the federal school- and district-based accountability system – as well as the difficulties in synchronizing the two and creating in their place a single, unified system.

QSAC, we explained, is district-focused, prizes inputs over outputs, and, perhaps most troublingly, routinely considers “successful” the very districts that continued to fail their students. Paterson, for example, received an 88 percent (out of 100 percent) in the Governance portion of QSAC even though the district self-reported a graduation rate of slightly more than 50 percent for the 2009-10 academic year. NCLB, on the other hand, rightly focuses attention on individual schools and student achievement within those schools, but wrongly values absolute performance over growth and paints with too broad a brush, labeling as “failing” even those schools that are improving achievement.

But our Initial Report was not satisfied with identifying the failings of QSAC and NCLB. Rather, we encouraged the Department to take advantage of the ESEA flexibility request process announced in September 2011 by the U.S. Department of Education, and use it both to tackle certain failings and to take a first step toward devising a “next generation” accountability system for New Jersey. In doing so, we recommended that the Department be guided by 10 foundational principles: (1) create a single, streamlined system; (2) accurately differentiate among schools; (3) assess school outputs, not inputs; (4) set explicit, measurable, appropriate targets; (5) evaluate growth in addition to status; (6) generate appropriate interventions; (7) intensify responses in cases of persistent failure; (8) grant earned autonomy to high performers; (9) provide diagnostic information, as well as judgments; and (10) focus on schools, not districts.

The Department responded to our challenge, and on November 15, 2011, submitted to the federal government a comprehensive ESEA flexibility request application that embodied nearly all of our 10 principles. The Task Force reviewed the approved flexibility request, and we give it our unqualified support.

Specifically, the flexibility request creates a new accountability system that is: school- rather than district-focused (principle 10); separates the State’s schools into four categories – Reward, Focus, Priority and Non-Categorized – based on absolute student achievement, growth and graduation rates (principles 2, 3, 4, and 5); provides differential interventions and, where appropriate, rewards for each (principles 6, 7, and 8); and includes for each school a detailed school report card that captures key student performance metrics (principle 9). But most heartening from the Task Force’s vantage is the Department’s creation and empowerment of the new RACs.

As detailed in the flexibility request, the RACs will be equipped with expert educators, administrators and budget personnel, among others, and charged with a single task: to turnaround New Jersey’s worst-

performing schools. Specifically, the RACs will conduct intensive reviews of the Priority and Focus Schools and develop corrective action plans unique to each school. The corrective action plans may contemplate removal of a failing principal, overhaul of an outdated curriculum or extension of the school day, among other interventions deemed necessary to reverse the course of these failing schools. The plans will be implemented cooperatively where possible, and by directive where necessary.

The novelty – and importance – of the RACs cannot be overstated. While transforming failing schools and closing the State’s persistent achievement gap have been oft-discussed, never before has the Department committed the resources and personnel to actually achieve those goals. The RACs are that commitment.

But as bold a first step as the Department’s flexibility request is, it remains just that -- a first step toward New Jersey’s “next generation” accountability system. There remain several unresolved questions concerning, among other things: the interplay between QSAC and the new NCLB accountability system; what to do with Priority and Focus schools if the interventions designed by the RACs fail; and when local control should be restored to the three State-operated districts. Each issue raises a host of difficult policy questions that the Task Force believes are best left to the Department. However, the Task Force will describe the contours of each challenge with the hope that the Department will accept and answer them much as it did with our Initial Report.

### **Challenge 1: Creation of a unified accountability system**

Still unaddressed in the new NCLB accountability framework is foundational principle one from our Initial Report – creation of a “single, streamlined [accountability] system.” While the new accountability framework achieves nine of our 10 foundational principles, it does not – and cannot – supplant or supersede QSAC. QSAC, with its district- rather than school-based focus and its many flaws, was enacted by the Legislature and can be amended only through the legislative process. Until the Legislature acts, QSAC will remain, providing a complicating and complex overlay to the new NCLB framework.

The Task Force supports the State Board’s adoption of QSAC regulatory changes first proposed in March 2011 and endorsed in our Initial Report. The changes lessen the compliance burden on districts by reducing the number of indicators used to measure district performance from 334 to 54.

In the longer term, the Task Force encourages the Department to develop and propose an alternative to QSAC that would be school-based in focus and consistent with both the new NCLB framework and our foundational principles. In developing that alternative, the Department should consider, among other things:

- What metrics other than student achievement should the Department employ when evaluating schools?
- How often should schools be evaluated? Should the time between evaluations differ depending on whether a school is a Reward, Focus, Priority, or Non-Categorized school?

- Should there be additional categories of schools beyond the four identified in the ESEA flexibility request?
- What rewards other than money should be provided to Reward schools?
- Should the Department develop an accreditation process for schools? Should accredited schools be exempted from any unified accountability system? If so, for how long?

**Challenge 2: What happens if the interventions directed by the RACs are not successful?**

If a district persistently underperforms, it is subject under QSAC to partial or even full State intervention. In a new, unified, school-based accountability system, should there be a similar construct? That is, if a school fails to implement its corrective action plan or the plan itself fails, should the Department intervene and take control of the individual school rather than the district?

While perhaps a novel idea, it is not unprecedented. Louisiana, Michigan and Tennessee have each implemented “Achievement School Districts,” through which the state departments of education have become responsible for operating and attempting to turnaround each state’s worst-performing schools. In considering a move to a similar construct in New Jersey, the Department should consider, among other things:

- How poor performing – and based on what metric(s) – must a school be before being swept into the Achievement School District?
- How large should the Achievement School District be?
- What powers should the Department have in the Achievement School District?
  - Should charter conversions be permitted?
  - Should tenure apply?
  - Should collective bargaining agreements apply?
  - How can the State’s best teachers be incented to teach in schools included in the Achievement School District?
- Should schools in the Achievement School District be given additional State aid?
- How will schools exit from the Achievement School District?

**Challenge 3: Returning State-operated districts to local control**

In a new, unified, school-based accountability system, districts cannot remain under full or even partial State control. Indeed, maintaining State control over any district (other than the Achievement School District) would undercut the entire notion of a school-based accountability system. In designing an accountability system to replace QSAC, the Department should consider, among other things:

- How much time is required to transition a district from State to local control?
- Once the transition is complete, should the State maintain any enhanced or monitoring role in the district? If so, for how long?
- If a certain percentage of a district’s schools are in or eligible for inclusion in the Achievement School District, should the State have any role in the governance of the school district?

The Task Force is hopeful that the Department will take up each of the three challenges. Only by doing so will New Jersey develop a truly unified, school-based accountability system that will reward its high-performing schools and provide its low-performing schools with the resources, attention and flexibility needed to right themselves.

## Liberating Educators from Restrictive Statutory Mandates

### Overview

Teachers, principals and administrators have lamented for decades that their time is needlessly redirected away from instruction and toward mindless compliance-driven tasks. The required tasks often add little value to teaching, divert educators from their core mission of advancing student learning, and serve only to fulfill the dictates of distant bureaucracies to micromanage both schools and school districts. On the basis of countless interviews with educators across the State, the Task Force agrees that the statutory and regulatory burdens imposed over the years, in aggregate, are an impediment to progress. However well-intended the original statutes may have been, in practice, many of the burdens placed on educators stifle innovation and deflect energy and attention from what matters most – improving student achievement.

If we as a State are to meet our ambitious goals, districts and schools must be given broad latitude to craft the most effective pathways to success – provided that they understand this freedom will be coupled with strict and consequential accountability for results. To be sure, some matters are of such central importance they cannot and should not be devolved. Notable among them are many rules relating to health and safety, the standards to which we hold our students and educators, and rules necessary to ensure that districts are responsible stewards of the nearly \$25 billion of taxpayers of funds with which they are entrusted annually. But, in general, regulation is best when leanest – as long as districts are prepared to accept responsibility for the outcomes associated with their decisions.

In that spirit, the Task Force has conducted a comprehensive review of the more than 3,000 pages of State statutes and regulations that currently govern education. Our analysis has two parts. We begin by examining the statutory framework under which schools operate and make 46 specific recommendations for change. We then review Titles 6 and 6A of administrative code and suggest a total of 428 regulatory revisions.

As comprehensive as this effort has been, the Task Force acknowledges that a great deal of work remains. Accordingly, we recommend a continuing and ongoing review process. We also respectfully urge that the appropriate legislative, executive, and administrative authorities, depending on whether the mandate is statutory or regulatory, give expeditious consideration to the recommendations. Based on our comprehensive interviews and research, we are confident that the educators in the State will be deeply appreciative of the changes.

## Talent

### 1. Reforming educator tenure<sup>4</sup>

*School Children First Act – S-2881 (Kyrillos)/A-4168 (Webber)*<sup>5</sup>

Current tenure law has proven ineffective by providing unclear criteria and burdensome processes regarding the evaluation, transfer or termination of teaching staff.

To improve this situation while continuing to protect educators from arbitrary personnel action, the Legislature should pass the School Children First Act. This bill would establish a uniform educator evaluation system, which would increase the efficiency of districts' educator assessments. It would tie the attainment and removal of tenure to teacher effectiveness, which would also be used as a basis for supporting their professional development. When layoffs of tenured employees are required, districts could take into account demonstrated educator effectiveness, replacing the current requirement that layoffs be based solely on seniority with no regard for effectiveness. The bill would also enable districts to differentiate pay. Finally, the bill could facilitate regionalization, leading to cost efficiencies through shared services efforts, as current tenure and seniority laws hinder consolidation efforts.

The legislative changes would help shift New Jersey to a system that encourages educator effectiveness, removes rigid staffing rules for school districts, and increases efficiency.

### 2. Eliminating tenure for non-instructional staff

*N.J.S.A. § 18A:17-2 – Tenure for Non-Teaching Staff Members*

The Task Force recommends that the Legislature amend the law to end the awarding of tenure protections to non-instructional staff. For instructional staff such as teachers and principals, tenure is intended as a protection of academic and intellectual freedom. The considerations have far less relevance for non-instructional staff. The local negotiating process can best determine what combination of salaries, sick-leave and vacation benefits, and job protections makes sense for non-teaching staff. Finally, since school districts are currently able to contract out many non-academic services, statutorily mandated tenure creates a disincentive for school districts to directly employ such staff.

This legislative change, which should be applied prospectively, would lead to an employment relationship with non-instructional staff based primarily on effectiveness.

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<sup>4</sup> The Task Force endorsed this recommendation prior to the June 2012 passage and enactment of similar legislation entitled the Teacher Effectiveness and Accountability for the Children of New Jersey (TEACHNJ) Act. The Task Force affirms its support for the law and maintains its support for legislation to end the requirement that any layoffs be based on seniority rather than on factors such as effectiveness in the classroom.

<sup>5</sup> This reference is to the bill introduced during the 2010-11 legislative session.

### **3. Clarifying responsibility for selection and appointment of staff**

*N.J.S.A. § 18A:27-1 – Appointment of Teaching Staff*

*N.J.S.A. § 18A:16-1.1 – Designation of Acting Personnel*

*N.J.S.A. § 18A:25-1 – Transfer of Staff*

*N.J.S.A. § 18A:27-9 – Termination of Staff*

*N.J.S.A. § 18A:25-6 – Suspension of Staff*

Current law presents a confusing and often counter-productive chain of responsibility for selecting and appointing district employees. Statutes, regulations and case law provide that the superintendent is empowered to recommend to the district board of education a new hire and the board is then responsible for appointing the individual. In practice, the board often becomes involved in candidate selection through a misapplication of its authority. This is also a concern in the transfer, suspension and termination of staff.

The Task Force recommends that the Legislature amend the laws to eliminate the provision that the school board must appoint specific employees. School boards should retain the authority to approve or deny the creation and funding of positions, in keeping with their governance function, but should not perform the management functions of hiring, transferring, or suspending specific employees, with the exception of the superintendent. Management – either the superintendent or his or her designee – is best positioned to make personnel decisions.

This legislative change would make for better decision making by clarifying the statutory requirements. The change would also facilitate timely actions on personnel issues, which would ultimately advance student learning and school district efficiency.

### **4. Eliminating mandatory physical examinations for new teachers**

*N.J.S.A. § 18A:16-2 – Routine Physical Examinations of New Employees*

Current law provides that boards of education shall require any candidate with a conditional offer of employment to undergo a physical examination.

The cursory examinations provide little actionable information. Teaching staff members are professionals whose contributions to students depend on their content knowledge, intellectual capacity, teaching skill, commitment to their students, and hard work. Mandatory pre-employment physical examinations are not meaningful in determining these professional qualities, but they are costly. Physical examinations also delay hiring, which creates consequences for classrooms.

The Task Force recommends that the Legislature amend this law to prohibit mandatory pre-employment physical examinations. This change would streamline the teacher hiring process, treat teachers like

professionals, and move qualified teachers into classrooms more expeditiously. It would also save taxpayer dollars and eliminate an antiquated provision.

## **5. Allowing greater options in designating higher education representatives on the Board of Examiners**

### *N.J.S.A. § 18A:6-34 – Membership of Board of Examiners*

Current law provides that the State Board of Examiners consist of the Commissioner ex officio and one assistant commissioner of education, two presidents of State colleges, one executive county superintendent, one superintendent of schools of a Type I district<sup>6</sup>, one superintendent of a Type II district<sup>7</sup>, one high school principal, one elementary school principal, one school business administrator, one librarian employed by the State or by one of its political subdivisions and four teaching staff members other than a superintendent, principal, school business administrator or librarian, all of whom are appointed by the Commissioner with approval of the State Board.

The Task Force recommends that the Legislature amend the law to provide greater flexibility in the higher education appointments beyond just “two presidents of State colleges.” Presidents, deans, and senior administrators of both State and non-public colleges and universities should be eligible to serve on the State Board of Examiners. With presidents of State colleges facing increased burdens on their time, the State has struggled to find suitable candidates to fill the two positions. Presidents of non-public colleges, as well as deans of public and non-public colleges and universities, are well-suited for service on the State Board of Examiners.

This change would increase the representativeness of the Board of Examiners and allow the Department to fill the seats more consistently by expanding the pool of eligible board members. The legislative change also would help the Board of Examiners become more effective and efficient, as well as more responsive to the needs of educators across the State.

## **6. Creating flexibility for shared administrator contracts**

### *N.J.S.A. § 18A:17-24.3 – Shared Administrators*

Current law provides that school business administrators shared among two or more districts have contracts for a minimum of three years and a maximum of five years. Single-district school business administrators, however, serve under only annual contracts.

The Task Force recommends that the Legislature amend the law to align the contract provisions of shared business administrators with those of single-district business administrators by eliminating

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<sup>6</sup> A Type I school district is governed by a school board appointed by the mayor.

<sup>7</sup> A Type II school district is governed by a school board elected by popular vote.

minimum and maximum contract durations and contract renewal terms. It is important for school business administrators to have similar rules govern their contracts regardless of the number of districts they serve. Requiring long-term contracts for shared administrators, but not for single-district administrators, creates an unnecessary disincentive for sharing.

Modifying this provision would facilitate the creation of shared services positions by eliminating artificial restrictions on contract terms.

This legislative change also would simplify districts' search for someone who can meet their particular administrative needs. It also would ultimately lead to taxpayer savings by encouraging shared services.

## **7. Standardizing criminal history background checks**

*N.J.S.A. § 18A:6-7.1 et seq. – Criminal History Background Checks*

*N.J.S.A. § 18A:39-17 et seq. – Bus Drivers*

*N.J.S.A. § 18A:6-4.13 et seq. – Nonpublic Schools*

All school district employees hired after the effective date of the State's criminal history background check law (October 1986) must undergo a criminal history record check. All school district employees hired after February 21, 2003, must have their fingerprint image retained by the State Bureau of Identification to undergo an updated criminal history record check. If an employee whose fingerprint images are on file is arrested for a crime or offense, the New Jersey State Police notifies the Department, which informs the educational facility or contractor to take appropriate action. However, employees hired before February 21, 2003, do not have their fingerprints on file with the State and, thus, the Department is not notified if they are arrested for a disqualifying crime or offense. Further, employees hired before October 1986 have never been required to undergo a background check.

The Task Force recommends that the Legislature strengthen the current law on background checks and make it more broadly applicable and consistent. Protecting student safety in schools is an essential public policy goal. All employees in New Jersey schools, not just those hired since 1986, should be required to pass a criminal record check. Additionally, all employees in New Jersey schools, not just those hired since 2003, should provide a fingerprint image for retention by the State Bureau of Identification. No employee should be exempt from important safety requirements.

The Legislature also should update the list of crimes and offenses that prohibit an individual from working with students to include leaving the scene of an accident resulting in death (N.J.S.A. § 2C:11-5.1); human trafficking (N.J.S.A. § 2C:13-8); peering into a window (N.J.S.A. § 2C:14-9); bias intimidation (N.J.S.A. § 2C:16-1); violation of the public indecency, prostitutes/obscenity (N.J.S.A. § 2C:34-1 et seq.); violation of the Anti Terrorism Act of September 11, 2001 (N.J.S.A. § 2C:38-1 et seq.); and any crime of the fourth degree involving a juvenile as the victim. Further, the Legislature should allow the Department to investigate and make disqualifications based on information received from additional

verifiable sources, such as the Administrative Office of the Courts and the appropriate agencies of other states and jurisdictions.

Finally, the Legislature should allow anyone approved to work in one educational facility to work part time in another without the need for an additional record check to relieve an unnecessary burden on many school employees.

The legislative changes would make the current background check system more uniform and better suited to protect children from potential harm.

#### **8. Focusing the efforts of regional Department staff**

*N.J.S.A. § 18A:54-16 – Board Membership for County Vocational Schools*

*N.J.S.A. § 18A:46-35 – Board Membership of County Special Services School Districts*

Current law provides that the executive county superintendent will be a member of the board of education for the county vocational school and county special services school district in the county where he or she serves. The Task Force recommends that the Legislature amend the laws to allow the Commissioner to designate a State representative on each board.

This change would help the Department's regional staff focus on instructional improvements rather than on other less-essential obligations. These added responsibilities often distract executive county superintendents from their core Department responsibilities. Further, other Department personnel might be better positioned to assist county vocational school and county special services school districts as board members.

#### **9. Allowing Commissioner or Board of Examiners to initiate revocation of administrative certificate**

*N.J. S.A. § 18A:6-38.1 – Revocation of Certificate*

Current law provides that the Commissioner may recommend, based upon information provided by the district, that the Board of Examiners revoke the certification of a superintendent, assistant superintendent or school business administrator. This law has been interpreted to require the district to initiate the revocation process.

The Task Force recommends that the Legislature amend the law to allow the Commissioner or the Board of Examiners to begin the revocation process for individuals' administrative certificate. The Commissioner and the Board of Examiners are well placed to initiate a revocation, given both their access to relevant information and their professional responsibilities. Policy goals are also well served by permitting multiple parties to initiate revocation, for example, in the event that district leaders responsible for the revocation are themselves implicated in the alleged wrongdoing.

**10. Changing process so that oath of allegiance occurs after offer of employment, rather than before**  
*N.J.S.A. § 18A:26-9 – Oath of Allegiance*

Current law requires candidates for the certificate of eligibility to subscribe the oath of allegiance. The Task Force recommends that the Legislature amend the law to make the oath of allegiance dependent upon employment rather than for pre-employment certification. The current statutory requirement often delays the processing of certificate applications. Applicants often forget to send in their oaths, to sign them, or to have them notarized, thus causing avoidable delays. Applicants also mistakenly believe that their first certificate oath is sufficient for all ensuing certificates, which also creates delays.

Making the oath of allegiance dependent upon employment would ensure the core intent of the existing statute is complied with while eliminating a common source of delay and frustration. This change would expedite the teacher hiring process.

**Performance (including accountability, governance and fiscal efficiency)**

***Accountability***

**11. Improving accountability by amending QSAC**

*N.J.S.A. § 18A:7A-10 et seq. – Quality Single Accountability Continuum for Evaluating School District Performance*

The Quality Single Accountability Continuum (QSAC), as it is currently designed, has been unreasonably burdensome for high-performing schools, overly bureaucratic for all schools, and generally ineffective at holding schools and districts accountable for student outcomes. The Task Force recommends that the statute be revised to reflect the recently approved federal flexibility request of various provisions of ESEA, consistent with the recommendations provided in the Initial Report.

The statutory changes would improve accountability for performance in schools while also providing greater flexibility to educators and administrators by eliminating unnecessary bureaucratic requirements.

**12. Making State monitors more effective**

*N.J.S.A. § 18A:7A-55 – Appointment and Authority of State Monitors*

Current law provides for the appointment of a State monitor to directly oversee a board of education's business operations and personnel matters if the school district has reached certain criteria indicative of fiscal distress. The State monitor remains in place until the conditions that led to the appointment of the State monitor have been addressed.

State monitors' ability to accomplish their legally intended task has been hampered in a number of ways. First, the triggering events of fiscal monitors should be expanded to include personnel problems, such as an ineffective professional development program, an ineffective system for staff evaluation or unexplained high staff turnover. Current law provides fiscal monitors with direct oversight of a board of education's business operations and personnel matters but does not allow fiscal monitors to be installed in the event of major personnel problems. There is often a correlation between major personnel problems and future fiscal distress.

Second, the powers of the State monitor should be defined to include all actions deemed necessary by the monitor to address identified concerns, including the aforementioned personnel actions. For example, fiscal monitors should have the ability to negotiate and create employment contracts, as well as to approve collective bargaining agreements.

Changing the law would increase governmental efficacy by permitting fiscal monitors to intervene in personnel matters before public funds are misused further. The statutory changes would clarify the powers and role of the State monitor, which would lead to stronger interventions, better education management and taxpayer savings.

### *Governance*

#### **13. Shifting school board elections to November general election<sup>8</sup>**

*N.J.S.A. § 19:60-1 – School Elections*

Current law requires annual school elections in Type II districts to be held on the third Tuesday in April to approve the school budget and elect school board members. The Task Force recommends that the Legislature amend this law to move school board elections to the date of the November general election while still preserving their nonpartisan structure. The current school election schedule is one of the factors depressing voter turnout, which reduces public participation in the school governance process.

In addition, many communities use school buildings as polling places, necessitating school closure for students or increased security precautions. Consolidating election dates would ease these burdens.

Moving the election to the November general election would increase public participation. Consolidating election days would also increase government efficiency, as fewer days would be needed for polling, reducing both staff and facilities costs.

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<sup>8</sup> The Task Force endorsed this recommendation prior to the January 2012 passage and enactment of similar legislation. The Task Force affirms its support for the law.

#### **14. Eliminating budget vote on budgets below 2 percent cap<sup>9</sup>**

*N.J.S.A. § 18A:22-33 – Submission of Budget and Authorization of Tax*

Current law requires voters in most districts to annually approve the school budget and set the property tax levy. Recently enacted law caps increases in the local levy to 2 percent with few exceptions, such as for pension and health care payments, school enrollment increases, debt payments and natural disasters. However, the requirement that most districts conduct an annual vote on the school budget is both unnecessary and a poor use of district funds given the firm cap in district spending, which may be overridden only with a separate popular vote.

The Task Force recommends that the Legislature amend the law to eliminate the popular vote on the school budget so long as it does not exceed the terms of the 2 percent levy cap and the district has moved its school board election to November, pursuant to the previous recommendation. Requiring popular votes only above the 2 percent cap would set a proper balance between public responsiveness and the responsibilities of sound board of education governance. The need to make very difficult decisions to keep spending within the capped amount would provide the accountability previously offered by the vote. Ultimately, the elected school board is responsible for determining the school budget and is accountable to voters in triennial elections.

This statutory change would provide predictability in the budget development process from year to year, thus allowing for sound budgeting practices and improved fiscal health.

#### **15. Strengthening the School Ethics Act**

*N.J.S.A. § 18A:12-21 et seq. – Standards of Ethical Conduct*

The School Ethics Act prescribes standards of ethical conduct for school board members and school administrators, including financial reporting requirements and a prohibition on conflicts of interest.

However, the law has a number of problems that limit its effectiveness in curtailing misconduct. It also suffers from a confusing and inefficient implementation process.

The Task Force recommends that the Legislature amend this law to allow the Commissioner to review case findings as to whether the School Ethics Act has been violated. Current law limits the role of the Commissioner to reviewing only sanctions but not findings of fact. This power should be expanded in keeping with the role of a multi-tiered appellate process – where reviewing bodies typically have the authority to examine the findings as well as the sanctions – to ensure that appropriate decisions are reached and consequences are assigned.

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<sup>9</sup> The Task Force endorsed this recommendation prior to the January 2012 passage and enactment of similar legislation. The Task Force affirms its support for the law.

Additionally, the Legislature should amend the law to accelerate the time frame for ethics investigations. The law currently requires that a decision regarding a complaint alleging violations be made within 90 days. This time period should be shortened to 45 days to facilitate the quick resolution of allegations on behalf of students, the community and any parties involved.

The legislative changes would create a more efficient and efficacious administrative structure for the School Ethics Act, which ultimately would lead to better decision making by boards of education.

#### **16. Increasing providers for school board member training**

##### *N.J.S.A. § 18A:12-33 – Training Program for School Board Members*

Current law requires newly elected or appointed board members to complete a training program provided by the New Jersey School Boards Association. However, the Task Force has heard from board members that the current training is often disconnected from the realities of board member duties and school operations, leaving new board members ill-prepared to perform the responsibilities that matter most – helping to improve student achievement. In addition, the current procedure is unnecessarily time-consuming and labor intensive. The fact that there is only one provider provides little incentive for innovation or improvement.

The Task Force recommends that the Legislature amend the law to allow the Commissioner to approve institutions to provide member training in addition to the New Jersey School Boards Association. The governance function of school districts is of sufficient importance that the Commissioner should be able to expand the market of providers to ensure high standards are met and board members are well trained. Other providers may also be able to provide effective training at a lower cost, possibly through technology. The Commissioner should set the training curriculum requirements, including ethics training, and pre-authorize providers, which would be required to follow the curricular guidelines. Additionally, the Commissioner should acknowledge the differentiated responsibilities of board members of different types of school boards, including county vocational school boards and charter school boards, with corresponding adjustments to the training requirements.

The legislative changes would lead to more effective school board member training and better decision making for school districts.

#### **17. Eliminating requirement of State Board report to Legislature**

##### *N.J.S.A. § 18A:4-20 – State Board of Education Report to the Legislature*

Current law requires that the State Board of Education report annually to the Legislature regarding all matters committed to its care.

The Legislature should amend this law to remove the bureaucratic reporting requirement. The Legislature should be updated on a regular basis regarding important matters, not once annually. Moreover, in the majority of instances, the Commissioner is best positioned to provide information to the Legislature – for instance, in his annual budget testimony.

This change would streamline bureaucratic oversight and better help the Executive Branch inform legislators about the state of education in New Jersey.

### **18. Eliminating requirement of State Board report from Commissioner**

*N.J.S.A. § 18A:4-40 – Annual Reports from Commissioner to State Board*

Current law requires that the Commissioner report to the State Board such information as it may prescribe once each month and at such other times as the State Board may designate, and the Commissioner shall report to the State Board annually at its December meeting as to the operation and condition of the schools.

This requirement of a separate December report does not account for the numerous reporting mandates already established by statute or the nature of the relationship between the Commissioner and State Board. The Commissioner or his or her designee attends every State Board meeting and is in close and ongoing contact with State Board members.

The Task Force recommends that the Legislature repeals the requirement of a special December report, as the Commissioner already communicates regularly with the State Board of Education. This statutory change would streamline bureaucratic reporting requirements.

### **19. Incorporating villages into statute**

*N.J.S.A. § 18A:8-1 – Exception for Villages*

This statute provides that each municipality will be a separate local school district – except for villages, which remain part of the districts in which they were situated at the time of their incorporation.

The Task Force recommends that the Legislature amend this law to treat villages the same as all other municipalities. Currently, there are only three villages in the State of New Jersey – Loch Arbour, Ridgewood and Ridgefield Park. Of these, Loch Arbour is the only one that retained its village form of government. This statutory change will not affect Loch Arbour’s status as an independent municipality, nor would it affect its status as an independent school district unless a local vote were held, as is the process in all other districts.

This statutory change would simplify State law by requiring that villages not be treated differently regarding their ability to work with other governmental bodies or regionalize with other school districts.

## **20. Streamlining process for school district withdrawal**

### *N.J.S.A. § 18A:8-12 – Consolidated School Districts*

Current law provides for a process for withdrawal from a consolidated school district including a board of review consisting of the Commissioner of Education, as chairman; the commissioner of Conservation and Economic Development; and the director of the Division of Local Government in the Department of the Treasury.

The Task Force recommends that the Legislature amend this law to grant the Commissioner of Education authority to establish and undertake the school district withdrawal review process in a streamlined and deliberative manner. The existing process is outdated and cumbersome. For example, “commissioner of conservation and economic development” and “director of local government in the department of the treasury” are positions that no longer exist. The Commissioner of Education is well situated to create and manage a fair, transparent process that will result in a solution that best serves the affected residents.

This legislative change would allow the Commissioner to improve school district decision-making by creating new governance structures that have credibility with stakeholders and account for existing educational realities.

### *Fiscal efficiency*

## **21. Using average daily attendance rather than October 15 enrollment<sup>10</sup>**

### *N.J.S.A. § 18A:7F-45 – Definition of Resident Enrollment*

Current law mandates how student enrollment is calculated for purposes of distributing State aid. This statute defines resident enrollment as the number of pupils who are residents of the district and attending the local public school on the last school day prior to October 16 of the prebudget year. Thus, the official enrollment number used to calculate State funding to districts is presently based on the enrollment on one specific day. This definition is highly inexact and provides a mere snapshot in time.

The Task Force recommends that the Legislature amend this law to utilize the average daily attendance for school districts as the official count, rather than the enrollment on a single day in October. This change would support districts in their efforts to ensure that students are enrolled in their school for the whole year while accounting for appropriate student mobility due to, for example, family relocation. This would also discourage inappropriate non-enrollment such as dropouts or drop-offs after the

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<sup>10</sup> The Task Force endorsed this recommendation prior to the Governor’s release of the Fiscal Year 2013 Budget proposal and the Department’s release of its Education Funding Report, both of which endorsed a similar change. The Task Force affirms its support for the change.

October count. Changing this regulation also would reduce the risk of “gaming,” whereby districts identify students as enrolled on the count day even though they will not regularly attend school throughout the year.

The recommended change would emphasize the importance of attendance and instructional time in increasing student achievement and reducing dropouts. By moving away from a single count day, and instead funding based on average daily attendance, the State would encourage districts to focus on attendance, develop novel ways to increase it, and regain much-needed instructional time for our State’s at-risk students.

## **22. Reinstating the last best offer**

*N.J.S.A. § 34:13A-33 – Collective Bargaining*

In 2003, the Legislature amended the collective bargaining laws to revoke the authority of a board of education to impose the “last best offer” when the negotiations process has concluded.

The Task Force recommends that the Legislature revert to the pre-2003 law and allow school districts to impose the “last best offer” to restore balance to the negotiating process. Restrictions on contract negotiations unfairly disadvantage school boards in the process. As proposed by the Governor as part of his property tax reform toolkit, eliminating this ban would help school districts save taxpayer funds.

See S-2043 (Kyrillos)/A-2960 (DiMaio, Handlin).<sup>11</sup>

## **23. Allowing districts to opt out of the civil service system**

*N.J.S.A. § 11A:9-6 – Adoption of Title; Elections*

Under current law, school districts and other local governments can choose to participate in the civil service system through the adoption of a referendum, but there is no mechanism for them to rescind that adoption. Thus, many school districts are stuck in an antiquated system that they adopted decades ago and have no power to withdraw from even if they find their continued participation in civil service to be unnecessarily burdensome and costly.

The Task Force recommends that the Legislature enable school districts to opt out of the civil service system by the same manner in which they entered it – by ordinance or referendum signed by 15 percent of the voters. The civil service system imposes on school districts a Byzantine set of rules that impedes their efforts to innovate and improve student performance.

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<sup>11</sup> This reference is to the bill introduced during the 2010-11 legislative session.

Allowing school districts to opt out of the civil service system would help them save taxpayer funds or use these funds more efficiently.

#### **24. Facilitating district mergers and shared services**

*N.J.S.A. § 40A:65-11 – Services that Use Public Employees; Provisions for an Employment Reconciliation Plan; Contents; Transfer of Employees*

*N.J.S.A. § 40A:65-19 – Services Provided by Public Employees; Provision for Employment Reconciliation Plan; Plan Considerations; Implementation Plan; Transfer of Employees*

When two districts merge or combine operations, current law requires that the collective bargaining agreement of the larger district applies to the combined district, and employees are assigned seniority in the combined district based on strict, outmoded provisions that hinder districts' ability to negotiate with their employees. Concerns about the effects of the exacting rules have impeded district merger discussions at great cost to taxpayers.

The Task Force recommends that the Legislature adopt the Governor's toolkit proposal providing districts with flexibility to negotiate the collective bargaining agreement, including seniority arrangements, with their employees as part of a district consolidation. Empowering district leadership and educators to set the terms of a district merger would remove a key impediment to consolidation, offer the promise of significant savings to taxpayers and allow for more efficient use of education funds.

#### **25. Changing the dues structure of the New Jersey School Boards Association (NJSBA)**

*N.J.S.A. § 18A:6-50 – New Jersey School Boards Association Dues*

Current law requires that district boards of education appropriate annual dues as assessed by the New Jersey School Boards Association's delegates. The statute places a 33 1/3 percent cap on the year-to-year increase in dues.

The Task Force recommends that the Legislature amend the law to modify the dues structure so at least a portion of the dues will be optional for school districts. Further, the 33 1/3 percent cap in annual increases in dues should be reduced to 2 percent in line with the spending cap school boards now must honor.

Membership in the NJSBA should remain mandatory for school districts. Charter schools would not be obliged to join<sup>12</sup>, but should be eligible for the same services as member school districts, as appropriate, if they opt to join.

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<sup>12</sup> Currently, charter schools may, but are not required to, enroll in the NJSBA as associate members.

The change in dues structure would provide a greater incentive for the effective use of funds, as the NJSBA would need to be more responsive to district member needs and aggressive in pursuing policies that benefit its members. School board members would submit full dues to the association only if they deem membership to be of sufficient value. This change could also lead members to require the NJSBA to operate more under a fee-for-service structure, where board members pay for specific services that they deem valuable.

This legislative change would increase accountability of the NJSBA and lead to a more effective use of taxpayer money.

## **26. Providing flexibility to the Department to set organizational structure**

*N.J.S.A. § 18A:17A-1 et seq. – Powers and Duties of Executive County Superintendent*

The role and function of county superintendents, while remaining integral to the work of the Department, have evolved substantially over the past century. Current law is overly prescriptive regarding their number, qualification, role and responsibility. The overly prescriptive statutes do not provide the Department with sufficient flexibility to design the most efficient and effective organizational structure.

The Task Force recommends that the Legislature amend current laws concerning the executive county superintendents to permit the Department to determine how and in what manner regional services are delivered. The Commissioner is best suited to determine which organizational structure most effectively delivers the appropriate services, rather than mandating a particular structure or specific functions through statute.

This legislative change would streamline bureaucracy and lead to improved public service and more effective and efficient use of taxpayer funds.

## **27. Modifying facility project threshold for former Abbott districts<sup>13</sup>**

*N.J.S.A. § 18A:7F-63 – School Facility Projects in SDA Districts*

The New Jersey Schools Development Authority (SDA) funds construction projects in the 31 former Abbott school districts. Current law provides that the former Abbott district may independently fund and construct a school facility project only if its cost does not exceed \$500,000. The result is that the former Abbott school districts must utilize the SDA for all projects that exceed \$500,000, a number that is easily surpassed for construction projects.

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<sup>13</sup> Abbott districts are the 31 New Jersey school districts that, between 1985 and 2009, were subject to remedies directed by the State Supreme Court to ensure that their students received public education in accordance with the State Constitution.

The Task Force recommends that the Legislature amend the law to either raise the threshold or eliminate it altogether. The \$500,000 figure is arbitrary and does not reflect the reality of capital projects in school districts. The Department and SDA could still ensure that school construction money is spent wisely without the lower threshold. Department staff, under the supervision of the Commissioner, could review and approve former Abbott construction projects to maintain an appropriate balance between agility and public oversight.

This legislative change would reduce bureaucracy by streamlining the approval process for construction projects, which should accelerate school districts' ability to meet students' needs.

## **28. Requiring districts to set aside maintenance funds for SDA projects**

*N.J.S.A. § 18A:7G-1 et seq. – Educational Facilities and Financing Act*

This law describes the process for approving and financing school building projects undertaken by the SDA. Currently, SDA districts have little incentive to spend their own funds on building maintenance since the SDA must fund the entire cost of a replacement building.

Some SDA-created projects in New Jersey are not being maintained at a level consistent with long-term preservation. To prevent this, the Task Force recommends that the Legislature amend this law to ensure that SDA does not build future projects on behalf of school districts or other authorizing bodies without first verifying that adequate funds for facility maintenance have been set aside. As a condition for SDA project approval, districts should be required to reserve sufficient funds in their capital budgets or allocate appropriate funds from their operating budgets for post-construction facility maintenance once construction is complete. Under the revised law, Department staff would review proposed capital budgets and related operating budgets, under guidelines established by the Commissioner or his or her designee, to establish that suitable funds exist to maintain the completed facility.

This change would protect the State's long-term investment in SDA construction projects by ensuring that appropriate maintenance protects the State's long-term investment in the projects.

## **29. Eliminating non-operating school districts**

*N.J.S.A. § 18A:8-43 – Non-Operating School District Law*

The Legislature in 2009 passed a law designed to eliminate non-operating districts in the State by 2010. The law defined "non-operating district" as a school district not operating any schools as of June 30, 2009.

The Task Force recommends that the Legislature amend the law to refer to all current and future non-operating school districts because new non-operating school districts have been created since the law

was enacted. The law's underlying rationale and policy goals apply equally to new non-operating school districts and should be applied to them, as well. The State's experience with the elimination of non-operating school districts under the 2009 statute should inform the process used for these other non-operating school districts.

This legislative change would allow the Department to continue to streamline school district governance structures and could reduce property taxes.

### **30. Replacing statutory 10-day minimum requirement for sick leave with the results of collective bargaining**

*N.J.S.A. § 18A:30-2 – Allowable Sick Leave*

Current law provides that school employees be allowed sick leave with full pay for a minimum of 10 school days during each 180-day school year. The Legislature should amend this law to eliminate minimum requirements for sick leave. Instead, the terms of sick leave should be agreed upon through local collective bargaining.

Sick leave is important, and teachers and other educational professionals should have access to proper amounts of sick leave. However, excessive use of sick leave in schools can have a detrimental impact on student achievement, as well as impose on districts substantial costs to hire substitute teachers.

Additionally, the effect of the law has been to set a negotiation "floor" that districts often substantially exceed. Many districts far exceed the minimum, routinely offering 15 days of sick leave and some offering up to 25 days – five full weeks – for some teachers.

For these reasons, the State should leave the specifics of sick leave to local determination. Negotiations between the school board and its employee unions are the right venue for deciding what combination of salaries and sick-leave benefits make sense for both the local community and employees. For instance, teachers could agree through collective bargaining to a contract with fewer than 10 sick days annually, and the cost savings to the district in reduced expenditures on substitutes could be redirected to fund other educator benefits such as increased salaries.

This change would provide educators and school districts with greater flexibility in collective bargaining, which should prove beneficial to teachers, students and taxpayers.

### **31. Making paid leave for NJEA conference subject to local collective bargaining**

*N.J.S.A. § 18A:31-2 – Attendance at New Jersey Education Association Convention*

Current law provides that teaching staff must be granted paid leave for two days each year to attend the annual convention of the New Jersey Education Association. To avoid this financial obligation, many

districts simply cancel school sessions on those weekdays and instead extend the school year by two additional days. This is particularly disruptive to the flow of instruction in light of Election Day and Veterans Day, which also occur around the same time.

This is a matter best left to local determination rather than statutory mandate. Requiring all schools to close during a key point in the academic year is disruptive to student learning. Student achievement is contingent on consistent classroom instruction time, and the State should minimize mandates that interfere with it.

The Task Force recommends that the Legislature amend this law to make teacher attendance at the NJEA convention permissive. In other words, a local school district could negotiate leave associated with the NJEA convention as a benefit for teachers as part of their collective bargaining agreement; otherwise, teachers who attend would be required to use personal or unpaid leave.

This legislative change would provide school districts with greater flexibility in setting the academic calendar, and should improve academic instruction and continuity for students during the month of November.

### **32. Making paid leave for State holidays determined by local collective bargaining**

#### *N.J.S.A. § 18A:25-3 – Teaching on Holidays*

Current law provides that staff members are not required to work on any State holiday. State agencies and municipal governments are closed on 12 weekdays each year, including Election Day and Good Friday. Some schools conform to this calendar, while many others establish their own holiday schedule through collective bargaining.

School is in session for only 180 days per year, and any interruption of instructional time runs the risk of harming student achievement by negatively affecting continuity or eliminating valuable teaching time. Further, unions have used this statute to facilitate “job actions” against districts by overriding the collectively bargained calendar and requesting paid leave on State holidays, thus forcing districts to cancel school sessions with little notice to students and their families.

The Task Force recommends that the Legislature eliminate this provision for schools and permit work schedules to be set by school districts through collective bargaining without interference from the State. The Task Force is not recommending that districts change their holiday observances and operate on Thanksgiving, for example. Since the mission and function of State government differs from that of our schools, the calendar used by State agencies for year-round operations should not necessarily determine the calendar used by individual school districts for a 180-day school year.

This statutory change would provide greater flexibility to school districts as they, in turn, would be able to provide students and families with a smoother, more predictable school calendar and greater continuity in instruction during the academic year.

### **33. Permitting electronic notices to replace required newspaper advertisements**

*N.J.S.A. § 35:1-2.2a – Legal Notices*

Current law requires that legal notices of various issues, including certain public meetings and contracting opportunities, be advertised in a print newspaper. However, as readership of newspapers declines and the public relies increasingly on the Internet for information, current law does not accomplish its primary goal of ensuring that the public is informed about district affairs. Nonetheless districts in the aggregate are obliged to spend millions of dollars to advertise legal notices.

The Task Force recommends that the Legislature amend the law to permit electronic distribution of notices – such as posting on the school district’s website – as an alternative to publication in a traditional newspaper. Appropriate public notice of government actions is critical. Given the broad computer access available to the public, electronic distribution of notices would be a cost-effective means of achieving that goal. School districts should have the flexibility to decide how to best inform their communities.

This legislative change would lead to greater access to information for the public and millions of dollars in savings to taxpayers in reduced publication costs.

### **34. Limiting annual transportation spending increases to two percent**

*N.J.S.A. 18A:39-2 – Methods of providing transportation*

Current law allows districts to enter into contracts with vendors to provide student transportation for up to four years with annual cost increases of up to 7.5 percent. Recently enacted law caps at two percent increases in the local levy with few exceptions, such as for pension and health care payments, school enrollment increases, debt payments and natural disasters. Transportation costs should not be subject to a higher cap.

This legislative change would protect taxpayers by reducing the potential for relatively significant cost increases in student transportation expense while continuing to provide a valuable and safe service to students and families.

### **35. Eliminating long-range facilities plans**

#### *N.J.S.A. § 18A:7G-4 – Long-Range Facility Plans*

Current law requires that every district prepare and submit to the Commissioner a long-range facilities plan every five years detailing the district's school facilities needs and its plan to address the needs during the ensuing five years.

The Task Force recommends that the Legislature amend the law to eliminate the requirement that school districts prepare and file long-range facility plans with the State. The documents do not currently provide any significant substantive benefit, but their preparation requires significant school district resources. Districts frequently must retain expensive demographers and other consultants, often at a cost of tens of thousands of dollars, to produce the plans, even if they have no designs to construct additional facilities. School districts have other means for managing and documenting their long-term facilities needs without Commissioner approval. Instead, the Department should promulgate less-prescriptive regulations that recognize the different circumstances of districts throughout the State. For example, former Abbott districts would be required to undertake more extensive planning related to SDA funding.

This statutory change would streamline bureaucracy and liberate limited district resources and the Department for more essential purposes.

### **36. Enabling electronic payments**

#### *N.J.S.A. § 18A:19-1 – Electronic Payments*

School districts currently are required to pay all bills using the rigid and bureaucratic procurement process established in statute. As a result, they cannot utilize recurring electronic payments, which would promote efficiency for ongoing, regular expenditures such as health insurance and utility bills. While it is important to preserve safeguards to prevent potential waste, fraud and abuse, this statute should be updated to reflect the new technologies available today. Districts should be free to discard outdated and costly approaches, such as bank checks sent by postal mail and wire transfers. Department regulations could be promulgated to maintain internal controls.

This legislative change would reduce unnecessary bureaucracy for school districts, which would find cost savings by making better use of technology in their daily operations.

## Innovation

### **37. Strengthening innovation and accountability through the Charter Schools Reform Act**

*N.J.S.A. § 18A:36A-1 et seq. – Charter School Law Amendments*

During the past 15 years, the charter school law has provided greater educational opportunities to thousands of New Jersey children. The Legislature should expand and improve such school choice opportunities by passing the Charter Schools Reform Act (A-4167 – Webber)<sup>14</sup>.

In some respects, New Jersey’s current charter school laws are out-of-date and not fully aligned with current educational realities. Only the Department may authorize and monitor charter schools, while authorizers in other states include districts, universities and other public or nonprofit entities. Current law also impedes districts from seeking to convert a district school to a charter school or the Commissioner from converting a failing school to a charter school. Similarly, nonpublic schools face considerable hurdles when attempting to convert to a charter school. In fact, none has successfully converted. Further, charter schools remain burdened by State and local laws and regulations that hinder innovative approaches to boost student learning.

Charter schools in New Jersey should receive greater autonomy in exchange for increased accountability. They should also be allowed, pending authorizer approval, to innovate for new or alternative educational models.

A-4167 would streamline the authorizing process, allow for multiple charter school authorizers, increase the authorizer’s level of accountability over its charter schools, allow for private and public schools to more easily convert to charter schools and permit authorizers to approve innovative models. Additionally, the bill exempts new charter schools from most State laws and regulations and any regulations of the local district that are applicable to public schools, except those pertaining to issues such as assessments, civil rights, the Open Public Records Act, and student health and safety.

The statutory changes would strengthen our Statewide educational system and provide greater opportunity to all New Jersey students.

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<sup>14</sup> This reference is to the bill introduced during the 2010-11 legislative session.

### **38. Increasing educational options for families**

*Opportunity Scholarship Act – S-1872 (Lesniak, Kean)/A-2810 (Fuentes, DeCroce, Schaer, Webber)<sup>15</sup>*

Private schools can provide educational opportunities not otherwise available to students in many districts throughout the State, especially to children assigned to persistently failing schools.

The Task Force recommends that the Legislature pass the Opportunity Scholarship Act (OSA). The OSA would improve the effectiveness and efficiency of the overall education system in New Jersey by allowing students currently in struggling schools to enroll in a school that better fits their needs. Businesses would be given a tax credit for funding scholarships for eligible students to attend a school of their choice. Like all forms of school choice, the OSA would help our education system move away from a top-down, one-size-fits-all approach to one where every family could determine what education option would best prepare their child for future success.

This legislative change would improve both the effectiveness and efficiency of our statewide system of education involving traditional public schools, public charter schools, choice schools and private schools.

### **39. Strengthening low performing schools<sup>16</sup>**

*Urban Hope Act - S-3002 (Norcross)/A-4264 (Fuentes)<sup>17</sup>*

Urban education reform must be a priority for the State given the many students who currently leave our educational system without the skills or knowledge to pursue college or a career. For decades, the State has tried with limited success to change the quality of instruction the students receive. For this reason, the State must explore new educational reform strategies, including inviting greater innovation into the State.

To do this, the Task Force recommends that the Legislature pass the Urban Hope Act to make it easier to intervene in and transform troubled schools so they provide better opportunities to students through strategies such as the use of educational management organizations, which have been used successfully to improve failing schools in other states.

This act would strengthen education programs in our cities and lead to a more efficient and effective educational system overall.

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<sup>15</sup> This refers to the bill introduced during the 2010-11 legislative session.

<sup>16</sup> The Task Force endorsed this recommendation prior to the January 2012 passage and enactment of similar legislation. The Task Force affirms its support for the law.

<sup>17</sup> This refers to the bill introduced during the 2010-11 legislative session.

#### **40. Strengthening the Interdistrict Public School Choice program**

*N.J.S.A. § 18A:36B-14 et seq. – Interdistrict Public School Choice*

The new Interdistrict Public School Choice law has already proven successful in supporting parental choice by allowing parents to break out of traditional public school attendance zones and send their children to a public school that better suits the students' needs. This law should be strengthened to provide more flexibility and clarity for receiving districts, which voluntarily participate. Enhancements should include a process for amending original applications. Clarification also is needed to stipulate that preschool students are not eligible for the program and to add clarity about how send-receive and regional relationships work for choice students. The law also should be amended to clarify that homeschooled students are eligible for the program in the same manner as nonpublic school students and that choice and resident student-athletes are treated the same.

The legislative changes would clarify and strengthen the Interdistrict Public School Choice program by increasing efficiency and clarifying guidelines.

#### **Academic (including student health and safety)**

#### **41. Certifying the educational qualifications of morticians and chiropractors**

*N.J.S.A. § 45:7-38; 45:9-41.4 – Professional Boards*

Under current law, the Department of Education is required to review and approve the educational qualifications of morticians and chiropractors. The Division of Consumer Affairs of the Department of Law and Public Safety supervises the activities of dozens of other professions and occupations, but morticians and chiropractors remain under the supervision of the Department of Education.

The Task Force recommends that the Legislature amend the laws to direct the existing State Board of Chiropractic Examiners and State Board of Mortuary Science to review member qualifications under the auspices of the Department of Law and Public Safety, rather than the Department of Education. The official boards have the appropriate professional expertise to conduct reviews of qualifications.

The statutory changes would streamline bureaucratic oversight, provide an opportunity for more expeditious processing of applications and potentially increase quality by bringing greater expertise to the licensing process. This would also free up resources at the Department of Education to focus on school reform issues.

#### **42. Clarifying the Harassment, Intimidation and Bullying (HIB)<sup>18</sup>**

*N.J.S.A. § 18A:37-13.1 et seq. – Anti-Bullying Bill of Rights Act*

The Anti-Bullying Bill of Rights Act serves an important policy objective in addressing the problem of harassment, intimidation and bullying in public schools. At the same time, districts, school boards, superintendents and educators have expressed concerns regarding the implementation of the act. The Task Force recommends that the Governor and Legislature convene a panel of experts to solicit input from educators, administrators, and other stakeholders and to develop specific recommendations concerning the law and its implementation, while preserving its essential purpose.

The current HIB law, which took effect in September 2011 and replaced legislation enacted in 2002, requires that all public schools adopt comprehensive anti-bullying policies and adhere to tight deadlines for reporting incidents. Public school employees are required to complete a training course that includes "training in the protection of students from harassment, intimidation, and bullying, including incidents which occur through electronic communication." Employees must also report any bullying incident of which they become aware, whether it occurred in or outside of school. Each school must designate an anti-bullying specialist to investigate complaints and must have an anti-bullying coordinator. The Department also must evaluate districts' efforts to implement the law by posting grades on its website.

Experts in this area should be convened to examine the implementation and effects of this new law, and offer recommendations for improvement.

#### **43. Expanding local flexibility for EpiPens supervision and use**

*N.J.S.A. § 18A:40-12.6(a) – Policy for Administration of Epinephrine to Pupils*

This law establishes the requirements for emergency administration of epinephrine, via an EpiPen, in schools, including administration by only the school nurse or designee.

The Task Force recommends that the Legislature amend the law to authorize school districts to set their own policy regarding the administration and use of EpiPens, accounting for appropriate safety precautions. Current law is overly restrictive, providing that only a nurse or delegate may provide the legally required interventions at all school-sponsored functions. This requires schools to have a delegate available for every athletic event, field trip, or weekend or evening student event, or choose to cancel it. This is a prohibitive cost since the delegate or nurse must be paid for that time. The statute does not provide any funding for the ongoing delegate training, nor does it address issues such as the need for multiple delegates to work at simultaneous events at different locations. This requirement creates a significant financial burden for districts.

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<sup>18</sup> The Task Force endorsed this recommendation prior to the March 2012 passage and enactment of similar legislation. The Task Force affirms its support for the law.

By amending the statute to provide school districts and families with increased flexibility, parents could be authorized to delegate epinephrine administration to a relative or to a trained staff member, for instance.

The statutory changes would provide necessary flexibility to school districts while still thoroughly protecting students.

#### **44. Expanding local flexibility for care of students with diabetes**

*N.J.S.A. § 18A:40-12.11 et seq. – Care of Students with Diabetes*

This law provides requirements for both the routine and emergent care of students with diabetes.

The Task Force recommends that the Legislature amend this law to authorize school districts to set local policy for the care of diabetic students, in keeping with appropriate safety precautions. Currently, districts are burdened with the responsibility of providing a nurse or delegate to provide interventions required by statute at all school-sponsored functions, thus requiring the school to have a delegate available for every athletic event, field trip, or weekend or evening student event, or to cancel it. This is extremely expensive since the delegate or nurse must be paid for that time. The statute does not provide any funding for ongoing delegate training, nor does it address issues such as the need for multiple delegates to work at simultaneous events at different locations. This requirement creates a significant financial and administrative burden for districts.

By amending the statute to provide school districts and families with increased flexibility, parents could be authorized to delegate certain care of diabetic students to a relative or to a trained staff member, for instance.

The statutory changes would provide necessary flexibility to school districts while still thoroughly protecting students.

#### **45. Increasing the efficiency of school survey administration**

*N.J.S.A. § 18A:36-34 – School Surveys*

This law establishes strict standards governing the administration to students of any survey instrument, requiring prior written parental consent for every survey. Consequently, numerous nonprofit agencies and federal grantees have halted their surveys or are struggling to comply with the law's provisions<sup>19</sup>.

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<sup>19</sup> S-1696 Statement from 2010-11 Session

The Task Force recommends that the Legislature amend this law to empower school districts to set their own policies regarding parental permission for surveys, accounting for federal and State privacy protections. For instance, a district could establish a policy allowing students to participate in a voluntary survey if the district sends prior written notification to the student's parent or guardian with relevant details, including the procedure for denying permission to administer the survey to the child.

The legislative changes would reduce the burden on school districts and make it easier to collect important student data.

#### **46. Supervising private post-secondary schools**

##### *N.J.S.A. § 34:15-10.1 – Private Career Schools*

This law requires the curriculum and credentials of staff at private career schools to be approved by the Department of Education as part of the Department of Labor and Workforce Development's approval process. The term "private career schools" refers to private post-secondary schools that provide students with specific career and technical training. It does not apply to county vocational schools or to programs at colleges and universities.

The Task Force recommends that the Legislature amend this law to move the responsibility for approving components of the approval process of private career schools ("qualifying schools" as defined in N.J.S.A. § 34:15C-10.1) to a more appropriate State agency, specifically, either the Secretary of Higher Education or the Department of Labor and Workforce Development. This amendment would improve oversight by redirecting this responsibility to relevant subject matter experts, either the Secretary of Higher Education since the schools are postsecondary institutions, or the Department of Labor and Workforce Development as the schools serve a workforce preparation role.

This statutory shift would streamline State bureaucratic oversight and allow the Department of Education to target resources to its core mission of improving student achievement for public school students from preschool through twelfth grade.

## Liberating Educators from Restrictive Regulatory Mandates

### Overview

The Initial Report contained more than 40 recommendations for improving the Department's administrative code. The Task Force is pleased to have identified an additional 428 recommendations for inclusion in the Final Report, divided into this section and in the attached appendix. It is important to recognize that while the amended and deleted code provisions are being reported by the Task Force, they are actually the aggregated recommendations of countless teachers, principals, parents and other stakeholders from schools throughout the State. The Task Force drew from a substantial corpus of ideas received in-person, on-line, and in writing from public hearings, practitioner roundtables, educational groups, and experts from within the Department. This Statewide deregulatory sentiment gives the Task Force great confidence that the adoption of the recommendations could both ease burdens placed on educators and facilitate the Department's ability to significantly improve student learning.

The regulations identified for elimination or modification fall into a number of categories. Some are simply unrelated to student learning, fiscal integrity, or student health and safety – the areas about which we are most concerned. Others are duplicative of existing statutory language, thereby causing clutter in the Department's code book. Some regulations are unclear, confusing both those charged with administering them and those attempting to comply with them. Finally, some regulations clearly stifle educator innovation and autonomy.

As indicated in the Initial Report, not all code requirements represent unnecessary regulation. The Task Force conducted a comprehensive and detailed review of each chapter of the regulatory code, literally line by line. The review first determined the statutory authorization and intent of the regulation to understand the reason for its initial adoption. Where applicable, the Task Force then focused on the degree to which the regulation exceeds the statutory mandate it purports to implement. The Task Force then assessed the connection of the regulation to student learning and the need for the regulation to protect student/employee health and safety or to provide minimum standards of fiscal stewardship.

This process guided the Task Force in determining whether the regulation needlessly hinders flexibility, creativity and innovation in decision making, intrudes into the decision-making process, or represents a distraction from the core mission of schools.

The Task Force also seeks to simplify requirements by eliminating confusing, ambiguous or redundant code. The Task Force also recommends changes where regulatory goals can be accomplished through less intrusive means. Finally, the Task Force recommends repeal if it determined the regulation was enacted in response to a local situation and should not be applied system wide.

To ensure that appropriate expertise was brought to the review, the Task Force assembled eight working groups covering various subject areas and chapters of the regulatory code. The working groups

included staff from the Task Force, Department leadership, and subject-area experts both from within and outside the Department. The working groups met multiple times and the fruits of the lengthy deliberations were brought before the full Task Force for further review and approval for inclusion in the Final Report.

The regulations recommended for amendment or repeal are divided in this report into two sections. Those representing more substantial changes for educators, school and district leaders, students and families are included in the main portion of the report below. The appendix includes amendment recommendations that would simplify code, ease a burden on the Department or otherwise represent less-significant changes. The Task Force recommends the adoption of all of these revisions.

To elaborate on the relationship of our work to the State’s comprehensive reform efforts, we organized the list of regulatory changes by levers of reform, which the Governor and Commissioner designated as the drivers of sustained improvements in New Jersey education. The first is Academic, which includes standards, assessments, curriculum and instruction. The second is Talent, in particular educator effectiveness. The third is Performance, which includes targets, measurement, accountability and efficiency. The fourth is Innovation, which includes high-quality, nontraditional methods of delivering K-12 schooling.

For each of the proposed regulatory changes that follow, the Task Force provides the citation for the regulation in bold, the operative revised code language in italics, interpretation of the regulation where not self-evident, the proposed change, and the reason(s) prompting the proposed change. In the code language, underlined text indicates proposed additions, while bracketed text indicates proposed deletions.

<b>Regulatory Chapters by Department Lever of Reform</b>	
<p><b><u>Academic</u></b></p> <p>7 Managing for Equality and Equity in Education</p> <p>8 Standards and Assessment</p> <p>13 Programs and Practices to Support Student Achievement</p> <p>13A Elements of High Quality Preschool Programs</p> <p>14 Special Education</p> <p>15 Bilingual Education</p> <p>16 Programs to Support Student Development</p> <p>19 Career and Technical Education Programs and Standards</p> <p>20 Adult Education Program</p>	<p><b><u>Performance</u></b></p> <p>1 Bylaws for the State Board of Education</p> <p>3 Controversies and Disputes</p> <p>22 Student Residency</p> <p>23A Fiscal Accountability, Efficiency and Budgeting Procedures</p> <p>26 Educational Facilities</p> <p>26A Comprehensive Maintenance Plans</p> <p>27 Student Transportation</p> <p>32 School District Operations</p>
<p><b><u>Talent</u></b></p> <p>9 Professional Licensure and Standards</p>	<p><b><u>Innovation</u></b></p> <p>5 Regulatory Equivalency and Waiver</p> <p>11 Charter Schools</p> <p>12 Interdistrict Public School Choice</p>

## Academic

### *Chapter 7: Managing for Equality and Equity in Education*

#### **Overview**

The purpose of Chapter 7 is to ensure that all New Jersey students, regardless of their socioeconomic, ethnic or religious background, or any other identifying characteristic, are treated both fairly and equally. All students must be provided equal access to educational programs and services by their local boards of education. This section of State regulation describes what that aspiration means in practice.

In this section of the Final Report, the Task Force recommends eliminating some regulations that unnecessarily burden districts as they implement equality and equity goals. Districts no longer would be required to submit highly prescribed, comprehensive equity plans. Instead, a statement of assurance from the superintendent would suffice, while the Department's monitoring would be improved through its new accountability system.

Additionally, the Task Force recommends revising regulations to allow families and students to voluntarily opt-in to single-sex classes and schools, consistent with federal law.

#### **N.J.A.C. § 6A:7-1.4(c)4 Responsibilities of the district board of education**

*"The district board of education shall submit [the] to the Department a statement of assurance that it has completed and kept on file a comprehensive equity plan [to the county superintendent of schools for approval and a copy of the comprehensive equity plan to the Department]."*

The Task Force recommends that the Department and State Board modify this regulation to ease the paperwork burden on districts. There is no need for all districts to send the plans to the Department, nor should the Department need to catalogue the plans in its county offices when a statement of assurance could easily document compliance with this reporting requirement. Under the amendments, district boards of education would still be required to complete the comprehensive equity plan, and the Department can request the document from a district at any point.

#### **N.J.A.C. § 6A:7-1.5(a) Affirmative action officer**

*"[Each] Every three years, each district board of education shall [annually designate a member of its staff as the affirmative action officer and] form an affirmative action team[, of whom the] and designate a member as the affirmative action officer [is a member, to coordinate and implement] responsible for coordinating and implementing the requirements of this chapter. Each district board of education shall assure that all stakeholders know [who] the identity and contact information of the affirmative action officer [is and how to access him or her]."*

The Task Force recommends that the Department and State Board modify this regulation to increase the efficacy of diversity initiatives and to provide greater flexibility to districts. Superintendents have noted that the mandated one-year term of the affirmative action officer impedes multi-year planning, while requiring each district board to annually act on what is essentially a human resources decision. By increasing to three years the term of the affirmative action officer, districts would be able to undertake longer-term planning and to coordinate diversity issues with less administrative burden on boards of education. An affirmative action team would afford more resources and facilitate greater collaboration among educators on diversity issues than a single officer.

**N.J.A.C. § 6A:7-1.7(b)2 Equality in school and classroom practices**

*“(b) Each district board of education shall ensure [that] the school district’s curriculum and instruction are aligned to the [State’s Core Curriculum Content Standards and] CCCS. The district board of education also shall ensure its curriculum and instruction address the elimination of discrimination by narrowing the achievement gap, [by] providing equity in educational programs and [by] providing opportunities for students to interact positively with others regardless of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status, by: .... (2) Ensuring [that] courses shall not be offered separately on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, [gender,] religion, disability or socioeconomic status;”*

The Department and State Board should revise this regulation to continue to prohibit students from being assigned to single-sex classrooms but to allow families and students to “opt-in” to such arrangements under conditions mandated by federal and State law. This is consistent with federal and State constitutional and statutory protections, and would provide greater flexibility to schools and districts to offer innovative pedagogical approaches.

## Chapter 8: Standards and Assessment

### Overview

The purpose of Chapter 8 is to clearly identify the academic standards that set expectations for all students, describe the Statewide assessment program that determines the level of student academic achievement with regard to the standards, and define graduation requirements that determine when a student is ready for college and career. This is a crucial chapter given the centrality of standards and objective measurements in the Department's new management system.

The Task Force's recommended changes for this chapter emphasize college and career readiness for all New Jersey students. The changes would include updates reflecting the adoption of Common Core State Standards for language arts literacy (LAL) and mathematics and a commitment to implement next-generation Partnership for Assessment of Readiness for College and Careers (PARCC) exams starting in the 2014-2015 school year. The changes would also clarify that the Personalized Student Learning Plans initiative remains a pilot program, not a mandate for districts.

The Task Force recommends excising unnecessary and duplicative reporting and accountability requirements to consolidate everything through the Department's new accountability system. The updated chapter would replace outdated references to defunct exams and lays the groundwork for recommendations from the Department's College and Career Readiness Task Force<sup>20</sup>.

The Task Force notes that many issues addressed in this chapter, such as the definition of college and career readiness and the role of credit hours in determining eligibility for graduation, are critical issues that the Department is already reviewing and addressing. The aforementioned topics are beyond the scope of the Task Force's review. However, the Task Force encourages a thorough review and implementation of innovative and effective policies that will maximize the number of New Jersey students graduating from high school ready for college and career, as well as a lifetime of success.

### **N.J.A.C. § 6A:8-1.1(a)1 and 2 Purpose**

*“(a) To prepare students for college and career, success in life[, future education,] and work ... requires a public education system where teaching and learning are aligned with 21st century learning outcomes. These outcomes ... foster a deeper understanding of academic content at much higher levels by promoting critical thinking, problem solving[, and creativity through: 1. The Core Curriculum Content Standards [that] (CCCS), which specify expectations in nine academic content areas: the Common Core State Standards in English language arts and mathematics, the visual and performing arts, comprehensive health and physical education, [language arts literacy, mathematics,] science, social studies, world languages, [technological literacy] technology, and 21st century life and careers; 2.*

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<sup>20</sup> The Task Force endorsed this recommendation prior to the Department's release of the Final Report of the College and Career Readiness Task Force.

*[Cumulative progress indicators] Indicators at benchmark grade levels delineated in the standards that further clarify expectations for student achievement; and”*

The Department and State Board should include preparation for “college and career readiness” in the purpose of this subchapter. Additionally, this subchapter should reflect the Department’s adoption of the Common Core State Standards for English language arts and mathematics while retaining the other seven Core Curriculum Content Standards. The Department should also replace “cumulative progress indicators” with “indicators” throughout the chapter. This change would enable school districts to use other measurements, including formative and interim assessments.

### **N.J.A.C. § 6A:8-1.3 Definitions**

*“‘Core Curriculum Content Standards’ or ‘CCCS’” means statements adopted by the State Board of Education on May 1, 1996, and as thereafter revised by the State Board, [which] that describe the knowledge and skills all New Jersey students are expected to acquire by benchmark grades[. These] in the following areas: science; social studies; visual and performing arts; comprehensive health and physical education; world languages; technology; 21<sup>st</sup> career life and careers; and the Common Core State Standards that specify expectations in English language arts and mathematics. The standards are established for the provision of a thorough and efficient education pursuant to N.J.S.A. 18A:7F-4 and as a basis for the evaluation of school districts in accordance with N.J.A.C. 6A:30[-1.4], ....”*

The Department and State Board should update the definition of the Core Curriculum Content Standards to reflect the adoption of the standards in English language arts and mathematics.

*“‘Technological literacy’ means students meeting CCCS 8.1 Educational Technology, obtained through the integration of effective educational technology practices, strategies and tools throughout all curricular areas.”*

The Department and State Board should amend this section to include a clarifying definition for technological literacy.

### **N.J.A.C. § 6A:8-2.1(a)1, 2 and 3 Authority for educational goals and standards**

*“[In July 2002, the State Board adopted by resolution revised Core Curriculum Content Standards and associated cumulative progress indicators in language arts literacy, mathematics, and science, which establish the basis for local curriculum and instruction, the Statewide assessment system, and evaluation of local district boards of education.] 1. In June 2009, the State Board adopted revised CCCS and associated indicators in visual and performing arts, comprehensive health and physical education, science, technology, 21st century life and careers, and world languages. 2. In September 2009, the State Board adopted revised CCCS and associated indicators in social studies. 3. In June 2010, the State Board adopted revised CCCS and associated indicators reflecting the Common Core State Standards for language arts literacy and mathematics.”*

The Department and State Board should amend this section to reference the 2009 adoption of the Core Curriculum Content Standards and the 2010 inclusion of the Common Core State Standards. References to previous, outdated content standards should be eliminated.

**N.J.A.C. § 6A:8-3.2(a) Career education and counseling**

*“The Department [of Education] shall conduct a [two-year] pilot project and evaluation of Personalized Student Learning Plans beginning in the 2009-2010 school year. [The Department intends that district boards of education shall develop and implement a Personalized Student Learning Plan, for each secondary school student in grades six through 12, according to a schedule developed by the Department of Education.]”*

The Department and State Board should amend this regulation to enable the pilot to continue beyond the original two-year time frame while also clarifying that this regulation imposes no mandate on districts.

**N.J.A.C. § 6A:8-4.2(b) Documentation of student achievement**

*“District boards of education shall transmit within 10 business days any official records, including transcripts, of [those] students who transfer to other school districts or institutions.”*

The Department and State Board should clarify that the transmittal of any official record is to be completed within 10 business days for students who transfer, providing additional time for districts to process this important paperwork.

**N.J.A.C. § 6A:8-4.3(a) Accountability**

*“Chief school administrators shall report preliminary and final results of annual assessments to district boards of education within [30] 60 days of receipt of information from the Department [of Education].”*

The Department and State Board should amend this regulation to allow more time for the local board and the chief school administrator to report on their district’s annual assessment results. The recommendation is being made in response to feedback from board of education members and chief school administrators. The annual assessments are one of the most important accountability components in education, and local boards need time to prepare a thoughtful discussion of the results and to address any deficiencies. The additional time is also necessary for sharing results with all stakeholders.

**N.J.A.C. § 6A:8-4.4(b) Annual review and evaluation of school districts**

*“[(b)The Department of Education ... shall annually review individual school performance on applicable Statewide assessments .... 1) District boards of education ... shall ensure that each school which does not achieve State standards as determined by performance on applicable Statewide assessments develops and implements a school-level improvement plan .... 2) District boards of education ... shall ensure that each school which achieves State standards creates measurable school-level objectives that address improvement in any area contained within the Core Curriculum Content Standards. 3) District boards of education ... shall submit all school-level improvement plans and objectives annually to the county superintendents as part of the quality assurance annual report (QAAR) in accordance with N.J.A.C. 6A:30-1.4(a)1. 4) Charter schools shall submit all school-level improvement plans and objectives annually to the county superintendents as part of the annual report ...]”*

The Department and State Board should eliminate the submission of annual school improvement plans. This evaluation of academic progress was required under the Quality Assurance Annual Report, which no longer exists. Thus, this report is now unnecessary. The same information is currently assessed through QSAC. In addition, the Department now issues an annual report that monitors student achievement and school progress in meeting a wide variety of State goals.

**N.J.A.C. § 6A:8-5.1(f) Graduation requirements**

*“District boards of education shall provide students who have not demonstrated proficiency on one or more sections of the HSPA following the 11th grade[, or applicable Competency Assessments,] with the opportunity to demonstrate such competence through [both] repeated administrations of the HSPA[ and the], AHSAs and any other process established by the Commissioner. [1. District boards of education shall submit the results of the AHSAs process to the appropriate county ... 2. County superintendents, as the Commissioner’s designees, shall review the results of each student’s AHSAs and recommend to the Commissioner either approval or disapproval for graduation.]”*

The Department and State Board should amend this regulation to eliminate the requirement that school districts administer competency assessments. This would enable the Commissioner to recommend other appropriate assessments for a State-endorsed diploma.

Additionally, the Department and State Board should amend this regulation to suspend submission of the AHSAs to the county superintendent for review. Districts currently submit the AHSAs to the Department in Trenton for review.

## *Chapter 13: Programs and Practices to Promote Student Achievement*

### **Overview**

The genesis of Chapter 13 was the system of rules established either directly by courts, the Legislature, or the Department to comply with the “Abbott” series of court cases.

Many of the rules were eliminated shortly after the adoption of the School Funding Reform Act (SFRA), which ended the special remedies the New Jersey Supreme Court mandated for former Abbott districts. Some of the mandates remain in this chapter, often in revised forms.

The Task Force believes that many of the interventions have an appropriate, and perhaps critical, role in school improvement. However, the Task Force believes the State’s new and consequential accountability system provides powerful incentives for districts to invest in whichever programs yield the best results. In addition, the new system of differentiated interventions is premised on the notion that failing schools will be required to adopt school turnaround strategies, as set out in greater detail in the Department’s successful ESEA flexibility request. The code should be amended accordingly.

Additionally, the rules and interventions detailed in this chapter are all at the district level. The Task Force believes that effective education improvement requires school-based interventions. Schools are the unit of change. Many otherwise successful districts still have failing schools.

A narrow focus on district-level performance obscures the many islands of failure within the State’s largely successful school districts. For instance, interventions for mathematics education is required if less than 85 percent of total students have achieved proficiency in mathematics on the New Jersey Assessment of Skills and Knowledge (NJ ASK) 4. A district with 86 percent proficiency is exempted, even if the failing 14 percent of students is largely concentrated in one school. Similarly, this standard ignores both improvements within a school and any individual student-level metrics. It also does not account for the achievement gap between economically advantaged and disadvantaged students. This results in an artificial distinction between districts with mandated interventions and those without, all apart from QSAC results or the State’s new accountability system. The preferred approach is to remove the rules and instead to allow the Regional Achievement Centers to coordinate staged interventions.

As for secondary education in the State’s most challenged schools, new initiatives ensuring that the State’s high school students graduate ready for college and career will be led by the Department’s new Regional Achievement Centers. Given these developments, the existing regulations are unnecessary.

This regulatory chapter is one of two mentioned in this report for which statute dictates a different procedure for review and adoption of amendments. Unlike most chapters of regulatory code, the SFRA provided statutory authority to develop Chapter 13 outside of the State Board process but still in compliance with the Administrative Procedures Act and its requirement for publication of proposed code and an opportunity for public comment.

**N.J.A.C. § 6A:13-1.1(a) Purpose and applicability of rules**

*“These rules are promulgated pursuant to the School Funding Reform Act, P.L. 2007, c. 260, to ensure that all students receive the educational entitlements guaranteed them by the New Jersey Constitution. These rules shall ensure that all school districts provide students with a rigorous curriculum that is based on the Core Curriculum Content Standards; that relies on the use of State assessments and other data to improve instruction; and that is supported by a professional development plan for teachers and school leaders. [In addition, secondary school districts shall provide students with an academically rigorous personalized environment to prepare them for post-secondary education and/or careers after graduation.] These rules also address class size in high poverty school districts [and focus on improving instruction in literacy and mathematics in high need school districts].”*

The Department should amend this regulation to clarify that districts may offer their own assessments in addition to those required by the Department. Further, the revision of the final two sentences would reflect proposed changes to subsequent sections of this chapter. The primary thrust of the changes would be to remove prescriptive instructional and operational requirements for certain school districts. Instead, the Department’s new system of differentiated interventions would support and guide improvements at the school level.

**N.J.A.C. § 6A:13-2.1(h) Standards-based instruction**

*“All school districts shall provide appropriate library-media services [that are connected to classroom studies in each school building, including access to computers, district-approved instructional software, appropriate books including novels, anthologies and other reference materials, and supplemental materials that motivate students to read in and out of school and to conduct research. Each school district shall provide these library-media services under the direction of a certified school library media specialist.] under proper administrative supervision, which shall be by a certified school library media specialist employed by a school district or shared with other school districts, unless otherwise authorized by the executive county superintendent.”*

The Task Force recommends that the Department revise this regulation. The tremendous technological developments of the past decade have fundamentally altered modes of research and the ideal organization of school media centers. Districts should have greater flexibility to both establish and stock facilities with educational materials, as well as to determine the optimal staffing of school libraries.

**N.J.A.C. § 6A:13-2.2(b) and (c) Secondary education initiatives**

*“[(b) All secondary school districts shall develop a plan in 2008-2009 for implementing the secondary education initiatives specified in (c) through (e) below by the 2009-2010 school year, except that secondary school districts previously subject to N.J.A.C. 6A:10 and 6A:10A shall immediately comply with the secondary education initiatives specified in this section. (c) Secondary school districts shall have a school-level planning team to guide the development and implementation of the secondary education*

*reforms described in this section. A representative group of teachers and administrators shall determine team membership and operating procedures.]”*

The Task Force recommends that the Department delete the above regulations. The dates cited in this subsection have already passed. Moreover, districts have already implemented the secondary education initiatives stipulated above, making this section irrelevant. New initiatives to ensure that the State’s high school students graduate ready for college and career will be led by the Department’s new Regional Achievement Centers.

**N.J.A.C. § 6A:13-2.2(e) Secondary education initiatives**

*“[Secondary school districts shall create personalized learning environments that strengthen relationships among students, teachers, staff members, families and the larger community for students in grades six through 12. These may include: 1. Small learning communities in free-standing facilities or within larger facilities; 2. Ninth grade academies where freshman students remain together and are provided with a supportive environment to enhance their successful transition to high school; 3. Student support systems where students are assigned an adult mentor or team of adults who know(s) them and can support student efforts in achieving goals and solving problems; 4. Academies with a career focus; 5. Multi-grade academies where students at various grade levels may remain with a core group of teachers for multiple years in an academy-type format which may be organized around a particular theme and involve interdisciplinary teaming; or 6. Other practices for personalizing learning environments that strengthen relationships among students, teachers, staff members, families and the larger community.]”*

The Task Force recommends that the Department eliminate the requirement that secondary school districts create “personalized learning environments.” The Task Force notes the potential value of the various forms of personal learning environments and is aware they already exist in many schools. The Department, acting principally through the RACs, may continue to require Priority or Focus Schools to implement the specific programs as part of its intervention in struggling schools. However, all other school districts should have the flexibility to determine the most effective way to deliver to their students instruction corresponding to the Core Curriculum Content Standards and the Common Core State Standards.

**N.J.A.C. § 6A:13-2.2[(g)](d) Secondary education initiatives**

*“Secondary school districts that administer the State high school [State] assessment and in which 10 percent or more of their students satisfy high school graduation requirements through the [Special Review Assessment (SRA)] Alternate High School Assessment (AHSA) shall submit to the Department [of Education] by November 15 of the subsequent school year, an analysis of all students who graduated by means of the [SRA] AHSA in the previous school year. The analysis shall include: 1. The names of high school courses and grades achieved for [SRA] AHSA students in language arts literacy, mathematics and science; 2. The attendance records for [SRA] AHSA students for each year of high school; ...”*

The Department should modify this regulation by replacing “Special Review Assessment (SRA)” with “Alternate High School Assessment (AHSA)” since the SRA is no longer given. The AHSA is an alternative assessment that provides students with the opportunity to exhibit in differentiated contexts their understanding and mastery of the HSPA-tested skills. The Task Force again notes that the Department is evaluating the AHSA and the benefits of its continued use.

**N.J.A.C. § 6A:13-3.1 Class size in high poverty districts**

*“(a) A high-poverty school district as used in this chapter means a school district in which 40 percent or more of the students are ‘at risk’ as defined in P.L. 2007, c. 260. (b) Class size in school districts in which 40 percent or more of the students are ‘at-risk’ as defined in P.L. 2007, c. 260 shall not exceed 21 students in grades kindergarten through three, 23 in grades four and five and 24 students in grades six through 12; [provided that] if the school district chooses to maintain lower class sizes in grades kindergarten through three, class sizes in grades four and five may equal but not exceed 25. Exceptions to [these] the class sizes are permitted for some physical education and performing arts classes, where appropriate. [(c) School districts previously subject to N.J.A.C. 6A:10A and 6A:10 shall implement the class size requirements set forth in this section during the 2008-2009 school year and all other school districts to which this section applies shall plan to implement the class size requirements beginning in the 2009-2010 school year and implement in the 2010-2011 school year.] (c) High-poverty school districts as defined by N.J.A.C. 6A:13-3.1(a) may seek a waiver of N.J.A.C. 6A:13-3.1(b) from the Department.”*

The Task Force recommends that the Department modify this section of code. This regulation, a remnant of the Abbott rules, imposes rigid class-size restrictions in certain high-poverty school districts. While the Task Force recognizes the potential value of class size restrictions, especially in younger grades, class sizes in general should be determined by individual school districts based on the needs of their students.<sup>21</sup> The Department, through its Regional Achievement Centers, should monitor closely class size and other key metrics in Priority and Focus Schools, the 15 percent of schools in the State that require the greatest assistance. However, if the district’s resources are best directed to other school improvement efforts, the district should have the opportunity to seek a waiver of this regulation from the Department.

The Task Force believes that districts should be given the opportunity to design their own paths to success and not be subject to mandates or prescriptions unless they have demonstrated an inability to independently improve a school on their own terms. Under the Department’s accountability regime, districts are held accountable for academic results and risk increased State intervention if the school fails to achieve them.

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<sup>21</sup> The Task Force notes that currently, average class sizes in the State are well below thresholds contained in N.J.A.C. § 6A:13-3.1.

**N.J.A.C. § 6A:13-3.3 Definition of high need school districts and implementation timeline**

*“[(a) A high need school district is defined as a school district in which 40 percent or more of the students are “at-risk” as defined in P.L. 2007, c. 260 and is at one or more of the following proficiency levels on State assessments: ...]”*

The Task Force recommends that the Department eliminate this regulation. Doing so would provide the Department more flexibility in determining which school districts should properly be classified as “high-need.” This proposal would eliminate the requirement that a high-need school district contain at least 40 percent at-risk pupils; therefore, if warranted, the Department could designate a district as high-need even if less than 40 percent of students are at-risk based on a range of factors, including student performance. This change would allow the State more flexibility in allocating resources to districts that the Department considers legitimately “high need” and most deserving of assistance.

**N.J.A.C. § 6A:13-3.4 Language arts literacy**

*“[(a) Intensive early literacy for grades preschool through three. High need school districts where less than 85 percent of total students have achieved proficiency in language arts literacy on the New Jersey Assessment of Skills and Knowledge (NJ ASK) 3 shall provide an intensive early literacy program for preschool to grade three to ensure that all students achieve proficiency on State standards. The intensive early literacy program shall include the following components: ...]”*

The Task Force recommends that the Department eliminate this regulation. The proposed change would give school districts greater autonomy in designing and implementing an intensive early literacy program and to what extent. In addition, this change would permit school districts to allocate classroom teaching time to subjects that require the most remedial instruction, rather than simply mandating a “daily 90-minute uninterrupted language arts literacy block.” It also would eliminate duplicative provisions, such as the required assessment of English language learners (ELLs), which is already required under N.J.A.C. § 6A:15-1.3.

**N.J.A.C. § 6A:13-3.5 Mathematics**

*“[(a) Mathematics instruction throughout the elementary and middle schools should be designed to prepare all students for rigorous mathematics at the high school level. (b) Math literacy for students in grades three through four. High need school districts in which less than 85 percent of total students have achieved proficiency in mathematics on the New Jersey Assessment of Skills and Knowledge (NJ ASK) 4 shall implement a comprehensive program for mathematics education that prepares students in grades three through four for success in higher order mathematics and that includes the following components: ...]”*

The Task Force recommends that the Department eliminate this regulation. The deletion would remove highly prescriptive requirements that reduce mathematics instructors’ discretion and autonomy. Under the current provision, if fewer than 85 percent of students achieve proficiency in mathematics on the NJ

ASK 4 exam, mathematics instructors have little flexibility to employ pedagogical methods they think are best suited for fostering student achievement. The proposed change would empower mathematics instructors to use teaching strategies tailored to the needs of each classroom, rather than having to teach according to a blunt administrative regulation.

## **Chapter 13A: Elements of High-Quality Preschool Programs**

### **Overview**

Chapter 13A addresses early childhood education. The State fully funds preschool programming in the former Abbott districts, and also offers funding for preschool programming in certain other districts. The rules also include a careful system of monitoring district and private provider programs. When ready, the system will be complemented by the State's Quality Rating Improvement System to ensure student safety and learning opportunities.

The Task Force's goal is to reduce the regulatory and bureaucratic burden by increasing flexibility for districts in offering high-quality preschool programs. The revised rules ensure that preschool programs foster the development of academic and social skills by appropriately supporting preschool children's particularized needs through small class sizes, comprehensive curricula, social support and pre-intervention services, and flexibility in staffing to meet unique program needs.

Regulatory constraints for contracting preschool providers related to size of site and classroom space are also addressed. The Task Force recommends that the requirement for providers to serve at least 90 children be lifted, and that the waiver process for the classroom space requirement be highlighted to encourage provider participation. The Task Force also recommends that providers and school districts be allowed more flexibility in the development of their contracts.

As with N.J.A.C. § 6A:13, statute also allows the Department to adopt Chapter 13A as Commissioner regulations and outside of the State Board process.

### **N.J.A.C. § 6A:13A-2.2 Enrollment**

*"[For every child's preschool application, the district board of education shall obtain enrollment information in a format provided by the Department.] Information for every registered preschool child shall be entered in the Department's data system, NJ SMART."*

The Department should replace the current wording with the above text to ensure that information about preschool children is consistently entered in the Department's data tracking system.

### **N.J.A.C. § 6A:13A-2.3 Universe**

*"(a) District boards of education that received preschool expansion aid or education opportunity aid in the 2007-2008 school year shall [document the school district's strategies to serve at least 90 percent of the universe of eligible preschool children ... (b) All other district boards of education shall document the school district's strategies to serve at least 90 percent of the universe of eligible preschool children by the 2013-2014 school year ... (c) Each district board of education may be required to submit a corrective action plan to the Department if annual projected increases in enrollment targets are not met] ensure that a variety of recruitment and outreach strategies are used on an annual basis to ensure all eligible*

*families in the school district are targeted for participation. [(d)](b) The universe of eligible preschool children [to be served by a school district] in [the next] each school year is determined by the following method.”*

The Department should revise this section to eliminate an unnecessary reporting requirement, while still ensuring that school districts meet the intent of the regulation: serving as many at-risk families as possible.

**N.J.A.C. § 6A:13A-3.1(h)4 Program planning**

*“[4. The information collected annually from the self assessment and validation beginning with the initial year of preschool program implementation; and]”*

The Department should eliminate this line of code, as the self-assessment and validation will be provided to districts as tools for measuring program implementation, but will not be required. As noted previously, the State will continue to monitor the quality of all early childhood programs.

**N.J.A.C. § 6A:13A-4.1(a) Administrative oversight**

*“Each district board of education shall [designate an in-district administrative position to oversee the preschool program. A dedicated in-district early childhood supervisor is required at a ratio of one for every 750 enrolled preschool children, minus those students enrolled in district stand-alone early childhood education buildings. For school districts with fewer than 750 enrolled preschool children, this position may be combined with another in-district school administrator position with the same certification and qualifications required of an early childhood supervisor ...] provide supervision of the preschool program. Supervisors with early childhood experience shall ensure the quality of program implementation, including the supervision of preschool education aid-funded staff, and implementation of the comprehensive preschool curriculum and program in all school district and provider settings. School districts with community providers shall supply sufficient staffing to supervise provider sites.”*

The Department should revise this regulation because it is overly prescriptive. Local education officials should have broad discretion over staffing decisions and are expected to exercise that discretion consistent with their accountability for meeting the State’s achievement targets.

**N.J.A.C. § 6A:13A-4.3 Instructional staff**

*“(a) The district board of education shall ensure that one appropriately certified teacher and one appropriately qualified teacher assistant, pursuant to N.J.A.C. 6A:13A-4.3(f) and (g), are provided for every preschool class of 15 children. Class size shall not be greater than 15 children. 1. While school districts shall continue to plan for group sizes of 15 children, school districts can submit to have 16 children in a class through the waiver process under specific conditions set forth by the Commissioner.”*

The Task Force recommends that the Department allow districts to seek Department approval to accommodate one additional child in an early childhood classroom. Currently, if all early childhood classrooms have 15 children and one additional child enrolls at any point during the school year, the district must create an additional early childhood class with a suitable classroom, appropriately certified teacher, and appropriately qualified teacher assistant – all with limited notice. This imposes substantial costs on districts and is often impractical with the school year already underway, while providing relatively little benefit to students.

Instead, the district would be able to seek a waiver from the Department, which would evaluate the request to ensure student safety and educational opportunities. The intention of this Department waiver program would not be to increase class size but rather to acknowledge previous experience in the Department that periodically, a specific exigency arises that warrants flexibility. For example, this change would allow children with special needs who enroll in a program with 15 students during the school year to be educated in a general education environment.

**N.J.A.C. § 6A:13A-4.4(a) [Intervention] Pre-intervention and support services**

*“[The district board of education shall establish one preschool intervention and referral team (PIRT) for every 750 enrolled preschool students. In school districts with fewer than 750 enrolled preschool children, the services funded by the school district’s preschool budget and described in the school district’s five-year preschool program plan and/or annual update, as required and approved by the Department:] To address children’s potential learning difficulties early on and to prevent unnecessary referrals to special education, the district board of education shall provide pre-intervention and support services to enrolled preschool children. ...”*

The Department should allow districts flexibility in building an effective pre-intervention team that matches their needs. The Task Force fully endorses early identification and support of students who exhibit challenging behaviors, learning difficulties, or other social difficulties. School districts, however, should have the discretion to implement appropriate mechanisms to identify and address students’ emerging and ongoing developmental needs, including a variety of assessments and the support of preschool coaches and other district staff.

**N.J.A.C. § 6A:13A-4.5 Health and nutrition**

*“(a) The district board of education shall employ nurses, in accordance with N.J.S.A 18A:40-3.3, at a ratio of one for every 300 preschool students, including [those] students in contracted private provider and contracted local Head Start programs. ...”*

The Department should modify this regulation to align it with the relevant statute, which specifies that school districts may “supplement the services provided by the certified school nurse with non-certified nurses.” This additional staffing flexibility should help schools better protect student safety.

**N.J.A.C. § 6A:13A-4.6 Family and community involvement**

*“(a) The district board of education shall ensure that a coordinated system of social services is provided to families of enrolled preschool children [and shall describe the system in its five-year preschool program plan and/or annual update, as required and approved by the Department], including family involvement opportunities and access to resources and services in the community. ... (b) The services shall be provided by [a combination of] social worker(s), family worker(s) [and], teaching staff, community parent involvement specialist(s) (CPIS) [as part of the school district’s five-year preschool program plan and/or annual updates as required and as approved by the Department.], or other staff credentialed to provide social services in a school district or provider setting. [1. A social worker holding the appropriate credentials, pursuant to N.J.A.C. 6A:9-13.5, in social work shall be provided for every 250 to 300 preschool children enrolled at in-district settings. In school districts with fewer than 250 preschool children enrolled at in-district settings, the social worker position may be combined with another position with the same qualifications. ... 2. For a contracting private provider or local Head Start agency, a family worker shall be provided for every 45 children. In a private provider or local Head Start agency with fewer than 45 preschool children, this position may be combined with another position. ... 3. For every school district, one CPIS with a minimum of a bachelor’s degree in social work or a related field, such as sociology, psychology or education, shall be provided. School districts with fewer than 750 enrolled preschool children may combine this position with another position ... (c) The district board of education shall establish a preschool through grade three early childhood advisory council (ECAC) to review preschool program implementation and to support transition as children move from preschool through grade three. ...]”*

The Department should modify this regulation to provide districts with greater flexibility in accomplishing the critical mission of providing social services to families of preschool children. Rather than mandating that districts provide specific ratios for each type of staff position, school districts and providers should have the flexibility, within statutory constraints and subject to Department monitoring, to implement a coordinated system of social services of their own design.

For similar reasons, the Task Force also proposes recommending in guidance, rather than requiring in code, that each district receiving Preschool Education Aid establish an early childhood advisory council.

**N.J.A.C. § 6A:13A-5.4(a) Ongoing performance-based assessment of children**

*“The district board of education shall ensure that all preschool classroom teachers conduct ongoing performance-based assessment of children that: 1. Is aligned with the comprehensive curriculum [described in the school district’s five-year preschool program plan and/or annual update as required and approved by the Department] ...”*

The Department should revise this regulation to remove the reference to the five-year plan, as it no longer would be required of existing programs.

**N.J.A.C. § 6A:13A-7.1(a) Space requirements**

*“The district board of education shall ensure, for all newly contracted private provider and contracted local Head Start agency preschool classrooms, a minimum of 950 square feet per classroom consisting of 750 square feet of usable space, 150 square feet of storage and equipment or furnishings that are either built in or not easily movable and 50 square feet of toilet room. The district board of education may submit to the executive county superintendent a request to waive the space requirements.”*

The Department should add the above sentence to this chapter to allow providers that do not meet the space requirements to request that the school district board of education submit to the Department a waiver on their behalf.

**N.J.A.C. § 6A:13A-8.1 Self-assessment and validation**

*“[(a) The district board of education shall participate in a self-assessment and validation system to inform the school district of the status of its preschool program implementation using a protocol developed by the Department. The self-assessment and validation system shall include the following: 1. A detailed, annual self-assessment by the district board of education of its preschool program to inform the five-year preschool program plan and/or annual update; 2. A validation visit by a State team at least once every three years; and 3. A plan for improvement, as required and in a format to be provided by the Department. The plan shall include: i. Identification of the program area(s) in need of improvement; ii. A detailed explanation of the steps to be taken by the district board of education; and iii. A timeline for implementation.]”*

The Department should eliminate in its entirety this section, which requires districts to conduct a detailed self-assessment prior to a validation visit from the Department. Program improvement should be a continuous, on-going process based on available classroom assessment data and reviews by supervisors and not restricted to an annual event. The self-assessment checklist would be offered to school districts as a tool for evaluating whether each program component is in place, and it would be used as a technical assistance tool by Department staff.

The Task Force notes that when available, the State’s Quality Rating Improvement System will measure, collect, and disseminate meaningful information on the quality of early learning and development programs throughout New Jersey. This, alongside the Department’s monitoring of early childhood programs, will ensure high-quality offerings for all families.

**N.J.A.C. § 6A:13A-[9.1]8.1(a) Contract**

*“[The preschool program contract with private providers and local Head Start agencies shall be in a form provided and/or approved by the Department. 1. Each district board of education using the State-approved preschool program contract without modifications shall submit a copy of each executed contract to the Department no later than 60 days after the Department’s annual release of the contract*

*for the following school year. 2. The district board of education may request modification to the State-approved preschool program contract no later than 45 days after the Department's annual release of the contract for the following school year. 3. The district board of education shall submit a copy of each executed contract to the Department within 60 days of receiving approval from the Department to modify the State-approved preschool program contract.] The school district's preschool program contract with private providers and local Head Start agencies may be in either the template provided by the Department or in a form provided by the district board of education. Regardless of the form used, the following shall be adhered to: 1. The contract may not contradict New Jersey statute or administrative code; and 2. The contract must include any language specifically required by the Department."*

The Department should consider replacing the State-approved preschool program contract with a model contract that each school district can modify. A school district also would be allowed to create its own contract according to specific needs as long as Department-required language is included.

**N.J.A.C. § 6A:13A-[9.1]8.1(c) Contract**

*"The district board of education shall annually execute [the preschool program contract provided by the Department] with all contracting private providers and local Head Start agencies a preschool program contract containing language required by the Department. The school district may refer to the Department website for a model contract and additional information."*

The Department should revise this section to refer to the district's ability to develop its own contract, with any Department-required language. Districts need flexibility to negotiate with private providers. They will then be held accountable for ensuring that providers offer quality preschool programs, as stipulated in this chapter, in settings that are both safe and conducive to learning. The Department will provide on its website a model contract that school districts may adopt or modify.

**N.J.A.C. § 6A:13A-[9.1]8.1(e) Contract**

*"Each private provider or local Head Start agency that has not previously held a preschool program contract with a district board of education shall be able to meet the following criteria to be eligible for a contract: ... [3. Be able to accommodate at least 90 eligible children in a manner consistent with this chapter.]"*

The Department should eliminate this regulation, which impedes smaller private preschool providers with fewer than 90 students from serving school districts, and thus limits choice and flexibility for parents.

**N.J.A.C. § 6A:13A-[10.1]9.1(b)2 School district fiscal responsibilities**

*"The district board of education shall ensure that compensation for certified teachers and teacher assistants in contracting private provider or local Head Start settings is comparable to that of a teacher*

*or teacher assistant employed by the district board of education and based on equivalent certification and credentials. The provision shall expire at the end of the 2014-2015 school year, at which time the Department shall have implemented an outcomes-based teacher evaluation system. [i. The district board of education shall ensure that the certified teachers and teacher assistants in contracting private providers and local Head Start agencies receiving the comparable compensation meet comparable work schedule requirements for both student contact time and teacher contract time, including the equivalent number of hours per day and the equivalent number of days per contract year established by the district board of education for its certified teachers and teacher assistants. The work schedule shall also include the same amount of preparation time and lunch time as the district board of education certified teachers and teacher assistants.]”*

This regulation extends to private preschool providers the terms of contractual agreements reached between public schools and their professional association. However, there is no statutory requirement that mandates that private preschools be governed by the same rules or contractual obligations as public schools. The Task Force recommends that the Department eliminate this regulation in three years or at such time that the Department requires an outcomes-based teacher evaluation system, whichever comes first.

Private preschool providers would be entitled to make their own contractual arrangements with their educators, based on terms that best suit the educators and administrators involved in the contract. Each set of educators would be entitled to enter into contracts and working arrangements that meet their own personal, or association-level, specifications. While it is important that preschool providers provide generally attractive compensation to retain qualified teachers, specific compensation arrangements should be determined by negotiations between the program providers and their staffs, subject to any rules or limitations imposed by the contract with the local district.

Providers will continue to be evaluated – and the services continued or terminated – on the basis of the quality of the programs as measured by the Department. The concomitant implementation of a rigorous, outcomes-based teacher evaluation system will help ensure highly effective instruction in the State’s early childhood classrooms – which is a key aim of the existing regulation.

As a general matter, the Task Force agrees that any quality program must provide attractive compensation to retain qualified teachers. The Task Force believes, however, that providers have every incentive to do so without the need for what amounts to a State-imposed salary scale. This is comparable to the rules governing charter schools, which are not bound by the labor contract between the local district and the local teachers union but instead may set negotiate salaries directly with their staff members and are held accountable for student achievement.

## Chapter 14: Special Education

### Overview

Chapter 14 addresses the important issue of special education within New Jersey. Students with disabilities are a heterogeneous group with diverse needs. The broad universe of special education regulations merit a careful review, which was beyond the scope of the Task Force. The Task Force recommends that the Department convene a working group to study special education laws, regulations and practices to identify ways to improve student achievement, protect student health and safety, and manage this education sector's rapidly escalating costs.

In the short term, the Task Force offers several recommendations intended to provide to districts relief from some unnecessary burdens. For example, school districts would no longer need to include a speech-language specialist on an evaluation team unless language skills are potentially at issue, and individualized education plans could be updated without written consent, as per federal regulations.

Additionally, private schools for students with disabilities (PSSD) currently are subjected in certain cases to rules that were intended specifically for district schools. Numerous such burdens should be lifted, including the requirement for a full-time, non-teaching principal, as some PSSDs operate innovative models that do not require such an administrator. This modification would reduce personnel costs, ultimately benefiting taxpayers.

Additional changes to the financial arrangements for PSSDs are detailed in Chapter 23A. The revisions would reduce burdens on districts, PSSDs and the Department, while also helping to rein in costs.

### **N.J.A.C. § 6A:14-2.9(b) Student records**

*"The parent, adult student or their designated representative shall be permitted to inspect and review the contents of the student's records maintained by the district board of education under N.J.A.C. 6A:32 without unnecessary delay and before any meeting regarding the IEP<sup>22</sup>. When student record information is contained in a document that is copyrighted, access pursuant to N.J.A.C. 6A:32 shall consist of inspecting and reviewing the document, and no copy of the document shall be provided to the parent or adult student."*

The Department and State Board should amend this regulation to allow parents to inspect and review copyrighted materials in student record files, but not to photocopy such records. Currently, districts are required to purchase or otherwise provide upon request copyrighted materials, such as examination materials, to interested families of students with disabilities. This requirement, which exceeds federal standards, in some cases imposes a substantial cost on districts and jeopardizes the security of certain

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<sup>22</sup> An individualized education program (IEP) is a detailed plan of educational objectives, programs, and services required for all students with disabilities by the federal Individuals with Disabilities Education Act (IDEA). The plan establishes the rationale for the student's educational placements, serves as the basis for program implementation and complies with various federal and State mandates.

sensitive examination materials. The change would not impact a district's ability to provide special education or related services but would ensure consistency between both federal and State requirements.

**N.J.A.C. § 6A:14-3.1(b) General requirements**

*“Child study team members shall include a school psychologist, a learning disabilities teacher-consultant and a school social worker. All child study team members shall be employees of a district board of education or under contract with a school district in accordance with N.J.A.C. 6A:14-5.1, shall have an identifiable, apportioned time commitment to the local school district and shall be available to provide all needed services during the hours students are in attendance.”*

The Department and State Board should amend this regulation to increase flexibility by allowing school districts to contract for additional child study team<sup>23</sup> members when such individuals are needed to supplement existing child study teams. School districts may contract with local educational agencies including other local school districts, educational services commissions, jointure commissions, and county special services school districts. This flexibility would give districts greater flexibility in providing child study team services while still protecting services for children with special needs.

**N.J.A.C. § 6A:14-3.2(a) Case manager**

*“A case manager shall be assigned to a student when it is determined that an initial evaluation shall be conducted. Child study team members, [or] speech-language specialists [when they act as members of the child study team], teachers and any other licensed staff member with appropriate knowledge about special education requirements, services and programs available for students with disabilities shall be designated and serve as the case manager for each student with a disability.”*

The Department and State Board should revise this regulation to increase flexibility by allowing school districts to assign appropriate personnel, other than child study team members, to serve as case managers for students with disabilities. The new flexibility would give districts greater control over personnel decisions and allow other staff members who are knowledgeable about the students, the districts' special education programs and services to serve as case managers.

**N.J.A.C. § 6A:14-3.3(e) Location, referral and identification**

*“When a preschool- [age] or school-age student is referred for an initial evaluation to determine eligibility for special education programs and services under this chapter, [a meeting ] at least one member of the child study team, the parent and the student's regular education teacher [of the student]*

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<sup>23</sup> The child study team provides diagnosis and treatment services to children who have, or are at risk for, developmental disabilities and related behavioral and emotional problems so the children may achieve their full potential.

*who is knowledgeable about the student's educational performance or, if there is no teacher of the student, a teacher who is knowledgeable about the school district's programs, shall [be convened] meet within 20 calendar days (excluding school holidays, but not summer vacation) of receipt of the written request. This group shall determine whether an evaluation is warranted and, if [warranted] so, shall determine the nature and scope of the evaluation, according to N.J.A.C. 6A:14-3.4(a). The team may also determine [that] an evaluation is not warranted and, if so, determine other appropriate action. The parent shall be provided written notice of the determination(s), which includes a request for consent to evaluate, if an evaluation will be conducted, according to N.J.A.C. 6A:14-2.3. Parents shall be permitted to participate in the meeting by telephone at their request."*

The Department and State Board should amend this regulation to reduce the number of school district personnel whose attendance is required at identification meetings. The meetings determine whether an evaluation is warranted, and if so, what assessments should be conducted. The amendments would align State and federal special education requirements and reduce the burden on school districts and charter schools of over-prescriptive regulations. Although not all members of the child study team would be required to participate in the identification meeting, the attending team members would have the opportunity to seek input from other members prior to the meeting.

Amendments to N.J.A.C. § 6A:14-3.3(e) are also proposed to allow parents to participate in the identification meeting by telephone, if they so request. This amendment would add flexibility and ease the burden districts bear to schedule and hold such meetings in a timely manner.

**N.J.A.C. § 6A:14-3.3(e)3 Location, referral and identification**

*"When a preschool-age child is referred for an initial evaluation, a speech-language specialist shall [participate as an additional] be considered a member of the child study team [in the meeting to determine whether to evaluate and the nature and scope of the evaluation]."*

The Department and State Board should modify this regulation. Current rules require a speech-language specialist to participate in various meetings of the child study team, regardless of whether the referral is related to speech. Instead, though a speech-language specialist shall serve as one of the full members of the child study team and shall be available for consultation, districts would be able to assign the individual members of the child study team with the appropriate expertise to attend meetings, prepare documents, and undertake related responsibilities for these students. This change would align State and federal special education requirements and reduce the burden of overly-prescriptive regulations on school districts and charter schools.

**N.J.A.C. § 6A:14-3.3(e)4 Location, referral and identification**

*"[For students ages five to 21, when the suspected disability includes a language disorder, the child study team, the parent, a speech-language specialist and the general education teacher of the student who has knowledge of the student's educational performance or if there is no teacher of the student, a*

*teacher who is knowledgeable about the district's programs shall participate in the meeting to decide whether to evaluate and the nature and scope of the evaluation.]”*

The Department and State Board should eliminate this burdensome regulation. It requires that a speech-language specialist and a general education teacher participate in any initial evaluation, in addition to the child study team. Districts should have the flexibility to determine the relevant meeting participants as allowed by N.J.A.C. § 6A:14-3.3(e) for all students age three to 21 referred to the child study team.

**N.J.A.C. § 6A:14-3.4(h)5 Evaluation**

*“Additionally, when a child may have a specific learning disability, each team member shall certify in writing whether his or her report is in accordance with the conclusion of eligibility of the student. If his or her report does not reflect the conclusion of eligibility, the team member must submit a separate statement presenting his or her conclusions; and ...”*

The Department and State Board should amend this regulation. Current procedure requires every member of the child study team to provide a written certification even if no learning disability is suspected. Under the proposed amendments, all child study team members would have to certify in writing whether they agree with the conclusion of eligibility only in cases where a child is suspected of having a specific learning disability and not in any other cases. This change would align the State special education regulations with federal requirements and remove a burden that would not weaken a district's ability to provide special education or related services.

**N.J.A.C. § 6A:14-3.5(a) Determination of eligibility for special education and related services**

*“When an initial evaluation is completed for a student age three through 21, a meeting according to N.J.A.C. 6A:14-2.3(k)1 shall be convened to determine whether the student is eligible for special education and related services. A copy of the evaluation report(s) and documentation and information that will be used for a determination of eligibility shall be given to the parent not less than [10] five calendar days prior to the meeting. If eligible, the student shall be assigned the classification “eligible for special education and related services.” Eligibility shall be determined collaboratively by the participants described in N.J.A.C. 6A:14-2.3(k)1.”*

The Department and State Board should amend this regulation to require that districts provide parents with copies of evaluation reports five days prior to a meeting rather than 10 days prior. This amendment would allow districts more time to complete the evaluation process while also maintaining a reasonable timeframe for parents to receive and review reports.

**N.J.A.C. § 6A:14-3.5(c)10 Determination of eligibility for special education and related services**

*“Preschool child with a disability’ corresponds to preschool handicapped and means a child between the ages of three and five who: i. Is experiencing developmental delay, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas [in (c)10i through v below, and] of physical development, including gross motor and fine motor; cognitive development; communication development; social or emotional development; and adaptive development, and the student requires special education and related services. When utilizing a standardized assessment or criterion-referenced measure to determine eligibility, a developmental delay shall mean a 33 percent delay in one developmental area, or a 25 percent delay in two or more developmental areas. [i. Physical, including gross motor, fine motor and sensory (vision and hearing); ii. Cognitive; iii. Communication; iv. Social and emotional; and v. Adaptive.] ii. A child with an identified disabling condition that adversely affects learning or development who requires special education and related services may also be classified as a preschool child with a disability.”*

The Department and State Board should amend this regulation to align the State’s definition of “preschool disabled” with the federal one. The amendments would ensure that children identified as having either a developmental delay or a disabling condition will be properly considered when determining eligibility.

**N.J.A.C. § 6A:14-3.6(c) Determination of eligibility for speech-language services**

*“When the initial speech-language evaluation is completed, classification shall be determined collaboratively by the participants at a meeting according to N.J.A.C. 6A:14-2.3(k)1. The speech-language specialist who conducted the evaluation shall be considered a child study team member at the meeting to determine whether a student is eligible for speech-language services. A copy of the evaluation report(s) and documentation of eligibility shall be given to the parent not less than [10] five calendar days prior to the meeting.”*

The Department and State Board should amend this regulation to require districts to provide parents with copies of evaluation reports five days prior to a meeting instead of 10 days prior. This amendment responds to feedback from educators and would allow the district more time to properly complete the evaluation process while still maintaining a reasonable timeframe for parents to receive and review reports.

**N.J.A.C. § 6A:14-3.7(d) Individualized education program**

*“The IEP may be amended without a meeting of the IEP team as follows: 1. [The IEP may be amended if the parent makes a written request to the district board of education for a specific amendment to a provision or provisions of the IEP and the district agrees; 2. The school district provides the parent a written proposal to amend a provision or provisions of the IEP and, within 15 days from the date the written proposal is provided to the parent, the parent consents in writing to the proposed amendment; 3. All amendments pursuant to (d)1 and 2 above shall be incorporated in an amended IEP or an addendum*

*to the IEP, and a copy of the amended IEP or addendum shall be provided to the parent within 15 days of receipt of parental consent by the school district; and 4. If an IEP is amended pursuant to this subsection, such amendment shall not affect the requirement in (i) below that the IEP team review the IEP at a meeting annually, or more often if necessary.] In making changes to a child's IEP after the annual review for a school year, the parent of a student with a disability and the school district may agree not to convene an IEP meeting for the purpose of making the changes, and instead may develop a written document to amend or modify the student's current IEP. After it is developed by the parent and school district, a copy of the document shall be provided to the parent and the child's IEP team."*

The Department and State Board should amend this regulation to align State regulations for amending an IEP without a meeting with federal requirements, which do not require written consent. The amendments would allow for a written agreement between parents and school districts, consistent with the federal requirements.

**N.J.A.C. § 6A:14-3.7(e) Individualized education program**

*"With the exception of an IEP for a student classified as eligible for speech-language services, the IEP shall include, but not be limited to: 1. A statement of the student's present levels of academic achievement and functional performance, including, but not limited to: i. How the student's disability affects the student's involvement and progress in the general curriculum; or ii. For preschool students, [as appropriate,] how the disability affects the student's participation in age-appropriate activities; 2. [Where appropriate, a] A statement of [detailed] measurable annual academic and functional goals that shall, as appropriate, be related to the [core curriculum content standards] CCCS through the general education curriculum unless otherwise required according to the student's educational needs, or appropriate, student specific, functional needs. For all students, the annual academic and functional goals shall be measurable and apprise parents and educational personnel providing special education and related services to the student of the expected level of achievement attendant to each goal."*

The Department and State Board should amend this regulation both to align State regulations for IEP goals with federal requirements and to clarify that all IEPs must include goals.

**N.J.A.C. § 6A:14-3.7(e)13 Individualized education program**

*"[The person(s) responsible to serve as a liaison to postsecondary resources and make referrals to the resources as appropriate.] If the student with disabilities does not attend the IEP meeting where transition services are discussed, the district board of education or public agency shall take other steps to ensure [that] the student's preferences and interests are considered;"*

The Department and State Board should amend this regulation to eliminate the burdensome requirement that districts identify a specific liaison to postsecondary resources. The change would enable the State to conform to federal legal standards.

**N.J.A.C. § 6A:14-3.8(c) Reevaluation**

*“Prior to conducting any assessment as part of a reevaluation of a student with a disability, the district board of education shall obtain consent from the parent according to N.J.A.C. 6A:14-2.3. 1. Individual assessments shall be conducted according to N.J.A.C. 6A:14-3.4(f)1 through 5 or 3.4 (g), as determined appropriate by the IEP team.”*

The Department and State Board should amend this regulation to allow districts the flexibility to determine when sub-parts of an assessment are appropriate as part of a complete reevaluation rather than the entire assessment. This would reduce unnecessary testing of children with disabilities and allow child study teams to conduct only assessments that are necessary for providing appropriate services.

**N.J.A.C. § 6A:14-3.8(e) Reevaluation**

*“Unless the parent and district board of education agree to waive a reevaluation, all requirements of this section for [performing] conducting a reevaluation shall, as applicable, be completed within [60] 90 days of the date the parent provides consent for the assessments to be conducted as part of the reevaluation or by the expiration of the three-year timeframe from completion of the prior evaluation or reevaluation, whichever occurs sooner. If the parent repeatedly fails or refuses to produce the child for any assessment that is a part of the reevaluation, the time period above shall not apply. The school district shall maintain documentation of its attempts to secure attendance of the child at the evaluations.”*

The Department and State Board should amend this regulation to change the time to complete a reevaluation from 60 days from receipt of parental consent to 90 days. This would make the requirement consistent with other regulations pertaining to initial evaluations and reevaluations. The amendments would maintain consistency and reduce potential confusion about evaluation timelines, which generally afford districts 90 days. The amendment also would allow districts more time to complete reevaluations while maintaining a reasonable timeframe, consistent with initial evaluation timelines, for the implementation of programs and services deemed appropriate following the evaluation. Additionally, this change would not affect the time when most reevaluations are completed, as all students must have a reevaluation within three years of the completion of the initial evaluation or most-recent reevaluation. As such, only the starting date for the reevaluation would be altered in most circumstances from 60 days prior to the expiration of the three-year period to 90 days.

N.J.A.C. § 6A:14-3.8(e) should also be amended to provide that the regulation’s timelines for completing a reevaluation do not apply if a parent repeatedly fails to make a child available for necessary assessments. The amendments would recognize that districts cannot meet the timelines when parents fail to meet their obligation to make the student available for necessary assessments.

**N.J.A.C. § 6A:14-3.8(f) Reevaluation**

*“When a reevaluation is completed: 1. A meeting of the student's IEP team according to N.J.A.C. 6A:14-2.3(k)2 or 3.6(c) shall be conducted to determine whether the student continues to be a student with a disability. A copy of the evaluation report(s) and documentation of the eligibility shall be given to the parent at least [10] five days prior to the meeting.”*

The Department and State Board should amend this regulation to require that districts provide parents with copies of evaluation reports five days prior to a meeting instead of 10 days prior. The amendment would allow the district more time to complete the evaluation process while also establishing a reasonable timeframe for parents to receive and review reports.

**N.J.A.C. § 6A:14-4.1(g) General requirements**

*“When a student with a disability transfers from one New Jersey school district to another or from an out-of-State school district to a New Jersey school district, the child study team of the school district into which the student has transferred shall conduct an immediate review of the evaluation information and the IEP and, [without delay,] in consultation with the student's parents, provide without delay a program comparable to that set forth in the student's current IEP until a new IEP is implemented, as follows: 1. For a student who transfers from one New Jersey school district to another New Jersey school district, [if the parents and the district agree,] the IEP shall be implemented as written if the parents and the school district agree. If the appropriate school district staff do not agree to implement the current IEP, the district shall conduct all necessary assessments and[, within 30 days of the date the student enrolls in the district,] develop and implement a new IEP for the student within 90 calendar days of the date the student enrolls in the school district. 2. If the student transfers from an out-of-State district, the appropriate school district staff shall conduct [any assessments determined necessary] an initial evaluation of the student in accordance with N.J.A.C. 6A:14-3.4 and[, within 30 days of the date the student enrolls in the district], develop and implement a new IEP for the student within 90 calendar days of the date the student enrolls in the school district.”*

The Department and State Board should amend this regulation to allow districts 90 days to complete an evaluation when a student transfers from one New Jersey school district to another in-State school district, or when a student transfers from an out-of-State district to a New Jersey school district. The amendments would provide consistency throughout the regulations by making the timeline to complete an evaluation 90 days in all such circumstances. A comparable program would remain in effect for the student until the evaluation is completed. The amendment would ensure that districts have sufficient time to complete evaluations and develop IEPs.

**N.J.A.C. § 6A:14-4.9(a) Exceptions**

*“Exceptions for the age range and group sizes specified in N.J.A.C. 6A:14-4.4 through 4.7 shall be granted for students: 1. On an individual basis; 2. Only with prior written approval of the Department [of Education] through its county office; [and] 3. Based on a demonstration by the school district that the*

*exception is in the best interest of the student for whom the application is being made and that there will be no harmful effect on other students in the setting for which the application is being made; 4. Based on further demonstration that the setting for the student is age-appropriate; and 5. For a period [not to exceed the balance of the school year] determined appropriate by the Department through its county office.”*

The Department and State Board should amend this regulation both to allow districts the option of obtaining class-size waivers based on a best-interest standard and to provide the Department flexibility in determining the time period for granting such waivers. The amendment would broaden the scope of permissible exceptions and provide school districts more flexibility in implementing their special education programs while maintaining appropriate academic standards and ensuring faithful adherence to each student’s IEP.

**N.J.A.C. § 6A:14-4.9(d) and (e) Exceptions**

*“(d) The parent of a student with a disability for whom the exception is requested, and the parents of the students who are affected by the request for an exception shall be informed by the district board of education that such a request is being submitted to the county office of education. (e) Upon approval of the exception by the county office, the district board of education or the appropriate education agency shall inform the parents of the students with disabilities who are affected by the exception.]”*

The Department and State Board should delete this regulation. An IEP is the governing document regarding a student’s learning environment, and the IEP substantially engages parents in the determinations. It is unnecessarily burdensome to inform all parents of students in the affected setting about class-size waivers.

**N.J.A.C. § 6A:14-5.1(c) General requirements**

*“For the services listed below, district boards of education may contract with private clinics and agencies and private schools for students with disabilities approved by the Department of Education, private professional practitioners who are certified and licensed according to State statutes and rules, and agencies or programs that are certified, approved or licensed by the Department of Human Services or by the Department of Health and Senior Services to provide counseling or mental health services. For the related services listed in (c)1iii and v below, approved private schools for students with disabilities may contract with private clinics and agencies and other private schools for students with disabilities approved by the Department of Education, private professional practitioners who are certified and licensed according to State statutes and rules, and agencies or programs that are certified, approved or licensed by the Department of Human Services or by the Department of Health and Senior Services to provide counseling or mental health services. All instructional, child study team and related services personnel provided by approved clinics and agencies and private professional practitioners shall be fully certified. No instructional, child study team and related services personnel provided by approved clinics and agencies, or private professional practitioners, may, if a certification is required for the discipline*

*under which they are providing services, provide services under this subsection if certified through the emergency certification process.”*

The Department and State Board should revise this regulation to include approved private schools for students with disabilities (“PSSD”) as one of the entities with which local school districts and other education agencies can contract for child study team (“CST”) services. The amendment would expand the number of CST service provider options, which would increase flexibility for districts and other education agencies, add more competitive pressure to the process, and allow PSSDs to better utilize qualified employees to provide CST services.

**N.J.A.C. § 6A:14-7.1(c)1 General requirements**

*“Exceptions regarding age range and class size shall be requested by the [district of residence board of education] receiving school and determined pursuant to N.J.A.C. 6A:14-4.9. [District boards of education and providers] Providers of programs under this subchapter shall maintain documentation of this approval[.] and shall provide upon approval such documentation to each board of education of the district of residence.”*

The Department and State Board should revise this regulation to allow a PSSD or another receiving school to request exceptions to this subchapter’s rules governing classroom age range and class size. Currently, only the board of education that placed a student at the PSSD may make the request of the Department. The amendment would allow the PSSD to make such requests pursuant to the needs of the students attending the particular school. Typically, the PSSD staff observe and interact with students more frequently than do employees of the home district. This knowledge better positions the PSSD staff to make requests regarding class age and size requirements, consistent with students’ needs. The alternative is board of education employees who might observe and interact with the student only a few times per school year and sometimes never observe the student in his or her actual classroom setting. Any request for a change regarding class age and size requirements will not supersede the terms of a student’s IEP, so the home district and parents would always have the ability to address the issues through the IEP process, if necessary.

**N.J.A.C. § 6A:14-7.3(b) Amendment procedures for receiving schools**

*“When a professional staff member leaves or a new professional staff member is hired by an approved private school for students with disabilities, the approved private school shall provide written notification to the Department [of Education] through the county office within [seven] 30 calendar days of the change.”*

The Department and State Board should revise this regulation to allow PSSDs 30 days, rather than seven, to notify the Department when a professional staff member departs the PSSD or when the PSSD hires a new professional staff member. The change would provide greater flexibility for PSSDs as they would have to submit such items only monthly. It would also decrease paperwork, as multiple staff changes

within a month can be consolidated and reported together. Thirty days of notice is sufficient for the Department's monitoring of any PSSD staff turnover.

**N.J.A.C. § 6A:14-7.6(c) Provision of programs**

*"All personnel serving students with disabilities in public schools shall be highly qualified [and] in accordance with State and Federal law and appropriately certified and licensed[,] where a license is required [in accordance with State and Federal law]. All personnel serving students with disabilities in PSSDs shall be highly qualified in accordance with N.J.A.C. 6A:9-11.3 and appropriately certified and licensed, where a license is required."*

The Department and State Board should revise this regulation. The State currently imposes strict licensing requirements for special education teachers, including the completion of a State-approved special education teacher training program culminating in student teaching. Additional requirements are imposed for instructional endorsements to serve blind or visually impaired, deaf or hard of hearing, and various other categories of students.

As such, the requirement of this regulation that teachers and other staff in a PSSD must obtain "highly qualified" status pursuant to the federal No Child Left Behind Act ("NCLB") is not necessary. The Task Force believes that a highly effective educator workforce is critical to ensuring academic success for New Jersey's students. However, the federal criteria that determine "highly qualified" status, which focus on demonstrated subject-matter competency, do not account for the unique training and preparation required of teachers in the State's PSSDs, including specialized coursework in supporting students with disabilities. In short, there is little reason to believe that requiring all teachers in PSSDs to have federal "highly qualified" status, in addition to meeting the State's strict licensing requirements for special education teachers, ensures that all students are taught by teachers who are highly effective.

NCLB does not require that employees of private schools obtain "highly qualified" status; thus, the New Jersey regulation exceeds the requirements set by federal law. Many candidates for teaching positions at PSSDs have been long-term private sector employees and have not had to meet the federal "highly qualified" standard. Therefore, this rule reduces the professional portability of the employees to similar or advanced positions at PSSDs. The regulation should be amended to bring the State standard into conformity with the federal regulations to reduce regulatory excess and allow for more flexibility and hiring options at PSSDs. All educators working at PSSDs would still be required to meet the State's stringent requirements for a special education teaching license, thereby ensuring that all teachers are fully qualified to serve students.

**N.J.A.C. § 6A:14-7.6(d) Provision of programs**

*"Each school shall have on staff a full-time [non-teaching] principal who shall be responsible for administration and supervision of the school. 1. In lieu of assigning a full-time [non-teaching] principal to a school, a plan to ensure adequate supervision of students and staff may be submitted to the executive*

*county superintendent [of schools] for approval; 2. If the executive county superintendent [of schools] approves the plan, the school shall operate in accordance with the plan in lieu of having a full-time [non-teaching] principal on staff.”*

The Department and State Board should revise this regulation, which mandates that a PSSD employs a full-time principal who may not hold any teaching responsibilities. While the primary responsibility of the principal should continue to be administration and supervision of the school, the principal should be allowed to have limited teaching responsibilities, such as providing coverage for an absent teacher or leading a particular class. For PSSDs that are very small or that operate using an unorthodox model, such as a teacher cooperative, this regulation enables these schools to utilize an alternative approach to supervising students and staff, in lieu of a full-time principal, with the approval of the executive county superintendent. This revision aligns the regulations regarding principals at PSSDs with those regarding principals at schools operated directly by school districts.

**N.J.A.C. § 6A:14-7.6(h) Provision of programs**

*“[With prior written approval of the Department of Education, a] A school described in N.J.A.C. 6A:14-7.1(a) may operate an extended academic year program.”*

The Department and State Board should revise this regulation to eliminate the provision that the Department approve the operation of a PSSD’s extended academic year program. The regulation creates additional unnecessary regulatory burdens for the Department, as the student’s IEP provides sufficient requirements for such programs. Programs that do not meet IEP requirements are not utilized. Thus, a more rigorous and targeted form of oversight already exists, and Departmental approval adds little to the process. In addition, schools would no longer be required to make lengthy, written applications to the Department or wait protracted periods for a response. A PSSD would now be able to create and implement an extended academic year program more rapidly and efficiently.

**N.J.A.C. § 6A:14-7.6(j) Provision of programs**

*“A provider of programs under this subchapter shall notify the Department [of Education] a minimum of 90 calendar days prior to ceasing operation [or a change in ownership].”*

The Department and State Board should revise this regulation, eliminating the requirement that the Department receive notice whenever the PSSD changes ownership. The regulation creates an unnecessary regulatory burden for the Department. Any programmatic concerns created by the change would still need Departmental approval under the amendment process at N.J.A.C. § 6A:14-7.3, and the PSSD would still be required to submit annual fiscal information per N.J.A.C. § 6A:14-7.4. These are the two areas of primary concern for the Department with regard to PSSDs, but they are already regulated elsewhere in State code. Thus, the requirement for notice of ownership change is either redundant or unnecessary and should be eliminated.

## Chapter 15: Bilingual Education

### Overview

The purpose of Chapter 15 is to ensure that the State provides an appropriate public education to all limited English proficient (LEP) students. This goal has a number of facets. The first is ensuring that the rights of LEP students are protected. Second, the State must ensure that local schools provide bilingual education and related services. Third, the State must assist district boards of education in providing educational services to LEP students. Finally, the State must evaluate the efficacy of LEP students' education.

In this chapter, the Task Force recommends eliminating some unnecessary regulations that burden districts. Districts would no longer be required every three years to submit highly prescribed plans with data about their bilingual education programs; instead, the superintendent would submit a statement of assurance indicating compliance with both federal and State rules regulating bilingual education. Districts would still be required to prepare a plan, and the Department would review such plans at its discretion. By trimming unnecessary administrative work, the revised oversight plan would enable districts to redirect their limited resources to students.

### **N.J.A.C. § 6A:15-1.6(a) Approval procedures**

*“Each school district providing a bilingual program, ESL program or English language services shall [submit a plan] develop at least every three years [to the Department of Education for approval. 1. Plans submitted by each district board of education for approval shall include information on the following: i. Identification of students; ii. Program description; iii. The number of certified staff hired for the program; iv. Bilingual and ESL curriculum development; v. Evaluation design; vi. Review process for exit; and vii. A budget for the bilingual and ESL program or English language services. The budget must indicate how the bilingual categorical aid funds are directly related to the bilingual/ESL program instructional services and materials.] a plan describing such program and confirm it has done so through a statement of assurance submitted to the Department. The plan must include clear goals and a comprehensive, detailed strategy to elevate academic performance of ELL and LEP students. At its discretion, the Department may review any such plans and request modifications, as appropriate.”*

The Task Force recommends that the Department and State Board eliminate the burdensome requirement that all districts submit a bilingual program plan to the Department for approval every three years. Effective programming for ELL and LEP students is critical to ensuring that the high standards set for all students under the Core Curriculum Content Standards and the Common Core State Standards are met. However, submission to the Department of a prescribed plan does little to ensure that students receive appropriate services. Instead, districts should develop their own plans for bilingual education, which the Department would review as part of its normal accountability monitoring.

**N.J.A.C. § 6A:15-1.6(c) Approval procedures**

*“The Department will establish procedures for monitoring and evaluation of district bilingual/ESL programs [that may include program implementation, program improvement, student performance, teacher certification and curriculum] through its unified school district and school accountability process.”*

The Task Force recommends that the Department and State Board revise this regulation. Monitoring and evaluating district bilingual/ESL programs is best handled through the general student achievement monitoring regularly undertaken by the Department’s Division of Data Research Evaluation and Reporting and Regional Achievement Centers, rather than through a separate, needlessly burdensome process.

## **Chapter 16: Programs to Support Student Development**

### **Overview**

This chapter provides rules for districts establishing policies and procedures and for operating programs to support the social, emotional and physical development of students. Programs to support student development include: school health services, intervention and referral services, programs to prevent substance abuse, intervention and treatment referral, school safety and security, student discipline, reports of potentially missing, abused or neglected children, home instruction, and alternative education programs. Included in the rules are standards for the delivery of home instruction and school health services in nonpublic schools. The issues help ensure the health and safety of New Jersey's students. Nonetheless, the current system of rules imposes in certain cases substantial burdens on educators and school and district leaders without a corresponding benefit to students.

The Task Force recommends that the Department and State Board enact a number of revisions to this chapter. Certain overly prescriptive rules regarding school nursing plans, school safety and security plans, and student codes of conduct, among other policies and procedures, should be removed from code. The Department should also consider preparing a model policy, which districts can choose to adopt wholesale or tailor to their needs. Burdensome mandates on districts regarding home or out-of-school instruction, medical examinations and unexcused student absences should be restructured to serve and protect students while also minimizing costs borne by districts. Lastly, language that duplicates rules contained elsewhere should be eliminated to simplify State education code.

The changes would protect the health and safety of New Jersey's children while simultaneously reducing burdens on superintendents and educators.

### **N.J.A.C. § 6A:16-1.3 Definitions**

*"Abused children" means the categories of children enumerated in N.J.S.A. 9:6-8.21. ..."*

The Department and State Board should eliminate the following definitions, which are no longer found in the chapter, are defined already within the chapter or the statute referencing the term, or are outdated: alternative education program; automated external defibrillator; delegation; HIV; health history; health screening; independent contractor; individualized program plan; intern; intervention; medical examination; random selection; registered professional nurse; school complex; school physician; supervision; and suspension. The changes would both modernize and streamline the State's education code.

### **N.J.A.C. § 6A:16-2.1(b) Health services policy and procedural requirements**

*"Each district board of education shall annually adopt the school district's Nursing Services Plan [at a regular meeting and submit it to the county superintendent of education for review and approval. 1. The*

*chief school administrator or his or her designee shall develop the Nursing Services Plan in consultation with the school physician and certified school nurse. 2. The Nursing Services Plan shall include...]*”

The Department and State Board should eliminate the prescriptive requirements of the nursing services plan, as well as the requirement that the plan be submitted to the executive county superintendent for review. School districts would continue to be required annually to adopt a nursing services plan, maintain the plan on file and make it available for the Department to review as part of routine school district oversight.

**N.J.A.C. § 6A:16-2.2(h)1ii(1) Required health services**

*“The report of health findings of the medical examination for participation shall be documented on [the Athletic Preparticipation Physical Examination Form approved by the Commissioner of Education] an athletic preparticipation physical examination form to determine whether the student had or currently has any of the following conditions since [their] his or her last physical. ...”*

The Department and State Board should revise this regulation to eliminate the provision that the Commissioner approve an athletic preparticipation physical examination form. This would provide the flexibility for districts to accept a generic form from a physician that includes the necessary information or for a State-established organization such as the New Jersey State Interscholastic Athletics Association to develop a standard form. It would also reduce costs for parents who many times have to pay their physician an additional fee to use a prescribed form rather than a form that the physician would typically use.

**N.J.A.C. § 6A:16-2.2(h)1ii(3) Required health services**

*“The medical report shall indicate whether a student is allowed or disallowed to participate in the required sports categories and be completed and signed by the original examining physician, advanced practice nurse or physician’s assistant. [A form that is] An incomplete form shall be returned to the student’s medical home for completion unless the school nurse can certify the missing information can be obtained from screenings that were completed by the school nurse or physician within 365 days of the medical examination.”*

The Department and State Board should modify this regulation to permit school districts to provide missing information to complete a student’s medical examination if the information can be gleaned from screenings that the school nurse or physician completed within 365 days of the medical examination. The new rule would decrease costs incurred by parents who may be required to have the medical examination form completed by more than one physician (particularly those whose primary care physician would not perform vision screening).

**N.J.A.C. § 6A:16-2.2(h)2iv Required health services**

*“Each school district shall notify parents [of] through its website or other means about the importance of obtaining subsequent medical examinations of the student at least once during each developmental stage, at early childhood (pre-school through grade three), pre-adolescence (grade four through six) and adolescence (grades seven through 12;”*

The Task Force recommends that the Department and State Board modify this regulation. The Task Force agrees that it is important for children to receive medical examinations. However, school districts should have the flexibility to communicate to parents via electronic means.

**N.J.A.C. § 6A:16-2.2(h)3 Required health services**

*“When applying for working papers; i. Pursuant to N.J.S.A. 34:2-21.7 and 21.8, the school district [is responsible] may provide for the administration of a medical [examinations] examination for a student pursuing a certificate of employment. [ii. A statement of physical fitness shall be signed by the school physician unless the parent elects to obtain the examination at the student’s medical home.] [iii]ii. The school district shall not be held responsible for the costs [incurred by the parent who elects to obtain the examination at] of examinations at the student’s medical home or other medical providers.”*

The Department and State Board should amend this regulation to clarify that districts are not responsible for medical examinations required for a certificate of employment according to N.J.S.A. 34:2-21.7 and 21.8.

**N.J.A.C. § 6A:16-2.3(a) Health services personnel**

*“The district board of education shall appoint [at least one] a school physician pursuant to N.J.S.A. 18A:40-1. [In school districts where there is more than one school physician, a lead physician shall be appointed to serve as health services director.]”*

The Department and State Board should clarify this regulation to bring it into line with the underlying statute – namely, each district board of education must have a school physician.

**N.J.A.C. § 6A:16-2.3(a)3iii Health services personnel**

*“[Consultation to the district board of education, school district administrators and staff as needed;]”*

The Department and State Board should eliminate the requirement that physicians consult with the board, administrators and other staff. The school physician is responsible primarily for ensuring the health and safety of students, not for providing consultations to board members, administrators and staff.

**N.J.A.C. § 6A:16-2.3(d)(c)3 Health services personnel**

*"A noncertified nurse is limited to providing [the following] services[:] [i. Carrying out written orders of the medical home and standing orders of the school physician; ii. Conducting health screenings pursuant to N.J.A.C. 6A:16-2.2 which includes height, weight, blood pressure, hearing, vision and scoliosis; iii. Maintaining student health records, pursuant to N.J.S.A. 18A:40-4 and N.J.A.C. 6A:16-2.4; iv. Recommending to the school principal those students who shall not be admitted to or retained in the school building based on a parent's failure to provide evidence of the student's immunization according to the schedules specified in N.J.A.C. 8:57-4; v. Recommending to the school principal exclusion of students who show evidence of communicable disease, pursuant to N.J.S.A. 18A:40-7 and 8; vi. Implementing school district healthcare procedures for students in the event of an emergency; vii. Instructing teachers on communicable disease and other health concerns, pursuant to N.J.S.A. 18A:40-3; and viii. Providing other nursing services consistent with the nurse's current license approved by the State Board of Nursing.] only as permitted under the noncertified nurses license issued by the State Board of Nursing and other valid certification and training.*

The Department and State Board should amend this regulation. Nursing services that may be provided by a noncertified nurse are permitted and limited by the license issued by the State Board of Nursing and, therefore, they need not be specified in the Department's regulations.

**N.J.A.C. § 6A:16-2.4(b) Required student health records**

*"[Each school district shall document the findings of student health histories, health screenings and required medical examinations that are relevant to school participation on the student health record using a form approved by the Commissioner of Education.]"*

The Department and State Board should eliminate this requirement. Other regulations already specify which health records schools must maintain for each student. There is no need for the Commissioner to review or approve the specific student health record form that districts use. This change would eliminate unnecessary oversight.

**N.J.A.C. § 6A:16-4.1(b) Adoption of policies and procedures for the intervention of student alcohol and other drug abuse**

*"In adopting and implementing policies and procedures for the assessment, intervention, referral for evaluation and referral for treatment of alcohol or other drug-affected students, district boards of education [shall] may consult with community agencies licensed by the New Jersey Department of Human Services, Division of Addiction Services, out-of-State agencies licensed by the appropriate [State] state regulatory agency for alcohol and other drug services or private practitioners certified by the appropriate drug and alcohol licensing board, as appropriate, pursuant to N.J.S.A. 18A:40A-11."*

The Department and State Board should amend this requirement. District boards of education should have the flexibility to determine with whom they consult regarding the adoption and implementation of

policies related to students' alcohol or other drug abuse. They should be encouraged to collaborate with community agencies, but the State should not mandate that districts consult with such outside groups.

**N.J.A.C. § 6A:16-4.2(a) Review and availability of policies and procedures for the intervention of student alcohol or other drug abuse**

*“Each district board of education shall establish a process for the [annual] periodic review of the effectiveness of its policies and procedures on student alcohol and other drug abuse. The district board of education [shall] may solicit parent, student and community input, as well as consult in the review process with local alcohol and other drug abuse prevention, intervention and treatment agencies licensed by the New Jersey Department of Human Services.”*

The Task Force recommends that the Department and State Board revise this burdensome requirement on school districts. The Task Force believes that effective policies and procedures regarding student alcohol and other drug abuse are essential for ensuring student safety. School districts should have the flexibility to determine how and when they review their policies and procedures regarding student alcohol or other drug abuse – just as they do with other important policies and procedures.

**N.J.A.C. § 6A:16-4.2(b) Review and availability of policies and procedures for the intervention of student alcohol or other drug abuse**

*“Each district board of education shall annually disseminate to all school staff, students and parents via its website its adopted policies and procedures for implementing N.J.A.C. 6A:16-4.”*

The Department and State Board should revise this requirement to enable districts to utilize their websites to annually disseminate policies regarding student alcohol and other drug abuse to all school staff, students and parents. Electronic distribution would ensure the policies are easily accessible and available throughout the school year.

The Task Force agrees that effective strategies for preventing student alcohol and other drug abuse engage staff, students and parents. However, beyond disseminating policies, it is incumbent upon districts to determine how to most effectively prevent student alcohol or other drug abuse in their community and engage stakeholders. The Department should evaluate districts on their demonstrated success in preventing abuse rather than in disseminating policies to, among others, kindergarten students, their parents and teachers.

**N.J.A.C. § 6A:16-5.2(b) School Violence Awareness Week**

*“[The observance of “School Violence Awareness Week,” as set forth in (a) above, applies to private schools for the disabled and public college operated programs for the disabled. 1. During “School Violence Awareness Week,” private schools for the disabled and public college operated programs for*

*the disabled shall meet with staff and parents to review the incidents of violence and vandalism that occurred in the schools or programs during the previous school year.]”*

The Department and State Board should eliminate the requirement that private schools for students with disabilities (PSSDs) observe School Violence Awareness Week. The underlying statute does not mandate that PSSDs offer programs for this occasion. Given the unique population of many PSSDs, such observances could be a poor use of instructional time. Individual school leaders of PSSDs are best suited to make decisions regarding the suitability of School Violence Awareness Week activities for their schools.

**N.J.A.C. § 6A:16-5.3(b) Incident reporting of violence, vandalism and alcohol and other drug abuse**

*“[For each incident report of violence, vandalism or alcohol or other drug abuse, the principal shall: 1. Review the incident report for accuracy in indicating the incident type, offender information, victim information, student demographics and incident location; 2. Forward a copy of the incident report to the chief school administrator; and 3. Notify the chief school administrator of the action taken regarding the incident.]”*

The Department and State Board should eliminate the prescriptive rules regarding how principals must respond to incidents of violence, vandalism, or alcohol or other drug abuse. Districts should have the flexibility to develop their own procedures for ensuring their chief school administrator is adequately informed about any such incidents.

**N.J.A.C. § 6A:16-5.3[(f)](e) Incident reporting of violence, vandalism and alcohol and other drug abuse**

*“At the annual hearing held pursuant to N.J.S.A. 18A:17-46, the chief school administrator shall report to the district board of education all acts of violence and vandalism and incidents of alcohol and other drug abuse that occurred during the previous school year, according to the provisions of N.J.S.A. 18:A 17-46. [1. The proceedings of the public hearing shall be transcribed, kept on file by the district board of education and made available to the public, pursuant to N.J.S.A. 18A:17-46. 2. The district board of education shall file the transcript of the public hearing with the Department of Education by November 1 of each year, pursuant to N.J.S.A. 18A:17-46.] A link to the report shall be available on the school district’s website in accordance with N.J.S.A. 18A:17-46.”*

The Department and State Board should eliminate the requirement that the superintendent’s presentation to the district board about violence, vandalism and alcohol or other drug abuse be transcribed and submitted to the Department, since this is no longer required by statute. Rather, districts should make the report publicly available on their websites, consistent with State statute.

**N.J.A.C. § 6A:16-5.3(g)(f) Incident reporting of violence, vandalism and alcohol and other drug abuse**

*“Each district board of education shall adopt and implement procedures regarding any school employee who knowingly falsifies the annual report on violence and vandalism required under N.J.S.A. 18A:17-46[.], including the establishment of grievance procedures of Section 8 of N.J.S.A. 34:13A-5.3 and 29. [1. Whenever it is alleged that a school employee has knowingly falsified the annual report, the district board of education shall make a determination regarding whether the employee committed the act. 2. Any employee alleged to have knowingly falsified the annual report shall be notified in writing of such allegation and shall be entitled to a hearing before the district board of education. ...]”*

The Department and State Board should revise this regulation to eliminate the overly prescriptive procedure for districts regarding falsification of the annual report on violence and vandalism. The Department should require districts to have procedures for addressing falsification, and the Department should develop guidance on this issue that districts can adopt accordingly. Ultimately, districts should have both the responsibility and the flexibility to develop policies governing this issue.

**N.J.A.C. § 6A:16-5.8 Remotely activating paging devices**

*“[(a) Each district board of education shall adopt and implement policies and procedures regarding the prohibition of remotely activating paging devices, according to the requirements of N.J.S.A. 2C:33-19. ...]”*

The Department and State Board should delete this regulation in its entirety. The law regarding remotely activating paging devices is already covered by the State’s Criminal Code. Districts should not be required to adopt and implement policies exceeding statute, especially for an outmoded technology.

**N.J.A.C. § 6A:16-7.1(a) and (b) Code of student conduct**

*“(a) Each district board of education shall develop, adopt, disseminate and implement a code of student conduct [which] that establishes standards, policies and procedures for positive student development and student behavioral expectations on school grounds, including on school buses or at school-sponsored functions, and, as appropriate, for conduct away from school grounds [, in accordance with N.J.A.C. 6A:16-7.2 through 7.5, 7.8 and 7.9.] and at a minimum include: 1. The code of student conduct [shall] may be based on parent, student and community involvement [which] that represents, where possible, the composition of the schools and community. ... [6. The chief school administrator shall submit a report annually to the New Jersey Department of Education on student conduct, including all student suspensions and expulsions, and the implementation of the code of student conduct, pursuant to this section, in accordance with the format prescribed by the Commissioner of Education and the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e). ... (b) The code of student conduct shall be established to achieve the following purposes: ...]”*

The Department and State Board should revise this regulation to eliminate the overly prescriptive requirements for district codes of student conduct. The Department should instead develop guidance

for districts. Ultimately, districts should have the flexibility to develop their own codes of student conduct, and the Department should monitor districts' success in ensuring student health and safety.

Additionally, the Department and State Board should eliminate the requirement that chief school administrators submit to the Department an annual report about student conduct. The change would lessen the reporting burden on school districts and maximize the use of district data already submitted to the Department. There is no need to create extra paperwork that offers no new information to the Department.

**N.J.A.C. § 6A:16-7.1(c)4 Code of student conduct**

*"A description of comprehensive behavioral supports that promote positive student development and the students' abilities to fulfill the behavioral expectations established by the district board of education[, including:]. The description of comprehensive behavioral supports may include: i. Positive reinforcement for good conduct and academic success; ii. Supportive interventions and referral services[, including those at N.J.A.C. 6A:16-8]; iii. Remediation of problem behaviors that take into account the nature of the behaviors, the developmental ages of the students and the [student's] students' histories of problem behaviors and performance; and ..."*

The Department and State Board should revise to eliminate the requirement that district codes of student conduct must include "positive reinforcement for good conduct and academic success," among other components. District codes of student conduct should be comprehensive and may include these components, but their precise structure should be at the discretion of each district.

**N.J.A.C. § 6A:16-7.3(a)9ii Long-term suspensions**

*"The district board of education shall make decisions regarding the appropriate educational program and support services for the suspended general education student[, at a minimum,] based on the Core Curriculum Content Standards and the following [criteria] considerations: ..."*

The Department and State Board should revise this regulation to establish that the Core Curriculum Content Standards, including the Common Core State Standards, are the basis for all instructional services provided to long-term suspended students.

**N.J.A.C. § 6A:16-7.3(a)10i(1) Long-term suspensions**

*"The district board of education as a whole shall receive and consider [either] a [transcript or detailed] report on such hearing before taking final action;"*

The Department and State Board should modify this requirement. Rather than having to prepare either a transcript or a detailed report of a formal board hearing regarding a potential long-term suspension, districts should be required simply to prepare a report.

**N.J.A.C. § 6A:16-7.3(c)1iv Long-term suspensions**

*“The recommendation of the chief school administrator[, principal or director of the alternative education program or home or other in-school or out-of-school instruction program in which the student has been placed].”*

The Department and State Board should revise this regulation. Only the chief school administrator should have the authority to recommend to continue a general education student’s suspension beyond the district board of education’s second regular meeting following the start of the suspension. Given the severity of such disciplinary situations, they are best coordinated by the superintendent rather than by principals or other administrators.

**N.J.A.C. § 6A:16-7.7 Staff responsibilities**

*“[(a) District boards of education shall provide for the equitable application of the code of student conduct. (b) District boards of education shall delineate the roles and responsibilities of each staff member in the implementation of the code of student conduct. (c) District boards of education shall provide to all district board of education employees training annually on the code of student conduct, which shall include training on the prevention, intervention and remediation of student conduct in violation of the district board of education’s code of student conduct. 1. Information on the code of student conduct shall be incorporated into the orientation program for new employees.]”*

The Department proposes eliminating this section in its entirety as the items are board of education responsibilities related to their code of student conduct. Additionally, training on the student code of conduct is covered in an earlier section.

**N.J.A.C. § 6A:16-[7.8]7.6(a)4i Attendance**

*“For up to four cumulative unexcused absences, the school district shall: (1) Make a reasonable attempt to notify the student’s parents of each unexcused absence prior to the start of the following school day; (2) [Conduct an investigation to determine] Make a reasonable attempt to determine the cause of [each] the unexcused absence, including through contact with the student’s parents; (3) [Develop an action plan] Identify in consultation with the student’s parents any needed actions designed to address patterns of unexcused absences, if any, and to have the child return to school and maintain regular attendance; (4) Proceed in accordance with the provisions of N.J.S.A. 9:6-1 et seq. and N.J.A.C. 6A:16-11, if a potential missing or abused child situation is detected; and (5) Cooperate with law enforcement and other authorities and agencies, as appropriate;”*

The Department and State Board should revise the regulations in response to feedback from principals and superintendents. Student attendance is critical to student learning, and districts should take appropriate steps to ensure that unexcused student absences are addressed, including attempting to

determine the cause of such absences, trying to contact parents and identifying any needed actions. For unexcused absences of less than a week, school districts should not be required to conduct investigations or develop action plans in consultation with students' parents, who may not be accessible to a school district in that timeframe.

**N.J.A.C. § 6A:16-[7.8]7.6(a)4ii Attendance**

*“For between five and nine cumulative unexcused absences, the school district shall: (1) Make a reasonable attempt to notify the student’s parents of each unexcused absence prior to the start of the following school day; (2) [Conduct a follow-up investigation, including contact with the student’s parents,] Make a reasonable attempt to determine the cause of each unexcused absence, including through contact with the student’s parents; (3) Evaluate the appropriateness of [the] any action [plan developed] taken pursuant to (a)4i(3) above; (4) [Revise the] Develop an action plan[, as needed,] to [identify patterns of unexcused absences and] establish outcomes based upon the student’s [needs] patterns of unexcused absences and to specify the interventions for [achieving the outcomes,] supporting the student’s return to school and regular attendance [that], which may include any or all of the following: (A) Refer or consult with the building’s Intervention and Referral Services team, pursuant to N.J.A.C. 6A:16-8; (B) Conduct testing, assessments or evaluations of the student’s academic, behavioral and health needs; (C) Consider an alternate educational placement; (D) Make a referral to or coordinate with a community-based social and health provider agency or other community resource; (E) Refer to [the] a court or court program [designated by the New Jersey Administrative Office of the Courts] pursuant to iv below; [and] (F) Proceed in accordance with the provisions of N.J.S.A. 9:6-1 et seq. and N.J.A.C. 6A:16-11, if a potential missing or abused child situation is detected; and (G) Engage the student’s family. [(5) Cooperate with law enforcement and other authorities and agencies, as appropriate.]”*

The Department and State Board should revise this regulation concerning students with between five and nine unexcused absences. Unexcused absences that cumulatively exceed four days of school threaten to impede a student’s academic progress, and districts should address these absences in an effective and efficient manner. At this level of absences, the district should work with parents to develop an action plan to return the student to school. Additional measures to ensure student health and safety should be undertaken as well.

**N.J.A.C. § 6A:16-8.3(a) School staff and community member roles for planning and implementing intervention and referral services**

*“[The district board of education shall establish written guidelines for the involvement of school staff and community members in each building’s system of intervention and referral services, which shall, at a minimum: 1. Identify the roles and responsibilities of the building staff who participate in each building’s coordinated system for planning and providing intervention and referral services, including the roles and responsibilities of staff members who identify learning, behavior or health difficulties; 2. Identify the roles and responsibilities of other school district staff for aiding in the development and implementation of*

*intervention and referral services action plans; and 3. Identify the roles, responsibilities and parameters for the participation of community members for aiding in the development and implementation of intervention and referral services action plans.]”*

The Department and State Board should eliminate this regulation, which contains requirements that should be apparent to school leaders without need for a State mandate. The underlying statute and other sections of regulation already provide to school districts appropriate guidance regarding intervention and referral services.

#### **N.J.A.C. § 6A:16-9 Alternative Education Programs**

*“[9.1(a) Each district board of education choosing to operate an alternative education program, pursuant to N.J.A.C. 6A:16-1.3, shall approve the alternative education program. (b) Any alternative education program, pursuant to N.J.A.C. 6A:16-1.3, within a State agency, public college operated program or department-approved school shall be approved by the Commissioner of Education. ...]”*

The Department and State Board should eliminate the subchapter of code prescribing additional rules regarding alternative education programs. According to statute, alternative education programs are for students who commit offenses with firearms or who assault students or teachers. The programs are already subject to all of the rules to which traditional public schools must adhere, along with the requirements of the underlying statutes. However, the additional rules promulgated in this subchapter have created another unnecessary layer of approvals and reviews. School districts are already required under other regulations and statutes to provide for the education of all students and should be empowered to determine appropriate educational programs and supports. This change will enable alternative education programs to provide instruction and support to their students with fewer burdensome regulations from the State.

#### **N.J.A.C. § 6A:16-~~[10.1]~~9.1(a)1 Home or out-of-school instruction due to a temporary or chronic health condition**

*“To request home instruction due to a temporary or chronic health condition, the parent shall submit a request to the school district that includes a written determination from the student’s physician documenting the projected need for confinement at the student’s residence or other treatment setting for more than 10 consecutive school days or [15] 20 cumulative school days [or more] during the school year.”*

The Department and State Board should revise this regulation regarding the eligibility of students for home or out-of-school instruction. The proposed revision is in response to feedback from superintendents. Districts should be required to provide additional instruction only if the student’s physician documents that the student would miss more than 10 consecutive or more than 20 cumulative school days. In all other cases, districts should have the flexibility to pursue other means of ensuring that students with health conditions receive proper instruction. This would ensure that students

continue to receive a thorough and efficient education while streamlining a considerable burden on districts.

**N.J.A.C. § 6A:16-[10.1]9.1(b) Home or out-of-school instruction due to a temporary or chronic health condition**

*“The school district shall be responsible for the costs of providing instruction in the home or out-of-school setting either directly, through on-line services, including any needed equipment, or through contract with another district board of education, educational services commission, jointure commission, or approved clinic or agency [pursuant to N.J.A.C. 6A:14] for the following categories of students:”*

The Department and State Board should revise this regulation to enable districts to provide home or out-of-school instruction through on-line services to students with health conditions. Districts would be required to provide students with any needed equipment. This change would allow districts to use technology to deliver high-quality instruction at lower cost and at greater convenience to teachers and students.

**N.J.A.C. § 6A:16-[10.1]9.1(c)2 and 3 Home or out-of-school instruction due to a temporary or chronic health condition**

*“2. The teacher providing instruction shall be [appropriately] a certified [for the subject, grade level and special needs of the student pursuant to N.J.A.C. 6A:9, Professional Licensure and Standards] teacher. 3. The teacher shall provide [one-on-one] instruction for [no fewer than five hours per week on three separate days of the week] the number of days and length of time sufficient to continue the student’s academic progress and dependent upon the student’s ability to participate and, if the student is physically able, no fewer than five hours per week of additional guided learning experiences that may include the use of technology to provide audio and visual connections to the student’s classroom.”*

The Department and State Board should revise the regulations to reduce burdens on school districts. Currently, teachers providing home or out-of-school instruction to students with health conditions must be certified in each subject, grade level and special need of the student. This is particularly problematic for high school students requiring this type of instruction, as there are no teachers certified to provide instruction in all high school subjects. Instead, districts should be required to provide a certified teacher.

Additionally, the number of hours of instruction provided to these students, and the days on which instruction is provided, should be determined by the student’s academic progress and ability to participate rather than by an arbitrary, universal rule set by the State.

The revisions would ease a significant burden districts have faced in finding suitable teaching staff to provide home or out-of-school instruction.

**N.J.A.C. § 6A:16-[10.2]9.2(c) Home or out-of-school instruction for a general education student for reasons other than a temporary or chronic health condition**

*“The school district in which a student resides shall be responsible for the costs of providing instruction in the home or out-of-school setting either directly, through on-line services, including any needed equipment, or through contract with another board of education, educational services commission, jointure commission or approved clinic or agency.”*

The Department and State Board should revise this regulation to enable districts to provide home or out-of-school instruction through on-line services to students with health conditions. Districts would be required to provide students with any needed equipment. This change would allow districts to use technology to deliver high-quality instruction at lower cost and at greater convenience to teachers and students.

**N.J.A.C. § 6A:16-[10.2]9.2(d)1 Home or out-of-school instruction for a general education student for reasons other than a temporary or chronic health condition**

*“[The school district shall develop an Individualized Program Plan (IPP) for delivery of instruction and maintain a record of delivery of instructional services and student progress. i. For a student expected to be on home instruction for 30 calendar days or more, the IPP shall be developed within 30 calendar days after placement. ... ii. The IPP shall be based upon consultation with the student’s parent and a multidisciplinary team of professionals with appropriate instructional and educational services credentials to assess the educational, behavioral, emotional, social and health needs of the student and recommend a program to address both educational and behavioral goals; iii. The IPP shall incorporate any prior findings and actions recommended through the school building system of Intervention and Referral Services, pursuant to N.J.A.C. 6A:16-8, Intervention and Referral Services; iv. The IPP shall recommend placement in an appropriate educational program, including supports for transition back to the general education setting; and v. The school district shall review the student’s progress, consult with the student’s parent and revise the IPP no less than every 60 calendar days.]”*

The Department and State Board should eliminate the requirement that school districts create Individualized Program Plans (IPPs) for students who receive home or out-of-school instruction for discipline or other non-health related reasons. Districts should have the flexibility to decide how home instruction is provided and monitored, subject to the requirements of statute and of any applicable special education Individualized Education Program (IEP). This change would eliminate a prescriptive burden on districts.

**N.J.A.C. § 6A:16-[10.2]9.2(d)[2]1 Home or out-of-school instruction for a general education student for reasons other than a temporary or chronic health condition**

*“The teacher providing instruction shall be [appropriately] certified [for the subject and grade level of the student pursuant to N.J.A.C. 6A:9, Professional Licensure and Standards].”*

The Department and State Board should revise the regulation to reduce burdens on school districts. Currently, teachers providing home or out-of-school instruction to students must be certified in each subject, grade level and special need of the student. This is particularly problematic for high school students requiring this type of instruction, as there are no teachers certified to provide instruction in all high school subjects. Instead, districts should be required to provide a certified teacher.

**N.J.A.C. § 6A:16-[11.1]10.1 Reporting potentially missing or abused children**

*“(a) The district board of education shall develop and adopt policies and procedures for employees, volunteers or interns working in the school district to provide for the early detection of missing, abused or neglected children through notification of, reporting to and cooperation with the appropriate law enforcement and child welfare authorities pursuant to N.J.S.A. 18A:36-25 and 9:6-8.10. [School district board-approved policies and procedures developed pursuant to this subchapter shall be reviewed and approved by the county superintendent.] At a minimum, [these] the policies and procedures shall include: ...”*

The Department and State Board should eliminate the prescriptive requirement that executive county superintendents must review and approve district policies regarding early detection of abused and missing children. The underlying statute and accompanying regulation provide districts with ample specificity on the content required to ensure student safety. Department approval is burdensome and redundant because district practices also would be reviewed regularly through the Department’s accountability procedures.

## **Chapter 19: Career and Technical Education Programs and Standards**

### **Overview**

This chapter delineates the State’s system of career and technical education for all students, including students enrolled in vocational school districts, secondary schools, and private post-secondary career schools.

The Task Force recommends that numerous burdensome rules be lifted to improve the career and technical education options available to New Jersey residents. The code should be simplified, consolidating two separate and often repetitive definition sections into one. To avoid confusion, a separate definition section for Subchapter 7 should be retained as the definitions are unique to private post-secondary career schools. The State should eliminate from regulation detailed policies, such as securing machines and equipment; the ideas are best shared with schools as sample policies produced by the Department outside of the administrative code process.

The State should eliminate some reporting requirements and numerous unnecessary restrictions, such as the maintenance of separate bank accounts for local, State, and federal funds. Lastly, the State should simplify the process for districts interested in offering new career and technical education programming, whether directly by the district or through a private contractor provider. All regulations in this area should support the State’s interest in providing the best possible career preparation.

### **N.J.A.C. § 6A:19-2.1(i) Administration of career and technical education programs and programs of study**

*“[A district board of education operating career and technical education programs shall maintain separate accounts of all local, State, and Federal funds used for those programs.]”*

The Department and State Board should eliminate this provision to allow districts to properly handle public funds without the unnecessary burden of maintaining separate accounts.

### **N.J.A.C § 6A:19-2.3(b) Access to county vocational schools**

*“A county vocational school district shall [admit resident students for enrollment in classes and provide instruction on the basis of student’s application for admission and acceptance. A county vocational school district shall similarly admit non-resident students to the extent that space is available, pursuant to N.J.S.A. 18A:54-20.1b.] determine the acceptance procedures to admit resident students into a career and technical education program or program of study pursuant to N.J.S.A. 18A:54. The acceptance procedures: 1. Shall be supported by criteria developed in accordance with the stated educational goals of the program and related industry standards; 2. Shall ensure that all students who qualify for acceptance into a program have an equal opportunity to be accepted into a program; 3. May reserve a certain number of spaces in the program on the basis of sending schools as long as acceptance procedures for the reserved spaces follow the requirements listed in 1 and 2 above; 4. Shall accept out-*

of-county students on a tuition basis if spaces are available after all eligible in-county candidates have been served; 5. Shall provide instruction to students for the program to which the student was accepted, unless the school and student mutually agree on a different course of study; 6. All further acceptance actions developed by the county vocational school district shall be informed by relevant Federal and State laws and regulations.”

The Task Force recommends that the Department and State Board modify this regulation to ensure that all eligible students have equal access to career and technical programs. The State’s emphasis must be on serving students’ needs and allowing districts the maximum possible flexibility to meet those needs. The revisions would help to better match students in need with available resources.

**N.J.A.C. § 6A:19-2.4(a) Career and technical instruction under contract**

*“[Provision of any portion of the program of instruction in career and technical education on an individual or group basis by public or nonpublic agencies or institutions other than the State Board or district board of education shall be made through a written contract with the State Board or a district board of education. Such contract shall describe the portion of instruction to be provided by such agency or institution and incorporate the standards and requirements of career and technical education set forth in this chapter. Such contract shall be entered into only upon a determination by the State Board or district board of education of satisfactory assurance that: 1. The] A school district that has established a need for career and technical education in accordance with the State plan may contract with private providers to provide any portion of instruction for career and technical education programs and programs of study on an individual or group basis if the contract is in accordance with State or local law[;], and the private training providers can provide substantially equivalent training at a lesser cost as substantiated and certified by the district board of education subject to the review and approval of the Commissioner, or the private training providers can provide equipment or services not available in public agencies or institutions.”*

The Department and State Board should revise the section above, granting school districts greater flexibility to contract with private providers of career and technical education. This change would maximize career and technical education opportunities for New Jersey’s students.

**N.J.A.C. § 6A:19-2.4(a)2 and 3 Career and technical instruction under contract**

*“[2. The instruction being sought is not offered at a comparable cost by a district board of education within reasonable proximity of the district board of education seeking the career and technical education; and 3. The instruction to be provided under contract will be conducted as a part of an approved career and technical education program of the State and will constitute a reasonable and prudent use of available funds.]”*

The Task Force recommends that the Department and State Board eliminate unnecessary restrictions on school districts interested in contracting with public or non-public provider agencies or institutions that

offer career and technical education programs. Eliminating the provisions would free school districts to utilize programs and providers that offer the best educational opportunities for students and are the best use of taxpayer dollars.

**N.J.A.C. § 6A:19-3.1 Program [requirements] approval and re-approval**

*“(a) A district board of education [intending to offer a career and technical education program or programs shall develop the program or programs based on the required elements established by the Department, as follow:] shall apply to the Department for initial approval and re-approval every five years to operate a career and technical education program or program of study based upon satisfaction of the requirements under N.J.A.C. 6A:19-3.2. to: ...”*

The Department should revise this section to bring the approval and re-approval of career and technical education programs into alignment with the existing operating procedures of the Department’s Office of Career and Technical Education. There is no need to confuse districts or add unnecessary layers of regulation. Streamlined administrative requirements would help districts comply more quickly with State regulations and, thus, with less expense and less time siphoned from core activities.

**N.J.A.C. § 6A:19-3.2(a) Program [approval] requirements**

*“[A district board of education that seeks to operate or continue operating a career and technical education program or programs and that seeks to place or supervise students in apprenticeship training or cooperative education experiences, and/or apply for or receive Carl D. Perkins funds or its successor to support the program or programs shall meet all of the requirements under N.J.A.C. 6A:19-3.1, and shall apply to the Department for program approval based upon satisfaction of the requirements under N.J.A.C. 6A:19-3.1.] (a) A district board of education intending to offer a career and technical education program or program of study shall meet the following requirements: 1. Documented need for a program in a high-skill, high-wage, or high-demand current or emerging occupation.”*

The Department and State Board should revise this section to better ensure that career and technical education programs provide students with training that prepares them for successful employment in sectors that are, or will be, in demand. This language reinforces the Department’s commitment to ensuring college and career readiness for all New Jersey students.

**N.J.A.C. § 6A:19-3.2(a)2 Program [approval] requirements**

*“Establishment of a career and technical education program advisory committee representing the program, which may include: i. Representatives of business and industry with specific content expertise; ii. Career and technical education teacher(s) licensed in the program area; iii. Postsecondary institution; iv. School counselor; v. District representatives of special populations; vi. Student; and vii. Parent.”*

The Department and State Board should revise this section to allow school districts to decide which job sectors, entities and groups should be represented on program advisory committees. This modification would allow for greater flexibility in creating advisory committees, which could then better reflect the needs of career and technical education programs and their participants.

**N.J.A.C. § 6A:19-3.2(a)5iii Program [approval] requirements**

*“5. A program curriculum that shall include: ... iii. Academic content aligned to the Core Curriculum Content Standards for secondary programs.”*

The State should revise this section to ensure that all career and technical education programs align with both the State’s Core Curriculum Content Standards and the Common Core State Standards, which are designed to prepare all of New Jersey’s students for success in college and their careers.

**N.J.A.C. § 6A:19-3.3 Career and technical student organizations**

*“[(a) Payment of State and national dues shall be a requirement for membership in a New Jersey or national career and technical student organizations (CTSO).]”*

The Department and State Board should eliminate this subchapter from code. Since career and technical education student organizations are already subject to rules of their governing associations, there is no need for State regulation. Streamlining this oversight arrangement is in line with the State’s reform goals.

**N.J.A.C. § 6A:19-3.4 Postsecondary instructional services personnel**

*“[A county vocational school district employing individuals who do not possess education licenses to provide postsecondary career and technical courses shall ensure that such individuals possess, in the subject area, a minimum of four years of appropriate industry experience and industry endorsed or education credentials, as applicable, necessary to meet the instructional objectives of the course.]”*

The Department and State Board should eliminate this subchapter, as the Department no longer licenses postsecondary career and technical education teachers. Therefore, the existing regulation is now unnecessary.

**N.J.A.C. § 6A:19-~~4.3~~4.2(c) Requirements and authority of structured learning experience coordinating personnel**

*“[(c) The chief school administrator of the employing district board of education shall forward to the county superintendent evidence of completion of the required training pursuant to N.J.A.C. 6A:19-4.3(b)3.]”*

The Department and State Board should eliminate this subsection. The change would eliminate a burdensome and unnecessary filing requirement currently placed on school districts.

**N.J.A.C. § 6A:19-[6.5]6.4(b) Safety and health plan**

*“As changes are made to the [safety and health program, the safety and health plan shall be updated] New Jersey Safe Schools Manual for career and technical education, school districts shall update their Career and Technical Education Safety and Health Plan to reflect the changes. [At a minimum, the safety and health] The plan shall be [reviewed, updated as necessary, and] readopted by the district board of education every [two] five years from the date of the plan’s initial approval by the board.”*

The Department and State Board should revise this section. The proposed change would help align State approval of safety and health plans with the existing five-year re-approval process. Such a change would reduce an unnecessary administrative burden on districts, while also ensuring the safety of students.

**N.J.A.C. § 6A:19-[6.5]6.4(c) Safety and health plan**

*“Each district board of education and other institution or agency operating a career and technical education [programs or courses] program, or program of study in a hazardous occupation shall designate a person or persons[, other than the chief executive or chief administrative officer,] who shall oversee the [updating] updates and implementation of the approved [safety and health plan] Career and Technical Education Safety and Health Plan.”*

The Department and State Board should revise this section. The proposed changes would provide school districts with greater flexibility to ensure student safety in career and technical education programs. Allowing chief executive or chief administrative officers to oversee the implementation and updating of Career and Technical Education Safety and Health Plans would be a simple change that would free districts to decide who can best manage health and safety initiatives.

**N.J.A.C. § 6A:19-[6.6]6.5(a) Reporting requirements**

*“District boards of education shall [report to] notify the [Commissioner incident involving] Department of any reportable incident that involves career and technical education program students[, ] or staff, or others who participate in any career and technical education program, program of study, cooperative education experience or apprenticeship training. The report shall be made within five working days of the occurrence on the electronic incident reporting form supplied by the Department.”*

The Department and State Board should revise this section. The proposed amendments above would clarify that school districts are required to notify the Department about only reportable incidents, and that they are able to submit the reports electronically. This should help streamline both local reporting and central oversight.

**N.J.A.C. § 6A:19-6.7 Securing machines and equipment**

*“(a) Each machine shall be so constructed, installed, and maintained as to be free from excessive vibration. (b) Arbors and mandrels shall be so constructed, installed and maintained as to have firm and secure bearing and be free from play. (c) Machines and equipment requiring the presence of an operator shall not be left unattended while in operation or still in motion. (d) An electrical power control shall be provided on each machine to make it possible for the operator to cut off the power without leaving the operating position. ...”*

The Department and State Board should eliminate this section. The requirements instead should be included in the New Jersey Safe Schools Manual.

**N.J.A.C. § 6A:19-6.8 Storage of flammable and combustible materials**

*“(a) Flammable and combustible liquids in storage shall be kept in the original closed container supplied by the manufacturer or in approved safety cans. (b) Flammable or combustible liquids not in storage and ready for use shall be transferred from the original closed container to approved safety cans. This does not apply to finishing or other materials designed to be used from the original closed container, provided the container is resealed immediately after use. (c) Approved oily waste cans shall be provided for the disposal of materials that have come into contact with flammable or combustible liquids or other materials that can support spontaneous combustion. ...”*

The Department and State Board should eliminate this section. The requirements instead should be included in the New Jersey Safe Schools Manual.

**N.J.A.C. § 6A:19-7.1 Purpose and authority**

*“These rules define the programmatic requirements for private career [and technical training providers] schools, which are qualifying schools as defined in N.J.S.A. 34:15C-10.1, to participate in the workforce development system, in accordance with [N.J.S.A. 6A:69-1 et seq., P.L. 1981, c. 531 (]N.J.S.A. 44:12-2,)], P.L. 1992, c. 43 (]N.J.S.A. 34:15D-1 et seq.[]], and P.L. 101-392, section 113(b)14.”*

The Task Force recommends that the Department, State Board, and State Legislature revise this section. As described in the statute section of this Final Report, the Task Force recommends that oversight authority for private career schools (vocational schools) be placed with the Office of the Secretary of Higher Education or the Department of Labor and Workforce Development, as it better aligns the regulation of private providers with other postsecondary and workforce development programs. Absent this statutory change, the Task Force recommends changes to the existing code that regulates private postsecondary career schools.

**N.J.A.C. § 6A:19-[7.3]7.2(b)1 Application for [instructional] program approval and renewal**

*“A program of instruction [that is] shall be designed as follows: i. The program shall include a planned sequence of courses and services or activities designed to meet occupational objectives offered for the instruction of students on a systematic basis. li. The program of instruction shall be based on specific occupational objectives and competencies, and aligned with [the professional] nationally recognized, industry-based skill standards [industry] and certifications[,] or other nationally recognized curriculum sources. [Absent a professional] iii. Where no such skill [standard] standards or [industry] certifications exist, the private career [and technical training provider must] school shall establish an advisory board [to evaluate each], which shall include three or more experts selected by the school who are proficient in the subject area of the curriculum to be taught, as defined in the Department’s Private Career School Manual. The advisory board shall be responsible for evaluating curriculum for reliability and validity.”*

The Department and State Board should revise this section. The proposed amendments would ensure that advisory boards established absent nationally recognized standards are comprised of qualified experts in relevant subject areas.

## Chapter 20: Adult Education Programs<sup>24</sup>

### Overview

Chapter 20 provides rules for adult education programs, specifically for adults earning a high school diploma by taking the GED, completing certain college coursework or attending an adult high school.

The Task Force recommends revisions to this chapter that involve deleting inoperative code, simplifying regulations governing adult high schools and aligning adult student requirements for high school diplomas with requirements for traditional students. One example of such an inoperative regulation is the full adult basic-skills subchapter; the programs no longer exist, rendering the chapter irrelevant.

The State also should eliminate needlessly prescriptive regulations for adult high schools, such as requiring a copy of the curriculum be kept in the principal's office. State regulations that govern all other high schools are sufficient for adult schools, which all operate under district supervision. Since the State no longer provides direct funding for adult high schools, districts should be allowed to charge tuition to adults enrolled in the programs. Removing this restriction would encourage the growth of the programs, which are important education offerings for the approximately 1 million New Jersey adults who never graduated from high school. Lastly, the apprenticeship references should be deleted, as apprenticeship is no longer addressed by the Department.

### N.J.A.C. § [6:30]6A:20-1.1 Purpose and functions

*"[(a) The purpose of adult basic skills and literacy programs is to provide comprehensive life-long learning opportunities for adults. (b)] (a) The [Bureau of Adult Education and Family Literacy] Office of Certification/Induction within the Division of [Academic and Career Standards] Teacher and Leader Effectiveness is responsible for: 1. Providing educational leadership for the programs cited in this chapter; 2. [Allocating funds to local school districts, county community colleges, county and State institutions, and nonprofit and for profit agencies and organizations for the operation of programs cited in this chapter] Paying the test fees for adults in correctional and Juvenile Justice Commission institutions who are tested under the provisions of this chapter; 3. Evaluating the programs cited in this chapter; 4. Providing technical assistance [and training] to programs cited in this chapter; 5. Supervising the General Educational Development (GED) [Testing Centers] testing programs; 6. Evaluating college transcripts of persons applying for a State-issued high school diploma; and 7. Awarding State-issued high school diplomas to applicants meeting the requirements for diploma issuance."*

The Department and State Board should amend this regulation to reflect organizational changes at the Department and to clarify that the Office of Certification/Induction does not allocate funds beyond

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<sup>24</sup> Adult education regulations currently reside in Chapter 30 of Title 6 of New Jersey Administrative Code, while all other education regulations reside in Title 6A. The Task Force recommends that all education regulations be consolidated in Title 6A, making adult education regulations Chapter 20.

paying for test fees for adults in correctional institutions or under the supervision of the Juvenile Justice Commission.

**N.J.A.C. § [6:30-1.7]6A:20-1.2 Definitions**

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

The Department and State Board should amend this regulation to move the definitions section to the beginning of the chapter. Definitions, such as “apprenticeship agreement,” “joint approval” and “New Jersey resident,” which are no longer used due to amendments or because they are obvious to the chapter, are also proposed for elimination.

**N.J.A.C. § [6:30-1.3]6A:20-1.4(a)1 Certification for a State-issued high school diploma**

*“Persons may apply for a State-issued high school diploma by taking the Tests of General Educational Development (GED) of the American Council on Education or other tests approved by the [State Board of Education which] Commissioner that shall be used as the basis for qualifying for a State-issued high school diploma”*

The Department and State Board should amend this regulation to enable the Commissioner to approve the test for awarding a State-issued high school diploma and, therefore, ensure consistency with other requirements for assessment selection in N.J.A.C. § 6A:8, Standards and Assessments.

**N.J.A.C. § [6:30-1.3]6A:20-1.4(a)[2]3 Certification for a State-issued high school diploma**

*“Persons may apply and qualify for a State-issued high school diploma by [passing the High School Proficiency Test, and] presenting official transcripts showing at least 30 general education credits leading to a degree at an accredited institution of higher education. Included in the 30 general education credits must be a minimum of [15 credits with at least] three credits [in] each [of the five general education categories as follows] in: [communications] English language arts; mathematics; science; and social [science; and the humanities] studies. [For the purpose of this section the five general education categories shall be defined as follows: i. “Communications” shall mean courses designed to enhance facility in the English language; ii. “Mathematics” shall mean courses designed to enhance mathematical conceptual understanding and application, including computer science; iii. “Science” shall mean courses designed to enhance scientific conceptual understanding and application; iv. “Social Science” shall mean courses designed to promote social awareness, including understanding social, economic and political problems and the responsibilities of citizenship in an interdependent world; and v. “Humanities” shall mean courses in literacy, philosophical, foreign language, historical, aesthetic, or other humanistic studies to promote the understanding and transmission of values to one’s own and other cultures.] ii. Six total credits in visual and performing arts, comprehensive health and physical education, world*

languages, technology, and 21<sup>st</sup> century life and careers; iii. Remedial college courses shall not count toward this requirement; and iv. The minimum average grade for the 30 credits shall be a C or 2.0.”

The Department and State Board should amend this regulation to align college credit requirements for a State-issued high school diploma with the State content standards and graduation requirements for traditional students. Currently, adults who did not graduate from high school can earn a State-issued high school diploma by passing the High School Proficiency Assessment (HSPA), which is the State’s standard high school graduation exam, and by earning 30 college credits – usually en route to a college degree. Students must complete coursework in “communications” and “the humanities” and must pass the HSPA, an exam typically taken by high school juniors that presents logistical challenges for districts and the State when administering to adults. The requirements are burdensome on districts, adult students and the Department while creating needless impediments for dedicated adult learners trying to earn a high school diploma.

Instead, candidates would be required to complete three credits each in the Core Curriculum Content Standards subjects of English language arts, mathematics, science and social studies, along with a total of six credits in the remaining five Core Curriculum Content Standards. Additionally, 30 college credits that candidates submit would need to reflect a minimum average grade of “C” and include no remedial courses. The change would ensure that candidates have demonstrated proficiency with the material.

Further, the Task Force proposes to eliminate the requirement to pass the HSPA, which is onerous and inappropriate for an adult, particularly one well beyond high school age. By completing 30 college credits, individuals would be able to show sufficiently that they possess the skills of a high school graduate and, particularly, readiness for college.

**N.J.A.C. § [6:30-1.4]6A:20-1.5(b) Fees**

*“(b) [Persons] By contract agreement with the Department of Education, persons housed under the custody and supervision of the New Jersey [State] Department of Corrections or Juvenile Justice Commission may[, by contractual agreement with the New Jersey State Department of Education,] be administered the GED test or retest without charge to [either] the candidate.”*

The Department and State Board should amend this regulation to clarify that the Department is responsible for the test fees of adults under the supervision of the Juvenile Justice Commission.

**N.J.A.C. § 6:30-1.5(a) and (b) School and community planning process**

*“[(a) Districts or agencies sponsoring programs as cited in N.J.A.C. 6:30-2 and 3 shall adopt school and community planning procedures for the operating of these programs. (b) Agencies sponsoring these programs shall provide opportunity for public review and comment on programs funded under N.J.A.C. 6:30-2 and 3. Agencies shall establish advisory committees which shall include community residents and program staff and shall make provision annually for public input.]”*

The Department and State Board should delete the regulations to provide school districts with greater flexibility in developing their own planning process and in engaging the community and program staff.

**N.J.A.C. § [6:30]6A:20-1.6 Monitoring**

*“(a) The Commissioner shall [require the monitoring of] monitor all programs described in this chapter pursuant to N.J.S.A. 18A:48-1, 18A:49-1 through 18A:50-[12, 13 and ]14, and the Adult Education and Family Literacy Act of 1998, 20 U.S.C. §§ 9201 et seq., to ensure [that] each program is performing according to the standards and procedures prescribed by law and rule. [(b) The monitoring procedure shall be as follows: ...] (b) The programs described in this chapter shall be monitored in accordance with N.J.A.C. 6A:30, Evaluation of the Performance of School Districts.”*

The Department and State Board should amend this regulation to clarify that monitoring of adult education would be conducted through the same monitoring process used for all school districts. The duplicative and burdensome monitoring process separately detailed in this section should be eliminated.

**N.J.A.C. § 6:30-2 Adult Basic Skills and General Education Development (GED) Programs**

*“[2.1(a) Adult basic skills programs shall offer instruction designed to enable students to acquire the skills necessary to function independently as parents, workers, consumers and citizens. ...]”*

The Department and State Board should delete this entire subchapter. School districts do not receive State aid for adult education programs and, therefore, should be given greater flexibility in defining the program, determining eligibility, deciding program quality indicators and managing funds. The section on monitoring requirements should also be eliminated since it is covered in the proposed N.J.A.C § 6A:20-1.1. Adult education programs would be monitored using the same process used for all other schools in the State. The statutory references and requirements related to programs for foreign-born residents, N.J.S.A. § 18A:49, are proposed for inclusion elsewhere in the chapter.

**N.J.A.C. § 6:30-3.2(a), (b) and (c) Permission to establish, expand or relocate an adult high school**

*“[(a) To establish an adult high school, the district board of education shall file a request with the Division of Academic and Career Standards by January 2 of the year of anticipated operation. The request shall include: 1. Data documenting community need; 2. An identification and description of the proposed program site; 3. A projection of enrollment for the first year of operation; 4. A projection of staff by job title; 5. A locally approved program of studies which includes state mandated courses required for graduation as prescribed in N.J.A.C. 6:30-3.7; 6. A projected budget for the first year of operation; and 7. A district board of education resolution approving the establishment of an adult high school. (b) The Division of Academic and Career Standards shall evaluate the application of the district board of education and visit the proposed site before the Assistant Commissioner shall grant or deny*

*approval to establish an adult high school. ... (c) To expand or to relocate an existing program to another site, ...]”*

The Department and State Board should delete this section. The decision to establish an adult education program should be made locally as long as the school district complies with the requirements of this chapter.

**N.J.A.C. § 6:30-3.3 Monitoring**

*“[(a) Staff of the Bureau of Adult Education and Family Literacy shall monitor programs cited in this subchapter pursuant to the monitoring process outlined in N.J.A.C. 6:30-1.6. ...]”*

The Department and State Board should delete this entire section. The proposed amendment would enable the Department to monitor the program in accordance with the provisions of this chapter following the monitoring process used for school districts pursuant to N.J.A.C. § 6A:30, Evaluation of the Performance of School Districts.

**N.J.A.C. § 6:30-3.6 Curriculum**

*“[(a) The adult high school curriculum shall comply with the requirements of law and rule and shall include a program of studies which has been adopted by the district board of education. (b) A copy of the program of studies together with the rules governing its administration as formulated locally and approved by the district board of education shall be kept on file in the principal’s office of each adult high school. Such program shall include the courses offered, both required and elective, and the number of credits for each course. ... (f)1. Traditional courses shall be held in classroom sessions which meet a minimum of 7,200 minutes for each one-year, five credit course. 2. Flexible courses shall require the completion of projects and activities which shall be reviewed in biweekly meetings between a subject area specialist and a student.]”*

The Department and State Board should delete the regulations prescribing various procedural rules for the curriculum of adult high schools. The rules require, among other obligations, that “traditional courses” meet for a minimum of 7,200 minutes, that a copy of the curriculum be stored specifically in the office of the principal, and that all courses, aside from those in the arts, have a written examination. The prescriptions beyond those imposed upon other high schools are not necessary, as they have almost no impact on student achievement. So long as adult high schools abide by the credit, assessment and course requirements of this chapter and N.J.A.C. § 6A:8, Standards and Assessment, their leaders should have the flexibility to develop their own curricular procedures, much as do leaders of traditional high schools.

**N.J.A.C. § [6:30-3.7]6A:20-2.4(b) and (c) Graduation**

*“(b) [The] A district board of education [of each] operating an adult high school shall [establish minimum credit requirements for graduation which shall] meet the requirements [of the district’s regular high school and shall not be less than 110 credits for newly enrolled adults. Continuously enrolled adults are persons with no more than a 12-month break of participation, and as such, must abide by the requirements in effect at the time of initial enrollment.] for high school graduation pursuant to N.J.A.C. 6A:8. ... (c) Each adult high school shall establish minimum curriculum requirements for graduation ...”*

The Department and State Board of Education should amend the regulations to align adult education course credit requirements with high school graduation requirements expected for all students in the State. The graduation standards were raised to 120 credits rather than 110 credits starting with the 2009-2010 ninth grade. The courses and credits are covered in depth in N.J.A.C. § 6A:8, Standards and Assessments. Therefore, there is no need to repeat them in this chapter.

**N.J.A.C. § [6:30-3.10]6A:20-2.7 (a), (b) and (c) Maintaining student records**

*“[(a)] Each adult high school shall have the responsibility to compile, maintain and retain student records, including daily attendance records, and to regulate access to and security of such records. [(b) The attendance records of all adult high schools shall be maintained on a daily basis indicating the number of hours of program participation and shall be submitted to the Department of Education on an annual basis. (c) For the purpose of attendance record keeping, any adult participating in a learning experience for less than one full hour is not considered as having attended that scheduled session.]”*

The Department and State Board should amend the regulations to eliminate unnecessary reporting requirements. Adult high schools should report school attendance in the same manner as traditional high schools; adult schools should not face additional reporting requirements regarding the number of hours of program participation.

**N.J.A.C. § 6:30-4 Apprenticeship Training**

*“[(a) The Department of Education is the recognized State agency responsible for the administration of the related training and instruction portion of apprenticeship programs. The Department of Education shall staff the State Apprenticeship Coordinator position. ...]”*

The Department and State Board should delete this subchapter in its entirety. As mentioned earlier, apprenticeship programs currently are housed within the Department of Labor and Workforce Development, which should have the flexibility to operate the program in accordance with their own standards and procedures.

## Talent

### *Chapter 9: Professional Licensure and Standards*

#### **Overview**

This chapter explains the rules governing the preparation, licensure and professional development of educators whose positions require certification, a list that includes nearly every educator in New Jersey. It also contains rules governing the approval of educator preparation programs and their content. Finally, it contains the rules delineating the organization, powers, and processes of proceedings before the State Board of Examiners, which issues and revokes educator licenses.

This is a critical chapter of code. The efficacy of our educators is the single greatest contributor to student achievement that is under the Department's direct control. This chapter outlines numerous strategies for ensuring that our State's educators are of the highest possible caliber.

This chapter stands alone among all chapters of the State's education regulations in that very few of the rules are explicitly required by statute. The primary statutory basis for this chapter is a law that requires all educators to be appropriately licensed. From that requirement, the Department has extrapolated this system of licensure and certification.

After reviewing this chapter, the Task Force recommends several changes. The State should update standards for teachers and school leaders to reflect new national standards. The State also should ease certain requirements that can be burdensome for districts. For example, the certification process for substitute teachers should permit vendors to assist districts, and persons holding regular certificates should not have to purchase substitute credentials in order to serve as substitutes.

The State also should revise certification requirements to align them with national norms; principals and superintendents will appreciate the proposed revision given the challenges they face in identifying a sufficient number of high-quality candidates for particular positions. For example, the State could help widen the pool of available candidates and increase principals' and superintendents' flexibility in selecting appropriate candidates by simplifying the certification requirements for school nurses, which currently exceed requirements for registered nurses. The State also should eliminate requirements for coursework in "human and intercultural relations" and consolidate other requirements, thus increasing flexibility for districts.

The State should also refocus the current professional development requirements to support more job-embedded professional learning opportunities and an individualized professional development plan. The four levels of professional development committees should be consolidated, and principals and superintendents should be empowered and held responsible for the efficacy of professional development in their schools and districts. The Professional Teaching Standards Board and School Leaders Committee should also merge into a single State-level committee.

The Task Force recognizes that many important issues regarding our educator workforce were beyond the scope of this regulation reform project, including: approval of educator preparation programs and the content of such programs; the structure of requirements for a teacher license, driven by credit hours and subject-matter tests; the current three-step structure of teacher licenses; and evaluations of educators. They all are important issues, and the Task Force endorses the work of the Department's newly formed Division of Teacher and Leader Effectiveness in researching and eventually proposing ideas related to reforming those areas.

**N.J.A.C. § 6A:9-4.2(c) Powers and duties**

*"The chair of a committee established pursuant to N.J.A.C. 6A:9-4.1(b) is authorized to decide on behalf of the Board of Examiners applications for emergency relief and motions for interlocutory review unless the determination would constitute the final decision with respect to a case."*

The Department and State Board should add the above provision to N.J.A.C. § 6A:9-4.2 as current regulation does not specify how applications for emergency relief are determined. This provision would expedite approval of emergency relief, which should enable the Board of Examiners to more quickly address cases of potential revocation or suspension of educator certificates.

**N.J.A.C. § 6A:9-5.2(c) Certificates – general**

*"The chief school administrator of each school district [board of education] shall annually report the names and teaching assignments of all teaching staff members to the [county superintendent. The county superintendent shall provide to the employing district board of education and the Commissioner written notice of any instance in which a teaching staff position is occupied by a person who does not hold appropriate certification] Department as prescribed by the Commissioner."*

The Department and State Board should eliminate this cumbersome burden on superintendents. Currently, each chief school administrator of each district board of education must report annually to the executive county superintendent the names and teaching assignments of all teaching staff members. Then, the executive county superintendent notifies the Commissioner of any instances of inappropriate teacher certification. This multi-step accountability process is unnecessary, as superintendents are already required to ensure that each teaching staff member is appropriately licensed. Further, over the next few months, the Department's NJSMART data system will provide comprehensive reports including teacher assignments and certification credentials, thus granting the Department direct access to this information without the need for additional reporting by superintendents.

**N.J.A.C. § 6A:9-5.[11]10(b)3 Validation of college degrees and college professional preparation**

*“(b) Professional education preparation programs required for New Jersey certificates shall be accepted from: ... 3. Regionally accredited two-year colleges provided that[: i. The] the courses are accepted toward meeting the requirements for certification by a college approved by the Department and such courses appear on the official transcript of a regionally accredited four-year college[; and]\_ [ii. No more than six semester-hour credits in professional education are completed on the two-year college level, except as provided for in N.J.A.C. 6A:9-13.18.]”*

The Department and State Board should eliminate N.J.A.C. § 6A:9-5.11(b)3ii to alleviate the unnecessary burden on teacher candidates who transfer from a two-year college to a four-year higher education institution. This would also bring regulations in alignment with the transfer credit law enacted in 2007.

Current regulations allow a student who transferred from a two-year college to an accredited four-year institution to apply no more than six credits to the teacher candidate’s certification requirements. Therefore, even when a four-year college applies more than six credits earned at a two-year college to a student’s transcript or major requirements, the Department will not accept the additional credits for certification purposes. Such a limitation is unnecessarily burdensome for the student transferring from a two-year college to a four-year institution. Within a severely limited timeframe, the student must attempt to earn enough credits for both an endorsement and completion of the required hours of pedagogical skill practice (student teaching), thus creating a significant financial burden.

The current system also requires Department staff to examine a candidate’s transcript for each credit earned; this process is a job for the accredited college, which distributes degrees based on the student meeting the school’s specific requirements.

**N.J.A.C. § 6A:9-5.[18]17(a) Persons [assigned to work with] employed to coach interscholastic swimming and/or diving programs**

*“Persons [assigned to work with] employed to coach interscholastic swimming and/or diving programs shall: 1. Hold a New Jersey certification pursuant to the rules for hiring athletics personnel set forth in N.J.A.C. 6A:9-5.[19]18(b) [and (c)]; and 2. Meet the requirements for water safety training as set forth in N.J.A.C. 6A:9-11.12(a)2 through 4.”*

The Department and State Board should replace “persons assigned to work” with “persons employed to coach” to clarify that the rule applies only to coaches. This amendment would improve the capacity of high schools to recruit additional swimming coach staff and volunteers while ensuring the health and safety of student swimmers and divers participating in interscholastic sports programs. Additionally, the code referenced contained in this regulation should be updated to reflect the proposed deletion of the current N.J.A.C. § 6A:9-5.19(c) as described in the next recommendation.

**N.J.A.C. § 6A:9-5.[19]18 Athletics personnel**

*“(b) School districts shall be permitted to employ any holder of either a New Jersey teaching certificate or a substitute credential pursuant to N.J.A.C. 6A:9-6.5 to work in the interscholastic athletic program provided that the position has been advertised. [(c) In the event there is no qualified and certified applicant, the holder of a county substitute credential pursuant to N.J.A.C. 6A:9-6.5 is authorized to serve as an athletic coach in the district ... that: (1) The district chief school administrator demonstrates to the county superintendent that: (i) The vacant coaching position had been advertised; and (ii) There was no qualified applicant based on the written standards of the district board of education; (2) The district chief school administrator provides a letter to the county superintendent attesting to the prospective employee’s knowledge and experience in the sport in which he or she will coach; and (3) The district board of education obtains the county superintendent’s approval prior to such employment. The 20-day limitation noted in N.J.A.C. 6A:9-6.5(b) shall not apply to such coaching situations.]”*

The Department and State Board should revise this regulation to provide more flexibility to districts in hiring athletic coaches. Currently, prior to hiring a suitably qualified external coaching candidate, district chief school administrators are required to demonstrate that no other qualified candidate with a teacher certificate was available and to write a letter to the executive county superintendent attesting to the knowledge and experience of the coaching candidates. Then the executive county superintendent must approve the district board of education’s selection prior to hiring the candidate.

As long as the coach has either a New Jersey teaching certificate *or* a substitute credential pursuant to N.J.A.C. 6A:9-6.5, a school should be free to hire the coach who would best serve the students’ needs and best lead the athletic programs. The elimination of the unnecessary requirements should be coupled with new wording that permits school districts to employ a holder of a New Jersey teaching certificate *or* a substitute credential to support their interscholastic athletic programs.

**N.J.A.C. § 6A:9-6.5(a)1 Substitute credential**

*“Nothing in this section shall preclude the use of a private contractor by a school district to secure a substitute teacher appropriate under these rules.”*

The Department and State Board should clarify that districts may use private vendors to secure the services of a qualified substitute. Numerous districts in the State, as well as districts in other states, have effectively utilized such private vendors to relieve shortages and to reduce the burden on human resources within the district. Conversely, current substitute credential regulations create inefficient hindrances on school leaders; for instance, a third party is currently not able to secure substitutes for school districts.

**N.J.A.C. § 6A:9-6.5(c) Substitute credential**

*“A candidate or his or her designee shall apply for a substitute credential to the executive county superintendent through the school district [board of education] or its designee. The school district [board*

*of education] or its designee shall submit the candidate's application, official transcripts, signed and notarized oath of allegiance, academic credentials ... to the executive county superintendent for review and approval. The candidate must sign the application and oath of allegiance, and an authorized school district representative must endorse the application. ... Upon written application by the employing school district to the executive county superintendent and for good cause shown, the executive county superintendent may extend the service in a single position to a total of 40 instructional days. The application for the extension in time to serve in a single position shall be filed prior to the 15th day of the substitute's service in the position."*

The Department and State Board should delete the requirement that a district board of education make the actual application for the substitute credential. This recommendation would shift the documentation burden from the district board of education to the candidate or vendor, as the candidate or his or her designee would be able to apply directly to a county office for the substitute credential after gaining approval for the application from the district administration. This would ease the paperwork and processing burden on districts. The Department should also clarify that the employing district, rather than a candidate or designee, must request from the executive county superintendent any extension of service beyond 20 consecutive instructional days.

**N.J.A.C. § 6A:9-6.5(d) Substitute credential**

*"The executive county superintendent shall not issue a substitute credential until the candidate submits a criminal history qualification letter from the Department unless the [district board of education] school district's chief school administrator can demonstrate to the Commissioner [of Education] that special circumstances exist [which] that justify the emergent employment of a substitute in accordance with N.J.S.A. 18A:6-7.1c."*

The Department and State Board should adopt this proposed amendment as it would shift responsibility from the district board of education to the chief school administrator, with the authority of the district board, to quickly fill a position with a person qualified to serve as a substitute in an emergency situation. The chief school administrator is empowered by the district board to act in these time-sensitive situations and is better suited to make this decision.

**N.J.A.C. § 6A:9-6.5(f) and (n) Substitute credential**

*"(f) Holders of a CE or CEAS issued by the Board of Examiners may serve as a substitute teacher in areas authorized by their credentials for a total of 60 instructional days in the same position in one school district during the school year. Holders of an instructional CE or CEAS are not required to have a substitute credential for this service. ... (n) Persons holding administrative and educational services certificates may serve as teaching substitutes for no more than a total of 20 instructional days in the same position in one school district during the school year. Holders of an administrative or educational services certificate are not required to have a substitute credential for this service. Upon written application to the executive county superintendent and for good cause shown, the executive county*

superintendent may extend the service in a single position to 40 instructional days. The application for the extension in time to serve in a single position shall be filed prior to the 15th day of the substitute's service in the position."

The Department and State Board should allow holders of an instructional CE<sup>25</sup> or CEAS<sup>26</sup> to serve as a substitute without a superfluous substitute credential. Similarly, a holder of administrative and educational services certificate should also be permitted to substitute without a separate substitute credential. The current language imposes a needless expense on holders of regular certificates, since they already qualify for the substitute certificate by virtue of holding more than 60 credits from a regionally accredited institution of higher education. This change would broaden the pool of high-quality substitute teachers and administrators available to principals and superintendents while reducing the administrative burden on fully certified teaching and administrative staff.

**N.J.A.C. § 6A:9-6.5(g) Substitute credential**

*"Holders of [a] an instructional CE or CEAS issued by the Board of Examiners may also serve as a substitute teacher in areas outside the scope of their credentials for no more than a total of 20 instructional days in the same position in one school district during the school year. Upon written application to the executive county superintendent and for good cause shown, the executive county superintendent may extend the service in a single position to a total of 40 instructional days. The application for the extension in time to serve in a single position shall be filed prior to the 15th day of the substitute's service in the position. Holders of a CE or CEAS are not required to have a substitute credential for this service."*

The Department and State Board currently allow otherwise qualified substitute teachers to teach outside the scope of their credentials for a limited amount of time. This amendment is simply a clarification implied by the changes in N.J.A.C. 6A:9-6.5(f) and (n) above.

**N.J.A.C. § 6A:9-6.5[(i)](j) Substitute credential**

*"The executive county superintendent may issue a substitute credential to serve as a substitute school nurse/non-instructional to the holder of a valid New Jersey registered professional nurse license. A substitute school nurse/non-instructional may serve a total of 20 school days in the same position in one school district during the school year. Upon written application to the executive county superintendent by the employing school district and for good cause shown, the executive county superintendent may*

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<sup>25</sup> A "Certificate of Eligibility" (CE) is defined under N.J.A.C. § 6A:9-2.1 as a "credential with lifetime validity issued to persons who have completed degree, academic study and applicable test requirements for certification. The CE permits the applicant to seek and accept employment in positions requiring certification."

<sup>26</sup> A "Certificate of Eligibility with Advanced Standing" (CEAS) is defined under N.J.A.C. § 6A:9-2.1 as a "credential with lifetime validity issued to persons who have completed degree, academic study, applicable test requirements and traditional professional preparation programs for certification. The CEAS permits the applicant to seek and accept employment in positions requiring certification."

extend the service in a single position to a total of 40 school days. Upon the employing school district's request, the executive county superintendent may extend the same nurse substitute's service up to 20 additional school days, for a total of 60, if the regular nurse requires further days of absence, or if there is an active hiring process to replace a regular nurse who has left employment or who must be on long-term leave. Any school days or non-school days in which a substitute nurse is employed to accompany students on school trips or interscholastic events shall not count toward service-length restrictions."

The Department and State Board should clarify the rules governing use of the substitute school nurse/non-instructional. The employment of a substitute school nurse/non-instructional for 20 consecutive instructional days should be extendable in separate 20-day increments to 40 and 60 instructional days through permission of the executive county superintendent. Further, time spent accompanying students on school trips or interscholastic events should not count toward the service limits. This change would provide greater flexibility to principals and superintendents in filling substitute school nurse positions.

**N.J.A.C. § 6A:9-8.1(a)4 Requirements for certificates of eligibility**

The candidate shall "demonstrate knowledge of basic pedagogical skills [appropriate to the area of endorsement], ... and assessment of pupil progress as documented through successful completion of a minimum of 24 hours of study offered through a Department-authorized provider or through equivalent coursework documented on the transcript of a regionally accredited college or university. The candidate may also demonstrate this knowledge through completion of at least one year of appropriate successful teaching experience in any K-12 grade and documented through a letter of experience from the employing public or nonpublic school or school district;"

The Department and State Board should offer an additional means for aspiring alternate-route teachers to demonstrate pedagogical skills, such as classroom management techniques, lesson planning, assessment of pupil progress, etc. Currently, alternate-route candidates applying for their initial certification (a CE or CEAS) must demonstrate completion of a short introduction (24 seat hours) to basic teaching through a Department-authorized provider or through equivalent college coursework. This study requirement covers topics such as classroom management techniques, lesson planning, assessment of pupil progress, etc. The Task Force recommends increasing the options by which a candidate can meet this requirement by assuming that a candidate with one year's experience in teaching has acquired sufficient experience in these areas.

**N.J.A.C. § 6A:9-9.1(a)1i Authorizations – general (Instructional Certificates)**

"The elementary school teacher endorsement is valid in grades kindergarten through [five] six. Any holder of the former teacher of elementary school grades K-5 endorsement now shall be authorized to teach kindergarten through grade six;"

The Department and State Board should expand the elementary endorsement to authorize teachers of elementary school to teach kindergarten through grade six. The elementary school teacher endorsement is currently valid in kindergarten through grade five. However, some elementary schools in New Jersey include kindergarten through grade six. In these schools, the requirements currently imposed on sixth grade teachers mean that a typical fifth grade teacher could move to a fourth-grade class but not to a sixth-grade class in the same school. If the school uses a self-contained classroom model in which one teacher instructs the class for the full day, teachers of those classes are highly qualified by virtue of having passed the Elementary Grades Praxis II test. However, if, for example, the teacher moved to a specialized sixth grade classroom in math, social studies, science, or language arts, he or she would be required to demonstrate their highly qualified status in that subject by virtue of passing the specific middle school math or other content test, as relevant.

**N.J.A.C. § 6A:9-11.2(c) Career and technical education certification requirements**

*“1.i. For experienced-based endorsements: All candidates for an experienced-based endorsement shall pass [a State-adopted test of basic reading, writing, and mathematics skills and shall pass] an examination in physiology, hygiene[,] and substance abuse issues pursuant to N.J.A.C. 6A:9-5.[9]8. ... 5. To be eligible for the standard certificate, the candidate shall satisfy one of the following: i. Possess a provisional certificate pursuant to N.J.A.C. 6A:9-8.2 [and], complete a State-approved training program pursuant to N.J.A.C. 6A:9-8.3 and 8.4, and pass a State-approved test of basic skills in reading, writing and mathematics prior to renewal of the provisional certificate or, if a renewal is not required, prior to approval for the standard certificate; or”*

The Department and State Board should delay the basic skills test requirement until the candidate for teaching career and technical education applies for the standard teaching certification or seeks to renew a provisional certificate. School leaders want to hire well-qualified individuals in certain career and technology fields with years and decades of experience who are looking to transition to the classroom. School leaders and teachers in the field explain that requiring the State-approved test of basic skills in reading, writing and mathematics for candidates who are experts in the subject they want to teach often hinders interest in teaching or the ability of a school leader to fill a position. The Department currently provides online mentoring support, textbooks and classroom-based lessons, which help candidates more easily pass the tests and teach in the classroom. Candidates who already have committed to teaching in the classroom benefit most from this ongoing support.

While the Department believes it is important for candidates to pass a State-approved test of basic reading, writing and mathematics skills, such candidates should be allowed to take the test after gaining some experience in the classroom and with the already-provided support of the Department, as well as with the support of administrators within their district. Under the proposed change, candidates would be required to pass the basic skills test within two years of starting to teach. Such candidates would not be permitted to renew their provisional license for an additional two years until they pass the test.

This change would address a recruiting challenge expressed by numerous superintendents of county vocational schools by enabling experienced vocational practitioners to ease into the teaching profession.

**Overview: N.J.A.C. § 6A:9-11 Exceptions to Requirements for the Instructional Certificate**

In response to recruiting challenges described by superintendents and principals across the State, the Department and State Board should add greater flexibility for the endorsement requirements for the CE/CEAS while maintaining rigorous standards. An “endorsement” is the specific subject area that a certified teacher is authorized to teach. Typically, a teacher or teacher candidate holding a Certificate of Eligibility (CE) or a Certificate of Eligibility with Advanced Standing (CEAS) in his or her endorsement area is authorized to teach their particular subject because he or she completed a major, graduate degree, or at least 30 credits in that subject area.

**N.J.A.C. § 6A:9-11.9(a) Physical science**

*“In addition to the requirements in N.J.A.C. 6A:9-8.1, the candidate shall do the following to be eligible for the CE, CEAS or standard certificate with a physical science endorsement[, the candidate shall complete one of the following]: 1. [A 30-credit coherent sequence of courses in physics and a minimum of 15 credits in chemistry; or] Complete a major in or 30 semester-hour credits in physical science to include a minimum of 15 hours in physics. At least 12 semester-hour credits must be at the junior, senior or graduate level, counting both physics and chemistry credits; and 2. [A 30-credit coherent sequence of courses in chemistry and a minimum of 15 credits in physics.] Pass the State-approved subject-matter test(s).”*

The Department and State Board should reduce the credit requirements for physical science to 30 total credits in physics and chemistry, with at least 15 credits in physics. To teach physical science (K-12), teacher candidates currently must complete either 30 credits in chemistry and 15 credits in physics, or 30 credits in physics and 15 credits in chemistry to teach physical science (K-12). Physical science is typically a survey course taught in middle school to prepare students for entire courses in chemistry, physics, etc.

Without such amendment, a school leader may not be able to fill a seventh grade physical science opening with a teaching candidate who graduated summa cum laude from a prestigious university with a dual degree in teaching and physics, but was missing some of the 15 chemistry credits. Nor would that school leader most likely be able to hire an alternate-route candidate who was a civil engineer for 15 years prior to becoming a teacher because that candidate may be lacking the 45 total credits in physics and chemistry. This change would ease an acute educator recruiting burden experienced by superintendents, administrators, and principals by bringing New Jersey’s licensing provisions in line with those of numerous other states.

**N.J.A.C. § 6A:9-11.11 Elementary school with subject matter specialization (for teaching middle school)**

*“(a) To be eligible for the elementary school with subject matter specialization endorsement, the candidate shall: 1. Hold a CE or CEAS with an elementary school or preschool through grade 12 subject-matter endorsement ... or hold a standard certificate with an elementary school or preschool through grade 12 subject-matter endorsement ... 2. Complete a course in child and early adolescent development ...; 3. [Complete 15 semester-hours] For the CE, complete nine semester-hour credits in any one of the following CCCS subject fields: i. Language arts literacy; ii. Mathematics; iii. Science; iv. Social studies; or v. A single world language; and 4. Pass the appropriate State test in the content area. (b) To be eligible for the CEAS, candidates must meet at a minimum the requirements at (a) above and N.J.A.C. 6A:9-8.1(c) through (h); (c) To be eligible for the provisional certificate, candidates must meet the requirements at (a) or (b) above, and at N.J.A.C. 6A:9-8.2; (d) To be eligible for the standard certificate, all candidates shall: ... 2. Complete 15 semester-hour credits in the subject area of the endorsement. All study shall appear on the candidate’s transcript(s) from regionally accredited colleges or universities. ... [(c)](f) Holders of this endorsement may be eligible for additional elementary school with subject matter specialization endorsements in the CCCS subject fields identified in (a)3i through v upon completion of the requirements of (a)3 and 4, (b), (c) and (d) above for each area of specialization requested.”*

The Department and State Board should amend the requirements for the “elementary school with subject matter specialization endorsement” to include nine, not 15, semester-hour credits in one of the possible subject fields or to allow candidates to earn the endorsement by passing the appropriate State test in the content area. Moreover, the Department and State Board should eliminate the requirement that a teacher holding a P-12 certification<sup>27</sup> in one subject needs an elementary endorsement plus a middle school subject endorsement to teach in middle school. Teaching candidates should still be required to complete a course in child and early adolescent development, and they should still be required to complete all 15 credits and pass the appropriate subject matter test prior to earning the standard certificate.

Currently, besides obtaining a P-12 certification in the subject in which he or she is teaching, a teacher wishing to work in a middle school classroom must obtain an elementary endorsement (K-5) plus required credits in the subject matter he or she wishes to teach. This requires a teacher who may already have a P-12 certificate in a different subject to obtain a CE/CEAS or standard certification for elementary school; a middle school subject endorsement, which includes 15 additional semester hours in the subject field, passing the appropriate State test and a course in child and early adolescent development. This means that a teacher who is otherwise qualified to teach history from grades preschool to 12<sup>th</sup> grade may not teach seventh grade English without first an additional endorsement to teach elementary school and an additional endorsement for middle school English.

The proposed changes would allow a middle school teacher candidate to instead earn the middle school initial certificate by obtaining a certification to teach elementary school or by obtaining a certification to

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<sup>27</sup> A P-12 subject matter certificate enables a candidate to provide instruction in that particular subject area.

teach a particular subject from preschool to 12th grade (P-12). To enter a middle school classroom in a particular subject area, even if it is different from the subject in which a candidate holds a P-12 certification, the candidate would need nine semester hours in the middle school subject he or she wishes to teach or pass that middle school subject matter test. For the middle school standard certificate, teachers then would need to: 1) hold the provisional middle school endorsement (as described above); 2) complete the provisional teacher program; 3) pass a course in child and early adolescent development; 4) demonstrate 15 credits in the middle school endorsement area; and 5) pass the middle school subject matter test. This proposal would better facilitate, for example, the transition for a teacher with a P-12 math standard certificate who would like to teach middle school science. Under this proposal, he or she would need to first show nine credits in science or pass the middle school science subject matter test. For the provisional license, he or she then would need to also obtain employment teaching middle school science. Finally, for the standard certificate that teacher would have to 1) pass a course in child and early adolescent development; 2) earn a total of 15 credits in the middle school science endorsement area; and 3) pass the middle school subject matter test.

Middle school content areas are high-need teacher areas and such inflexible requirements hinder school leaders' freedom to hire excellent candidates. This suggested amendment would add flexibility without lowering high standards for teaching professionals.

#### **N.J.A.C. § 6A:9-11.16 Social Studies**

*"[... to be eligible for the CE, CEAS or standard certificate with a social studies endorsement, the candidate shall complete a minimum of 15 semester hour credits in history to include a minimum of one course in American History and one course in World History.] (a) To be eligible for the CE with a social studies endorsement, candidates must ...: 1) Complete 18 semester-hour credits in social studies reflected on their transcripts from regionally accredited colleges or universities, including 12 semester-hour credits at the junior, senior or graduate level and including three semester-hour credits in American history and three semester-hour credits in world history; and 2) Pass the State-approved subject-matter test. ... (d) To be eligible for the standard certificate, all candidates shall: ... 2) Complete a major or 30 semester-hour credits in social studies including three semester-hour credits in economics and a total of 12 semester-hour credits in history, to include a minimum of one course in American history and one course in world history ...;"*

The requirements for the social studies licensing endorsement should be aligned with the most recent social studies national standards guidance issued by the National Council for the Social Studies and the National Council for Accreditation of Teacher Education. This will shift certain course requirements for candidates for new middle and high school social studies teaching licenses, including requiring these teaching candidates complete at least three semester-hour credits in economics among the total number of semester-hour credits of social studies currently required. An understanding of economics is important in understanding and teaching a variety of topics throughout the social studies curriculum. Further, the Task Force notes this social studies endorsement is currently required for teachers of

economics, and absent this economics requirement it is possible to become a teacher of economics without having taken a single economics course.

Additionally, the Department and State Board should require teaching candidates to complete 18 credits, not 30, in social studies and pass the subject matter test to earn an endorsement in social studies. The teacher would still have to complete the 30 credits within his or her first two years of teaching. However, the proposal would allow a teacher to start teaching with 18 or more subject-specific credits.

Again, delaying the credit requirement adds flexibility for teachers who may have taken quite a few history classes, but not 30 credits, or not the required American and world history courses or the economics course. For example, a person with a graduate degree in anthropology who would like to teach ninth-grade history may only have 21 credits that satisfies the social studies endorsement requirement. The Department should adopt this proposal so such a qualified teacher may earn the remaining nine credits within his or her first two years of teaching.

**N.J.A.C. § 6A:9-11.19 Teacher of mathematics**

*“(a) To be eligible for the CE with a teacher of mathematics endorsement, candidates must ...: 1. Complete 18 semester-hour credits in mathematics ...; and 2. Pass the State-approved subject-matter test.... (d) To be eligible for the standard certificate, all candidates shall: ... 2. Complete a major or 30 credits in mathematics, including 12 semester-hour credits at the junior, senior or graduate level. ...;”*

The Department and State Board should add the above endorsement exception (currently under the general certification requirements in N.J.A.C. § 6A:9-8.1 to 8.8). For a provisional license, math teacher candidates should have the option to complete a required 18 credits, not 30, in math courses and pass the appropriate subject-matter test(s) or earn a CEAS for mathematics. The teacher would then earn all 30 credits prior to earning his or her standard certificate.

Increased flexibility in the requirements needed to earn a provisional license in math subjects would also draw more candidates with science or math backgrounds who may not have majored in mathematics. A teaching candidate with a degree suitable for accounting, research analysis, engineering or economics could be perfectly able to teach high school algebra, although he or she did not graduate with a degree in mathematics per se. A teacher with such real-life experience, who applies mathematical concepts within his or her everyday work, may only have earned 25 credits that qualify as “math” courses. By requiring 30 total credits in mathematics for the standard certificate, not the provisional, school leaders may find it easier to recruit willing, qualified and excellent high school math instructors.

**N.J.A.C. § 6A:9-11.20 Teacher of biology, chemistry, physics or earth science**

*“(a) To be eligible for the CE with an endorsement in biology, chemistry, physics or earth science, candidates must ...: 1. Complete 18 semester-hour credits in the appropriate subject matter ...; and 2. Pass the appropriate State-approved subject-matter test. ... (d) To be eligible for the standard certificate, all candidates shall: ... 2. Complete a major or 30 semester-hour credits in biology, chemistry, physics or earth science for the endorsements. This study must include 12 semester-hour credits at the junior, senior or graduate level. ...”*

Similar to the endorsement N.J.A.C. § 6A:9-11.20, the Department and State Board should add the above endorsement exception (currently under the general certification requirements in N.J.A.C. § 6A:9-8.1 to 8.8). For a provisional license, biology, chemistry, physics or earth science teacher candidates should have the option to complete a required 18 credits, not 30, in the appropriate science courses if they pass the appropriate subject matter test. Candidates should be permitted to earn the 30 required credits within their first two years of teaching while holding a provisional license.

Increased flexibility in the requirements needed to earn a provisional license in science subjects would also draw more candidates with science backgrounds who may not have majored in biology, earth science, chemistry, or physics. A teaching candidate with a degree suitable for chemical engineering, pre-medical, or clinical psychology who passes the appropriate subject tests may be perfectly able to teach high school biology, chemistry, or physics although he or she did not graduate with a degree in one of those subjects. This suggested amendment would enable school leaders to hire exceptional candidates in high-need areas without lowering high standards for teaching professionals.

**N.J.A.C. § 6A:9-12.7(b) School business administrator**

*“To be eligible for a provisional administrative certificate with a school business administrator endorsement, the candidate shall: ... 2) Obtain and accept an offer of employment in a position ... in a public school district or an approved private school for the disabled that has agreed formally to sponsor the residency.”*

The Department should amend this regulation so school business administrators possessing a provisional license and working at private schools for the disabled can work toward earning their standard certificate. Currently, a school business administrator in the process of earning a standard administrative certificate must complete a two-year residency program in a public school. This requirement is burdensome for a business administrator seeking to work or currently working in an approved private school for the disabled.

**N.J.A.C. § 6A:9-13.3(b) and (c) School Nurse**

*“(b) To be eligible for the standard educational services certificate with a school nurse instructional endorsement, a candidate shall: 1. ... Hold a current New Jersey registered professional nurse license ...; 2. ... Hold a bachelor’s degree ...; 3. ... Hold current ... Providers Cardiopulmonary Resuscitation (CPR) and*

Automated External Defibrillators (AED) certification ...; 4. Receive training in airway management and in the use of nebulizers and inhalers consistent with nationally recognized standards, ...; and 5. Complete at a regionally accredited college or university a minimum of 12 semester-hour credits that includes studies in the following topics: i. Physical and health assessments; ii. School law and regulations pertaining to the duties of a school nurse; iii. The health needs of special education and learning disabled children, including children with autism; and iv. Methods of teaching health in grades preschool through grade 12, including curriculum development; (c) During the initial four years of employment under this endorsement, the holder must engage in professional development on the following topics. The professional development requirements shall be incorporated into each endorsement holder's professional development plan pursuant to N.J.A.C. 6A:9-15. [1. A minimum of six semester-hour credits in school nursing, including school health services, physical assessments, organization and administration of the school health program and clinical experience in a school nurse office; 2.] 1. Human growth and development, including fundamentals of substance abuse and dependency; [3 Health assessment; 4. Fundamentals of substance abuse and dependency; 5. Special education and/or learning disabilities; 6. Methods of teaching health in grades preschool through grade 12 including curriculum development; 7.]2. Public health, including such areas as public health nursing, community health problems and communicable disease control; [8]3. Human and intercultural relations. [Studies] Professional development designed to develop understanding of social interaction and culture change, including [courses] topics such as the [following: urban sociology,] history of minority groups, intergroup relations, and urban, suburban and rural problems; and [9]4. Guidance and counseling[;]\_ ...”

The Department and State Board should eliminate some of the 11 required areas of study for school nurses as they do not reflect the minor differences between serving students and the general population. Currently, the certification regulations require registered nurses to complete 11 areas of study in addition to their extensive qualifications necessary to work in most other areas of nursing. The requirements unnecessarily limit the qualified applicant pool and hinder school leaders from filling the critical positions. For instance, a nurse who has worked for 20 years with a large and diverse group of patients will bring critical real-world medical understandings, although he or she may lack the 11 areas of study. This practical experience also should be valued and the school nursing candidates should be relieved of many of the course requirements. While some differences exist between serving student populations and the general public, 30 additional credits are overly prohibitive requirements for school nurse candidates.

The Department should reduce the number of additional requirements from 30 credits to a minimum of 12 credits. Additionally, the Department should consolidate the currently-mandated 11 areas of study that a school nurse candidate must take before entering the classroom to four areas and then require nurses to study any remaining areas through ongoing professional development once they have begun working in a school. While the topics are important to a school nurse's professional development, requiring a particular number of credits is overly prescriptive.

**N.J.A.C. § 6A:9-13.4(b) School nurse/non-instructional**

*“To be eligible for the standard educational services certificate with a school nurse/non-instructional endorsement, a candidate shall: 1. ... Hold a current New Jersey registered professional nurse license issued by the New Jersey State Board of Nursing[,] 2. ... Hold a bachelor’s degree from a regionally accredited college or university[,] 3. ... Hold current ... Providers Cardiopulmonary Resuscitation (CPR) Automated External Defibrillators (AED) certification ...; 4. Receive training in airway management and in the use of nebulizers and inhalers ...; and 5. Complete at a regionally accredited college or university a minimum of nine semester-hour credits that includes studies in the following topics: i. Physical and health assessments; ii. School law and regulations pertaining to the duties of a school nurse; and iii. The health needs of special education and learning disabled children, including children with autism.”*

Similar to the changes in N.J.A.C § 6A:9-13.4, the Department and State Board should alleviate the unnecessary burden required for the school nurse/non-instructional endorsement to require nine credits, rather than 30, and three consolidated areas of study rather than nine. Additional topics may also be studied through ongoing professional development and do not need to be completed prior to the school nurse’s employment. The changes should help school leaders fill such critical positions while ensuring student health and safety.

**Overview: Subchapter 15. Required Professional Development for Teachers and School Leaders**

The Department and State Board should combine Subchapter 15 (Required Professional Development for Teachers) with the current Subchapter 16 (Required Professional Development for School Leaders) to create one subchapter of regulation detailing the professional development requirements of teachers and school leaders. This section proposes significant changes; a summary of the recommendations is provided here with additional explanations below:

- (1) The replacement of the existing five-year professional development requirements with annual individual professional development plans for teachers and individual professional growth plans for school leaders that integrate results from annual performance evaluations;
- (2) The replacement of the existing 100 clock hours of professional development every five years for teachers with an annual 20-hour minimum professional development requirement tied closely to these individual professional development plans;
- (3) The inclusion of a definition of professional development that emphasizes the importance of job-embedded learning opportunities and collective responsibility for student achievement;
- (4) An updated set of professional development standards;
- (5) A change in the way school- and district-level professional development plans are created;
- (6) The inclusion of school leader professional development needs in the district professional development planning process;
- (7) The elimination of the county professional development boards and their responsibility for review of district professional development plans; and

- (8) The elimination of both the Professional Teaching Standards Board and the Professional Development Advisory Committee for School Leaders and the replacement of the two boards with a single State Committee on Professional Learning.

**N.J.A.C. § 6A:9-15.1(b) General provisions**

“These rules [affect all] apply to: 1. All active teachers ...; and 2. All active school leaders serving on a permanent or interim basis whose positions require possession of the chief school administrator, principal or supervisor endorsement ... .”

The Department should revise this section to streamline the general provisions for both teachers and school leaders and incorporate old language from N.J.A.C. § 6A:9-15.1 and 6A:9-16.1.

**N.J.A.C. § 6A:9-15.2 Definition of professional development**

“(a) Professional development shall be comprised of professional learning opportunities aligned with student learning and educator development needs, and school, school district and/or state improvement goals. (b) Professional development shall include the work of established collaborative teams of teachers, principals and other administrative, instructional and educational services staff members who commit to working together to accomplish common goals and who are engaged in a continuous cycle of professional improvement focused on: 1. Evaluating student learning needs through ongoing reviews of data on student performance; and 2. Defining a clear set of educator learning goals based on the rigorous analysis of this data. (c) Professional learning shall incorporate coherent, sustained and evidenced-based strategies that improve educator effectiveness and student achievement, including job-embedded coaching or other forms of assistance to support educators’ transfer of new knowledge and skills to their work. ...”

The Department and State Board should broaden the current definition of “professional development” and create a new section solely devoted to defining high-quality professional development for enhanced student learning. The proposed definition was adapted from recommendations by representatives from leading education associations and organizations who reviewed research and best practices. Superior professional development opportunities occur when teachers work collaboratively in learning teams to improve instructional outcomes in response to student learning needs. This proposal encompasses a variety of types of professional development opportunities that now highlight the critical importance of job-embedded activities and collaborative teamwork for improving student outcomes. Similar language has been included in the proposed amendments to Section 9101 (34) of the federal Elementary and Secondary Education Act as reauthorized by the No Child Left Behind Act of 2001.

Professional development conducted through collaborative teams creates an environment of shared responsibility. It is the responsibility of professionals to continuously improve their knowledge and practice every day. High-performing organizations understand the importance of continuous improvement through ongoing workplace learning with other professionals.

**N.J.A.C. § 6A:9-15.3 Standards for professional learning**

*“(a) Professional learning that increases educator effectiveness and improves results for all students shall be guided by the following standards: 1. Learning communities: ... 2. Leadership: ... 3. Resources: ... 4. Data: ... 5. Learning designs: ... 6. Implementation: ... 7. Outcomes: ...”*

The Department and State Board should update New Jersey's Professional Development Standards in N.J.A.C. § 6A:9-15.2 to align with recommendations from representatives of leading education associations and organizations who reviewed research and best practices for effective professional learning. The revision would reorganize and reduce the previous number of standards to focus attention on educator learning development that leads to successful student learning.

Educator effectiveness will improve when school systems, schools, and education leaders use the standards as a basis to guide the policies, activities, facilitation, implementation, management, and evaluation of professional development.

**N.J.A.C. § 6A:9-15.4 Requirements for individual teacher professional development planning and implementation**

*“(a) To meet the professional development requirement, each teacher shall be guided by an individualized professional development plan (PDP), which shall include at least 20 hours of qualifying activities per year, in accordance with N.J.A.C. 6A:9-15.2. (b) The content of each PDP shall be developed by each teacher’s supervisor in consultation with the teacher and shall align with the Professional Standards for Teachers in N.J.A.C. 6A:9-3 and the Standards for Professional Learning in N.J.A.C. 6A:9-15.3. (c) The PDP shall be revised annually to reflect areas of need as indicated by teacher evaluations or other determined need ...”*

The Department and State Board should adopt professional development regulations that place an even greater emphasis on the individual teacher’s needs. N.J.A.C. § 6A:9-15.2 describes the required amount, duration and content of required continuing professional development. Currently, teachers are simply required to fulfill a minimum of 100 hours of professional development every five years (effectively 20 hours each year, though sometimes zero hours per year depending on how each teacher decides to spread the current 100-hour requirement over the 5-year period). This professional development requirement is currently measured purely in hours completed, not by whether the professional learning advances student learning.

The requirements should be revised to reflect the importance of tightly coupled educator evaluation and professional development systems. Among others, that includes the need to link professional development requirements to expectations of effective practice; to high-quality, job embedded professional learning opportunities for improving teachers’ practice; and to explicit goal-setting for student outcomes and other school and district priorities. While an hours-based professional

development requirement will be maintained, the focus of professional development will shift from compliance to successful completion of relevant, effective training that meaningfully improves the quality of teaching in the classroom and that is informed by the findings of annual evaluations.

The requirement that each teacher have an individualized professional development plan (PDP) should be maintained. Each teacher should be strongly encouraged to participate in at least one school- or district-based collaborative team to better align with best practices in professional development. We urge districts to require such participation but are reluctant to make this a universal mandate. The determination and the contents of the PDP should be collaboratively planned with each teacher's supervisor.

The PDP should contain three strands for professional development: one derived from the results of observations and evidence accumulated through the annual performance evaluation; one in relation to the goals of the collaborative team; and one in relation to school and/or district improvement goals.

The PDP should be reviewed fully with annual revisions to reflect teacher's performance evaluations. It is the responsibility of each district board of education to ensure that all teachers receive the necessary opportunities, support, and resources to engage in professional learning and complete the requirements of their respective PDPs. Although often misunderstood, the central goal of educator evaluation systems is to help teachers and school leaders develop and improve. This can happen only if there is a tight alignment between the needs identified in an evaluation and professional learning opportunities.

This proposal is meant to honor the high-level, rigorous work of excellent teacher professionals. Rather than simply measuring whether teachers have met a required minimum number of hours (as if *what* teachers do during those hours to improve their craft is meaningless), the Department should honor the research, analysis and knowledge of teacher professionals while connecting accountable practices to such collaboration. Moreover, school leaders should be more accountable for providing sufficient time for such meaningful professional learning.

Over the next year, as the State looks to implement the provisions of the recently-signed TEACHNJ Act, the Task Force recommends that the Department continue its review of professional development requirements. The TEACHNJ Act outlines specific provisions for mentoring, corrective action plans and school improvement panels, all of which should be incorporated into the professional development requirements. The Department should ensure that any State requirements be in harmony with the TEACHNJ Act and focus on ensuring that all teachers, regardless of starting point, receive ongoing, high-quality professional development to support their professional growth.

**N.J.A.C. § 6A:9-15.5 Requirements for school-level professional development planning and implementation**

*"(a) The principal shall oversee the development and implementation of a plan for school-level professional development. (b) The school-level professional development plan shall include a description*

*of school-level and team-based professional learning aligned with identified school goals, and teacher and student learning needs.*

To help support the proposed professional development changes outlined above, the Department and State Board should require the principal to oversee the development and implementation of a plan for school-level professional development. Overseeing teacher professional development is a core responsibility of principals. The principal should ensure that teachers' ideas and recommendations are solicited as part of the process for developing the school plan.

Each school-level plan should include a description of school-level and team-based professional learning aligned with identified school goals and teacher and student learning needs. The school-level plans should be integrated into the district-level professional development plan.

To ensure that all teachers receive the necessary opportunities, support, and resources to complete the professional development requirements, each district board of education is strongly encouraged to require each school to include in its schedule of operations, at minimum, the equivalent of one classroom period per weekly cycle for collaborative teams to work together on matters of curriculum, assessment, and instruction aligned to the goals of the school professional development plan.

The school-level plan will empower school leaders and teacher-leaders to more directly support their colleagues and should lead to improved alignment of all teacher development systems with district and school student learning objectives.

**N.J.A.C. § 6A:9-15.6 Requirements for district-level professional development planning and implementation for teachers**

*“(a) Superintendents or designees shall oversee the development and implementation of plans to address school districts’ professional development needs. School districts sending to the same middle and/or high school may form a regional consortium to develop one districtwide plan based on the sending schools’ plans. (b) Superintendents shall: 1. Review school-level professional development plans; 2) Assess the learning needs of students, teachers and school leaders ... based on school-level plans and data from school- and district-level performances; 3) Plan, support and implement professional development activities ...”*

Currently, the district professional development planning process is bogged down by multiple levels of oversight. The local professional development committee works with many members of the surrounding community to create one- to three-year professional development plans. The plans are presented to the district board of education for review and then to the county professional development board for approval. Above the county professional development board sits the Professional Teaching Standards Board, which advises the Commissioner on professional development related issues. We propose a new streamlined structure that would eliminate unnecessary delays that currently result from the multi-layered approval process, most of which occurs at levels far removed from the teacher and the classroom.

The Department and State Board should require each school district, under the superintendent's direction, to develop a district-wide professional development plan based on the particular needs of teachers and school leaders in each district as they relate to district goals, as well as gaps identified through evaluation. The chief school-administrator, or chief school administrators in the case of a district consortium, is encouraged to consider input from school leaders, teachers, parents, community members, and local business leaders to assess the learning needs of students and, therefore, teachers; to review school-level plans, and to create and monitor the success of the school district's professional development plans. The chief school-administrator may assess school-level plans based on the amount of time allotted for collaborative teams, the content and rigor of the teams' work, the number of participants of each team, and other factors that demonstrate effective opportunities for job-embedded learning.

The revised structure would allow for more local control, accountability and more individualized support.

**N.J.A.C. § 6A:9-15.7 Implementation of the professional development requirement for school leaders**

*“(a) Each district board of education shall oversee and review for each chief school administrator professional development that links to individual, school and district professional development goals and to the school district’s professional development plan. (b) Each chief school administrator shall oversee and review for each principal and supervisor professional development that links to individual, school and district professional development goals and the school district’s professional development plan. (c) Each chief school administrator, principal and supervisor shall fulfill the professional development requirement through the creation, implementation and completion of a professional growth plan... (i) In cases where there is disagreement between a chief school administrator and his or her district board of education regarding plan contents or progress toward completion, the chief school administrator may appeal to the executive county superintendent, who will have final decision-making authority on all such matters. ...”*

The Department and State Board should place on the district board of education the responsibility to oversee and review the chief school administrator's professional development, rather than charge a peer review committee and the New Jersey Association of School Administrators (NJASA) with the task as in current regulations. However, a board would be able to continue to rely on the input of such a committee or the NJASA in discharging its responsibilities under this provision. The existing system, while well intentioned, creates a system of support and oversight from individuals and organizations that is removed from the school district because the superintendent chooses three peers from other school districts to review the progress of the chief school administrator's progress and performance.

This amendment would place oversight and review of the superintendent's professional development in the hands of the district board of education. Monitoring the performance of the superintendent is a primary responsibility of each local board of education, which is knowledgeable both about the

superintendent's job activities and the particularly circumstances of each district. In the event of a disagreement between the district board of education and the superintendent regarding his or her professional growth plan, the superintendent may appeal to the executive county superintendent for resolution.

Oversight and review of the professional development for each chief school administrator would align with individual, school, and district professional development goals and to the school district's professional development plan. Additionally, each chief school administrator should oversee the professional development for each principal and supervisor, which should also align with the school district's professional development plan.

The school leader growth plan should be developed collaboratively and should address specific individual, school, or district goals. Each school leader and chief school administrator "should be required to provide annual evidence of progress toward fulfillment of his or her plan." All plans also should be aligned with annual performance evaluations.

**N.J.A.C. § 6A:9-15.8 Requirements for school leader professional development in ethics, law and governance**

*"All professional growth plans for active school leaders serving on a permanent or interim basis whose positions require possession of the chief school administrator, principal or supervisor endorsement in accordance with N.J.A.C. 6A:9-12.3 shall ensure the completion of appropriate training on: school law, ethics and governance pursuant to N.J.S.A. 18A:26-8.2; and other statutory requirements related to student safety and well-being."*

The Department and State Board should revise this regulation to consolidate all professional development requirements for school leaders into a single, central document -- the professional growth plan (PGP). Current regulations prescribe, in addition to professional development for instructional and leadership purposes, 12 hours of instruction and various documentation and assessments on additional matters related to school leadership. This extends beyond the reach and intent of the underlying statute, which simply requires school leaders to "complete training on issues of school ethics, school law, and school governance as part of the professional development." (See N.J.S.A 18A:26-8.2.) The proposed revision would reinstate the intent of the underlying statute of this section by including such mandatory instruction within the individual professional growth plans for all school leaders.

**N.J.A.C. § 6A:9-15.9(a) and (b) Monitoring and assistance**

*"(a) Each district board of education shall monitor and enforce the professional development requirements for teachers and school leaders set forth in this chapter. (b) Each district board of education shall actively assist and support the provision of opportunities and resources, and the efforts by teachers and school leaders to meet the requirements. ..."*

The Department and State Board should emphasize the responsibility and duty of each district board of education to expend resources on professional development because of the elevated value of highly trained professionals. Meaningful professional development is a key lever to student academic success. Therefore, the support for such professional development must be a core responsibility of the district board of education.

**N.J.A.C. § 6A:9-15.9(c) Monitoring and assistance**

*“To ensure that the professional development requirements set forth in this chapter reflect a policy of continuous improvement, constructive support and timely intervention, the Department will establish accountability procedures pursuant to N.J.A.C. 6A:30.”*

The Department should be required to ensure that districts adhere to the new professional development requirements. Since professional development is a critical component of advancing the college and career readiness of each and every student, the Department should go beyond just reviewing district professional plans. The Department should commit to ensuring that such plans are actively and successfully implemented throughout the entire district.

**N.J.A.C. § 6A:9-15.9(d) and (e) Monitoring and assistance**

*“(d) It is the responsibility of the local supervisor and school district administrator through the teacher performance evaluation process and the professional development planning process to monitor each teacher’s progress in meeting the professional development requirements and to take appropriate steps to assure such progress. In any instance where a teacher’s progress is found to be inadequate, the school district administration shall take appropriate remedial action by applying sound and accepted principles of progressive supervision and other appropriate means. (e) It is the responsibility of the school leader’s immediate supervisor, or the district board of education in the case of the chief school administrator, to monitor each school leader’s progress in meeting the professional development requirements. Monitoring shall be accomplished through the performance evaluation and professional development planning processes. In any instance where a school leader’s progress is found to be inadequate, the school leader or district board of education shall take appropriate remedial action.”*

The Department and State Board should codify the responsibility of the local supervisor, as well as the school leader’s supervisor, to monitor professional development on individual, school and district levels. The core responsibility of the school leader and the leader’s supervisor must be to ensure that professional development requirements lead to college and career readiness of students. Similarly, a district board of education must be responsible for ensuring the effectiveness of its chief school administrator’s professional development, subject to appeal to the executive county superintendent in the event of a dispute. While the Department may also monitor the progress of professional development plans, school leaders and chief administrative officers are in the best position to monitor such progress. In any instance where a school leader’s progress is found to be inadequate, the school leaders or district board of education should take appropriate remedial action.

**N.J.A.C. § 6A:9-15.10 State Committee on Professional Learning**

*“(a) The State Committee on Professional Learning shall advise the Commissioner on the professional development requirements for teachers and school leaders as defined in this subchapter. Specifically, the committee shall: 1) Develop and recommend a periodic review process for school district professional development plans ...; 2) Develop and recommend updated professional standards for teachers and school leaders; 3) Review the implementation of professional development requirements for teachers and school leaders, ...; 4) Develop and recommend a periodic audit process for school district mentoring plans ...; 5) Disseminate information on exemplary practices; 6) Review research, best practices and practitioner feedback, ...; 7) Recognize and celebrate schools, school districts and educators that exemplify high-performing learning organizations; 8) Recognize and celebrate educators who exemplify high standards of practice; ...”*

The Department and State Board should replace the separate Professional Teaching Standards Board and the Professional Development Advisory Committee for School Leaders with a single State Committee on Professional Learning. This unified, streamlined committee would advise the Commissioner and the Department on all aspects of professional development from the individual to statewide level. Having one centralized committee would enable the Department to actively support school districts in creating more useful and effective professional development programs.

To best achieve the many stated goals of the committee, the Commissioner should also be granted greater flexibility in appointing members. Currently, the Commissioner may appoint individuals to the Professional Teaching Standards Board and the Professional Development Advisory Committee only if they have been nominated by one of a set of identified unions or professional associations. The Commissioner should be able to directly appoint members to the new State Committee on Professional Learning, but should be able to “invite nominations from professional organizations and other interested parties.” Moreover, instead of the current make-up of the 11-person committee (“five principals and supervisors, three superintendents and central office administrators, one teacher and one higher education representative”), the group should have 16 members and should consist of six teachers, including at least one from a charter school, six administrators (principals and district administrators), one member of a local school board, two representatives from educator preparation programs, and one parent or community member. Increasing both the number of members and the diversity of professionals who serve on the committee would lead to improved professional development policies. It also would ensure that the policies and supports best reflect the professional development needs of teachers, schools and districts around the State.

**N.J.A.C. § 6A:9-16 Other alternate-route programs for documented areas of teacher shortage**

*“16.2(a) The Commissioner may approve programs leading to CEs with endorsements in elementary school with subject-matter specialization in any area of teacher shortage documented by the Department for which the endorsements are available. Each endorsement is valid for a teaching*

assignment area in grades five through eight. (b) The Commissioner may approve programs leading to CEs with endorsements authorized to teach grades K-12 in any declared teacher shortage area documented by the Department for which the endorsements are available. ...”

The purpose of this subchapter is to establish rules to allow the Commissioner to approve alternate-route teacher certification programs in documented areas of teacher shortage. Applicants certified through the programs would serve their provisional period in school districts and would be employed in any district upon receipt of the standard certificate. Such programs would be established by New Jersey colleges and universities, educational organizations, or other entities approved by the Commissioner, and would train teachers in middle school subject areas of shortage or in P-12 subject areas of shortage.

Such programs would be required to document that candidates have the following: earned a bachelor’s degree or higher from a regionally-accredited four-year institute of higher education, interest in pursuing a teaching career in the proposed area of certification, experience either in using skills relevant to the endorsement area in previous employment or experience in working with school-age children, and provided additional information for a candidate profile.

In proposing a program to the Commissioner, providers would be required to document the instructional program, including organization, timeline, and guiding principles; program curriculum and corresponding time allocations; alignment of curriculum with the CCCS in the proposed areas of certification; alignment of learning opportunities with State professional standards for teachers as established in N.J.A.C. § 6A:9-3.3; description of the key pedagogical approaches to be used, including those methods and techniques specific to the teaching of the proposed certification area; description of opportunities for pre-service experiences in public school classrooms; names and qualifications of program instructors; procedure, including test of content knowledge, used to determine that candidates are qualified to receive a CE; and procedure for placing candidates in teaching positions in public schools.

Proposals for such programs would be required to further document the structure of the provisional employment period, which minimally must meet but should go beyond the requirements of N.J.A.C. § 6A:9-8.4 to 6A:9-8.6. Specifically, proposals would have to include a description of any relationships made between the program and a partnering public school district; provisions for providing mentoring for the candidate during the provisional period; and the procedure by which candidates will be determined eligible for standard certificates. In all cases, principals of the schools in which the candidate serves during the provisional period would have final approval of any recommendation for standard certification.

This new program would establish an additional pipeline of qualified educators to address persistent shortages for key positions in the State, thereby easing a substantial recruiting challenge faced by principals and superintendents.

## Performance

### *Chapter 3: Controversies and Disputes*

#### **Overview**

Chapter 3 discusses how school districts should handle controversies or disputes that arise in the course of operating. The Task Force proposes two changes to this chapter. The first relates to appeals of certain decisions in former Abbott districts; this rule is now moot because the School Funding Reform Act of 2008 (SFRA) eliminated all dedicated programs and operations for Abbott districts. The second proposed change relates to streamlining and accelerating the tenure removal process at charter schools after robust educator evaluations.

#### **N.J.A.C. § 6A:3-10 “Abbott” appeals**

*“[Appeals of Department determinations shall be made pursuant to the provisions of applicable rules or directives of the court and shall proceed in accordance with the provisions of N.J.A.C. 6A:3-1, except as otherwise required by such rules or directives.]”*

The Department and State Board should remove this subchapter. The School Funding Reform Act of 2008 (SFRA) eliminated the dedicated programs and operations for Abbott districts. As a result, the regulations governing appeals of Abbott decisions are no longer applicable.

## Chapter 22: Residency

### Overview

Chapter 22 discusses issues of residency. The rules herein determine student eligibility for a free New Jersey public education and the school district in which students are domiciled, thus making that district responsible for educating students.

The Task Force recommends a number of changes to ease the burden that residency issues bear on districts. Many residency disputes are ultimately resolved by an administrative law judge, through the Department's Office of Controversies and Disputes. The changes seek to clarify residency rules at the outset, thereby reducing the number of cases that require litigation.

#### **N.J.A.C. § 6A:22-3.2(a)4 Other students eligible to attend school**

*"A student shall not be deemed ineligible under this subsection solely because a parent or guardian gives occasional gifts or makes limited contributions, financial or otherwise, toward the student's welfare [of the student, provided that the resident keeping the student receives no payment or other remuneration from the parent or guardian for regular maintenance of the student], not exceeding 25 percent of the cost of the student's regular maintenance in any given year."*

The Department and State Board should set a quantitative threshold to explicitly define at what point parental contributions make a student ineligible to attend school in another district as an "affidavit student." Under this arrangement, a student who does not reside with a parent or legal guardian, but instead lives with (and is supported by) patrons domiciled in another school district, would attend school in that district. However, due to the absence of any definition for "limited contributions," current Office of Administrative Law decisions have disqualified students from attending school in the districts in which they and their patrons reside – even if the students receive parental contributions of as little as \$40 per week.

#### **N.J.A.C. § 6A:22-3.2(a)5 Other students eligible to attend school**

*"Pursuant to N.J.S.A. 18A:38-1(c), any person who fraudulently allows a child of another person to use his or her residence and is not the primary financial supporter of that child and any person who fraudulently claims to have given up custody of his or her child to a person in another district commits a disorderly persons offense. A student shall not be deemed ineligible under this subsection if the student resides with a district resident to avoid abuse or domestic violence."*

The Department and State Board should add language to protect students residing with persons other than parents or legal guardians to escape domestic violence. This addition would ensure that such students are given leeway to attend school in other districts as "affidavit students."

**N.J.A.C. § 6A:22-6.3(b) Calculation of tuition**

*“Nothing in this chapter shall preclude an equitable determination[, ] by the district board of education or the Commissioner, that[, when the particular circumstances of a matter so warrant,] tuition shall not be assessed for all or part of any period of a student’s ineligible attendance in the school district when the particular circumstances of a matter so warrant. In making such determination, the district board of education or Commissioner shall consider whether the ineligible attendance was due to a school district’s error.”*

The Department and State Board should revise this subsection, adding a specific criterion for the Commissioner’s or district board of education’s equitable determination not to assess tuition for ineligible attendance. A student should not be penalized for a district’s error, whether the mistake results from a misunderstanding of the student’s circumstances or a misinterpretation of the law.

## **Chapter 23A: Fiscal Accountability, Efficiency and Budgeting Procedures**

### **Overview**

Chapter 23A seeks to assure the financial accountability of boards of education through enhanced State monitoring, oversight and authority. The regulations also are designed to ensure that each district board of education adopts an annual budget that provides adequate resources to meet the State Constitution's mandate for a thorough and efficient system of free public schools for all children. The rules set forth the roles of the Commissioner and the executive county superintendent in overseeing board of education budgeting and expenditures. The rules also establish mechanisms to ensure the efficient expenditure of budgeted funds in a manner consistent with a district's approved annual budget. The Task Force recommends a number of changes to eliminate needless burdens on districts and their leaders while still ensuring fiscal responsibility for New Jersey's taxpayers.

### **N.J.A.C. § 6A:23A-3.4 Noncompliance with GAAP, review of certification of a SBA**

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

The Department and State Board should amend this regulation, which currently provides a mandatory referral to the Board of Examiners to review the certification of any school business administrator whose financial reports are not GAAP compliant. The proposed change would replace a mandatory reporting requirement with a more permissive standard to provide flexibility to the Commissioner in addressing the potential for good-faith mistakes and errors while maintaining the option for more serious action if and when warranted. Additionally, the date provided in the original regulation is proposed for removal to establish a standard with an indefinite term.

### **N.J.A.C. § 6A:23A-4.2(a) Compliance with State and federal income tax requirements [for income tax]**

*"[SBAs or any other person designated by the board of education] The school district auditor shall certify to the Federal Department of the Treasury on a form provided by the Department of the Treasury that all documentation prepared for income-tax related purposes, in regard to superintendents, assistant superintendents[,] and SBAs, complies fully with the requirements of Federal and State laws and regulations regarding the types of compensation [which] that are required to be reported."*

The Department and State Board should revise this regulation, which addresses the certification requirement relating to IRS filings. The proposed amendment would place this obligation on outside auditors rather than district employees. This change would eliminate the potential for a conflict of interest if the business administrator reviewed his or her own information and the information for his or her supervisor. By eliminating the possibility of self-oversight, this change would promote accuracy and

full disclosure while reducing the potential for conflicts of interest and minimizing the possibility of fraud.

**N.J.A.C. § 6A:23A-5.2(c) Public relations and professional services; board policies; efficiency**

*“[School district and county vocational school district publications shall be produced and distributed in the most cost-efficient manner possible that will enable the district to inform and educate the target community. The use of expensive materials or production techniques where lower cost methods are available and appropriate, such as the use of multi-color glossy publications instead of suitable, less expensive alternatives, is prohibited.]”*

The Department and State Board should eliminate this overly prescriptive regulation. The Department should not be in the business of determining what kinds of paper districts use. In light of the 2 percent property tax cap, which properly constrains increases in aggregate district spending, district administrators should have greater flexibility with regard to the nature of their expenditures.

**N.J.A.C. § 6A:23A-5.4(a) Violation of public school contracts law**

*“Pursuant to the authority granted the Commissioner under N.J.S.A. 18A:55-2 and 18A:7F-60, the Commissioner [shall] may subject to review for the withholding of State funds any school district or county vocational school district [which] that fails to obey the provisions of the Public School Contracts Law, N.J.S.A. 18A:18A-1 et seq.”*

The Department and State Board should amend this regulation, which requires the Commissioner to subject any district that violates the terms of the School Contract Law to a formal review as to whether State school aid should be withheld. This change would grant the Commissioner discretion in determining whether a failure to obey some provision of the Public School Contract Law escalates to the level that calls for a review of the district and possible withholding of State funds. This would provide flexibility to the Commissioner to ensure that resources are not wasted on unnecessary reviews or for trivial violations.

**N.J.A.C. § 6A:23A-5.5(a) Expenditure and internal control auditing**

*“[Pursuant to a phase-in schedule to be determined by the Commissioner, a school district or county vocational school district board that receives 50 percent or more of its general fund budget in State aid during the 2008-2009 school year] Any school district that has been identified by the Commissioner as requiring increased state oversight due to fiscal or operational irregularities shall engage an independent certified public accountant or independent certified public accounting firm, other than the accountant or firm that performs the annual audit pursuant to N.J.S.A. 18A:23-1 et seq., to conduct a valid sampling of expenditures made during the most recently completed school year [that the district received 50 percent or more of its general fund budget in State aid].”*

This regulation requires that certain troubled school districts go through a secondary review of internal controls. The Department and State Board should modify this regulation to reduce the burden on operationally and fiscally efficient districts. Although the State has a great interest in ensuring that taxpayer dollars are used in a responsible, efficient and effective manner, it should design a system that is not overbroad in its reach. This change would save taxpayer dollars and district resources.

**N.J.A.C. § 6A:23A-5.6(a) District response to Office of Fiscal Accountability and Compliance (OFAC) investigation report**

*“Any school district or county vocational school district that has been subject to an audit or investigation by the Department’s Office of Fiscal Accountability and Compliance (OFAC) [shall] may choose to discuss the findings [of the audit or investigation] at a public meeting of the district board of education if said findings clear the school district, district board of education members, employees or contractors of any wrongdoing. All other findings shall be discussed at a public meeting of the district board of education no later than 30 days after receipt of the findings.”*

This regulation requires that whenever the Department’s Office of Fiscal Accountability and Compliance (OFAC) conducts an investigation in a district, the finding must be reported and discussed at a public meeting of the board of education. Districts subject to an OFAC investigation where no negative findings were reported have expressed great frustration that this requirement wastes time and requires the school administrator to convince the public that the district did nothing wrong. The Department and State Board should modify this regulation to require district boards to discuss the results of the OFAC audit at a public meeting only if the audit reveals a violation or possible violation of administrative code or law. The change would reduce a burden on school districts as it is unnecessary to dedicate time at public board meetings to discuss the results of an investigation that requires no corrective action.

**N.J.A.C. § 6A:23A-5.6(b) District response to Office of Fiscal Accountability and Compliance (OFAC) investigation report**

*“Within 30 days of the public meeting required in (a) above, the district board of education shall adopt a resolution certifying that the findings of wrongdoing were discussed in a public board meeting and approving a corrective action plan to address the issues raised in the findings.”*

The Department and State Board should modify this regulation to require district boards to adopt a resolution and approve a corrective plan in response to an OFAC audit only if the investigation reveals a violation or possible violation of administrative code or law. Currently, whenever OFAC conducts an investigation in a district, the finding must be reported and discussed at a public meeting of the board of education and a resolution be adopted certifying that this requirement has been met and sent to OFAC. Districts where there were no negative findings regarding the OFAC investigation have expressed great frustration regarding this requirement as it wastes time and resources. When the audit reveals no need for correction, it is unnecessary to expend resources on a meeting, a plan of corrective action, and submission of such a plan for approval by the board of education.

**N.J.A.C. § 6A:23A-5.6(c) District response to Office of Fiscal Accountability and Compliance (OFAC) investigation report**

*“The findings of wrongdoing of the OFAC audit or investigation and the board of education’s corrective action plan shall be posted on the district’s web[ ]site[, if one exists].”*

The Department and State Board should amend this regulation, which provides that a district must post on its website a corrective action plan regarding any OFAC investigation report. School districts indicate the requirement wastes time and resources when the OFAC investigation yields no negative findings. The above addition would limit the publishing requirement to OFAC audits that reveal negative results to ensure the public is made aware of the findings. This would prevent the waste of time and resources on enforcing the reporting of a positive or neutral result of an investigation.

**N.J.A.C. § 6A:23A-5.7(a) Verification of payroll check distribution**

*“Beginning with the [2008-2009] 2012-13 school year, at least once every three years[,] between the months of September through May, [school districts and county vocational school districts] each school district identified by the Commissioner as requiring increased State oversight due to fiscal or operational irregularities shall require each school district employee to report to a central location(s) and produce picture identification and sign for release of his or her paycheck or direct deposit voucher. The school district may exclude per diem substitutes from the required verification. Other school districts are recommended but not required to undertake this procedure.”*

The Department and State Board should alter this regulation, which requires certain operationally and fiscally troubled districts to conduct a payroll verification at least once every three years. Regulations such as this one have their etiology in a departmental response to an isolated example of poor district decision-making, and the departmental response should not be generalized systemwide.

Under the amendments, all non-targeted districts would be given the opportunity to have their employees report and re-verify their identification triennially, but would not be required to do so. This change also would establish a new start date for this subsection because the code has been altered to reduce its scope, as discussed below. The regulatory changes would ease burdens on school districts that are running efficiently.

**N.J.A.C. § 6A:23A-6.7(a) Financial and human resource management systems; access controls**

*“School districts and county vocational school districts [with budgets in excess of \$25,000,000 or with more than 300 employees] that have been identified by the Commissioner as requiring increased State oversight due to fiscal or operational irregularities shall maintain an enterprise resource planning (ERP) system [which] that integrates into a unified system all data and processes of an organization[ into a unified system]. All other school districts are encouraged to implement similar systems. An ERP system*

*uses multiple components of computer software and hardware and a unified database to store data for the various system modules to achieve the integration.”*

The Department and State Board should adopt the above changes to limit the regulation only to districts that have been identified by the Commissioner as operationally or fiscally troubled as necessitating the data and process integration systems. Although larger districts have a greater need for integration to ensure efficiency and effective decision-making at the top levels, and to facilitate efficient auditing and oversight by the State, the application of this requirement to all large districts would be overbroad.

The above modification would better identify districts that will benefit from the systems and not prescribe them for districts that already operate efficiently and effectively. This change would lead to savings of taxpayer dollars and district resources.

**N.J.A.C. § 6A:23A-6.12(e) District vehicle assignment and use policy**

*“[Vehicle use logs shall be maintained for all individual and pool assignments in order to accurately record all usage of each vehicle, including the driver, mileage, and starting and destination points.]”*

The Department and State Board should eliminate the requirement that districts maintain use logs for all district-owned vehicles, including the driver, mileage, and starting and destination points. Districts should exercise careful oversight of district-owned property such as vehicles, but use logs are a cumbersome, burdensome, and minimally effective control mechanism.

**N.J.A.C. § 6A:23A-7 School district travel policies and procedures – Overview**

The regulations in this subchapter present a confusing and complex level of regulation through constant reference to and even enhancement of the N. J. Department of the Treasury, Office of Management and Budget Circulars 08-19-OMB and 06-14-OMB (OMB Circulars). School districts are well aware of the need to comply with OMB directives, and building a regulatory system on top of the circulars creates confusion leading to poor decision-making. In addition, it is impossible to update the regulatory code to reflect changes in OMB Circulars, leading districts into possible non-compliance in relying solely on Department regulations. Confusion also exists between the statutes and OMB Circulars. N.J.S.A. § 18A:11-12(c)3 clarifies that any OMB guidelines that conflict with N.J.S.A. § 18A are not applicable. The code references to OMB Circulars may have unintentionally given the impression that OMB Circulars are the ultimate authority in determining this policy, whereas the statute ultimately governs.

The Task Force recommends deleting from the Department’s code all reference to OMB Circulars.

**N.J.A.C. § 6A:23A-7.3(b)2 Maximum travel budget**

*“Regular school district business travel as defined in N.J.A.C. 6A:23A-1.2 includes attendance at regularly scheduled in-state county meetings and Department sponsored or association sponsored events provided*

*free of charge. It also includes regularly scheduled in-State professional development activities for which the registration fee does not exceed \$[150.00]300.00 per employee or board member.”*

The Department and State Board should amend this regulation, which establishes a limit on registration fees for State professional development activities. The above revisions would change the maximum per-employee per-event allowance from \$150 to \$300 to account for price changes over time. The change would more accurately reflect the original intent of the rule.

**N.J.A.C. § 6A:23A-7.3(b)3 Maximum travel budget**

*“Regular school district business travel as authorized in the board’s travel policy requires approval of the superintendent or his or her designee prior to obligating the school district to pay related expenses and prior to attendance at the travel event.”*

The Department and State Board should amend this regulation, which requires a superintendent to approve travel prior to attendance or incurring costs for travel. This revision would streamline the approval process by allowing a superintendent to designate personnel to approve travel requests.

**N.J.A.C. § 6A:23A-7.4(a) Travel approval procedures**

*“All travel requests for employees of the school district shall be approved in writing by the superintendent or his or her designee and approved by a majority of the full voting membership of the district board of education, except where the board has excluded regular business travel from prior approval pursuant to N.J.A.C. 6A:23A-7.3(b), prior to obligating the school district to pay related expenses and prior to attendance at the travel event.”*

The Department and State Board should amend this regulation, which requires a superintendent to approve in writing travel expenses prior to attendance or incurring costs for travel. This revision would streamline the approval process by allowing a superintendent to designate personnel to approve travel requests.

**N.J.A.C. § 6A:23A-7.5 Required documentation for travel**

*“(a) The board in its policy shall specify the [type of] minimum documentation required to justify [the number of employees attending an event and the benefits to be derived from their] attendance at the event; [(b) Neither the superintendent, or designee, nor the board shall approve a travel request unless it includes the following information ... (c) Detailed documentation shall be maintained on file in the school district which demonstrates compliance ...]”*

The Department and State Board should amend this regulation, which prescribes minimum documentation and information required to support each travel request. The current mandates exceed statutory requirements without meaningfully adding to the protections against wasteful spending.

Worse, districts must expend resources to comply with the mandate. The proposed changes would provide the board of education with flexibility in determining the information required and would streamline the approval process. It also would eliminate requirements that account numbers and funding sources be disclosed, as well as the requirement that the previous year's event cost be documented. The changes would set forth the minimum required information and give local boards flexibility to add additional requirements as they see fit.

**N.J.A.C. § 6A:23A-7.6(f) SBA responsibilities regarding accounting for travel**

*"The SBA shall sign an annual travel statement of assurance in the format prescribed by the assistant commissioner of the Division of Administration and Finance."*

The Department and State Board should adopt this new subsection, which the Task Force believes would provide an added level of protection given the greater flexibility proposed elsewhere in this subchapter. The addition of the travel statement of assurance requirement merely would ensure that the school business administrator is held accountable for adhering to the policies and procedures prescribed above. This change would establish an extra safeguard to ensure that policies are followed without creating additional substantive requirements.

**N.J.A.C. § 6A:23A-7.7(d) Sanctions for violations of travel requirements**

*"[The board policy shall include procedures to monitor compliance and application of the penalty upon determination a violation has occurred after board payment of the event. If a violation is determined prior to payment or reimbursement of the travel event, the board policy may exclude application of any additional penalties.]"*

The Department and State Board should delete N.J.A.C. § 6A:23A-7.7(d) and the requirement that districts include in their travel policy both compliance-monitoring and punishment-monitoring procedures (when there is a violation). The current provision is unnecessarily prescriptive given the approval process established elsewhere in law and code.

**N.J.A.C. § 6A:23A-7.12(f)5 Meal allowance – special conditions – and allowable incidental travel expenditures**

*"The school district shall purchase or prepare food that [are] is sufficient to provide each board member, dignitary, non-employee speaker or allowable staff member one meal. Meals should be carefully ordered to avoid left-overs. [Unintended left-over food should be donated to a charitable shelter or similar facility, if at all possible.]"*

This subsection provides unnecessary recommendations that school districts make provisions to donate any excess catered food to charitable organizations. While the intention of supporting charitable organizations is certainly laudable, it is frequently impractical for school districts to arrange such small

donations or for charitable organizations to accept donations of food that may no longer be suitable for consumption. Existing rules provide sufficient controls on the ability of school districts to order excessive catering.

**N.J.A.C. § 6A:23A-9.3(c)3 Efficiency standards for review of administrative and non-instructional expenditures and efficient business practices**

*“[Custodians and janitors on a ratio of one for every 17,500 square feet of building space calculated on a district-wide basis;]”*

The Department and State Board should eliminate this subsection, which requires executive county superintendents to review district budgets for administrative and non-instructional expenditures. One of the indicators includes the deployment of custodians and janitors. The criteria concerning custodial and maintenance staff is overly prescriptive and an unnecessary restriction on school district discretion. Although the restriction technically applies to the budget review process by executive county superintendents, it has come to establish an unintended norm for all districts. In light of the 2 percent property tax cap, which properly constrains increases in aggregate district spending, district administrators should have greater flexibility with regard to the nature of their expenditures.

**N.J.A.C. § 6A:23A-9.3(c)8 Efficiency standards for review of administrative and non-instructional expenditures and efficient business practices**

*“[Vacant positions budgeted at no more than step one of the salary guide unless justification for the additional amount has been approved by the Department.]”*

The Department and State Board should delete this regulation, which provides criteria to be used during the budget review process to determine efficient administrative and non-instructional costs. The proposed changes would delete language concerning the salary guide. Currently, regulations impede districts from compensating new employees at levels beyond the initial step of the salary guide, regardless of their prior experience and other qualifications. Although this restriction technically applies to the budget review process by executive county superintendents, it has come to establish an unintended norm for all districts. In light of the 2 percent property tax cap, which properly constrains increases in aggregate district spending, district administrators and educators should have the flexibility to attract and hire the best educators.

**N.J.A.C. § 6A:23A-9.3(c)9 Efficiency standards for review of administrative and non-instructional expenditures and efficient business practices**

*“[Aides that are not mandated by law or required by an IEP employed only when supported by independent research-based evidence that demonstrates the use of aides is an effective and efficient way of addressing the needs of the particular student population served.]”*

The Department and State Board should delete this regulation, which provides criteria to be used during the budget review process to determine efficient administrative and non-instructional costs. The proposed change would delete language limiting the use of aides who are not mandated by law or an IEP. There are valid justifications for use of aides beyond the requirements of law and IEPs. In light of the 2 percent property tax cap, which properly constrains increases in aggregate district spending, district administrators should have greater flexibility to determine staffing within their schools.

**N.J.A.C. § 6A:23A-9.3(c)14 Efficiency standards for review of administrative and non-instructional expenditures and efficient business practices**

*“[Public relations services that are incorporated into the duties of the superintendent, business administrator and/or other staff position or positions and not provided by a dedicated public relations staff position or contracted service provider. Public relations functions as defined in (c)14i and ii below should not comprise more than 50 percent of the duties of any one staff position.]”*

The Department and State Board should delete this regulation, which provides criteria to be used during the budget review process to determine efficient administrative and non-instructional costs. The proposed change would delete language limiting public relations services. The Task Force believes that decisions about how to best keep families and the community informed and empowered should be left to districts. In light of the 2 percent property tax cap, which properly constrains increases in aggregate district spending, district administrators should have greater flexibility with regard to the nature of their expenditures.

**N.J.A.C. § 6A:23A-9.5(a) Commissioner to ensure achievement of the Core Curriculum Content Standards; corrective actions**

*“(a) A district board of education shall be subject to action by the Commissioner, as part of the budget approval process, upon the failure of one or more schools within the district to achieve the Core Curriculum Content Standards as evidenced by existing Statewide assessment methods or other statutory or regulatory methods of evaluation. At the mid-term assessment of expenditures, the county office of education may make recommendations regarding the budget development by the school district for the upcoming year.”*

The Department and State Board should amend this regulation, which provides for a budget review based on achievement of the Core Curriculum Content Standards for poor-performing districts. The proposed change would provide for a mid-term review.

**N.J.A.C. § 6A:23A-16.5(d)1 Supplies and Equipment**

*“... [Quotations for fresh or frozen fruits, vegetables and meats need not be solicited more than once in any two-week period.]”*

The Department and State Board should remove this subsection, which concerns quotations for food supplies from vendors. The proposed amendment would delete the requirement that quotations for certain foods not be solicited more than once every two weeks. This regulation is overly prescriptive.

**N.J.A.C. § 6A:23A-16.14 Dismissal or re-assignment of a school business administrator**

*“[(a) In order to protect the integrity of the school business administrator office, a district board of education shall submit to the executive county superintendent a written justification for the non-renewal, dismissal for cause, re-assignment or elimination of the position of a school business administrator, or the individual duly certified and performing the duties of a school business administrator, within 48 hours of said notification by the district board of education to the affected employee. ...]”*

The Department and State Board should delete this regulation, which requires notice to the executive county superintendent regarding transfer or dismissal of the school business administrator. The proposed change would eliminate an unnecessary step in the transfer or dismissal process.

**N.J.A.C. § 6A:23A-18 Tuition for Private Schools for Students with Disabilities - Overview**

The Department and State Board should revise this section to change the methodology for determining the tuition rate at private schools for students with disabilities (“PSSD”). Under the current rate-setting method, the Department establishes a tentative payment rate at the beginning of a school year for each disability classification and then makes a comparison between the amount paid at the tentative rate and the certified actual cost per student. If the certified actual cost per student is less than the tentative rate, then the PSSD must refund the overpayment to the sending districts. But if the certified actual cost per student is more than the tentative rate, the sending district must pay the PSSD in amount equal to the difference between the two amounts. As part of this process, the Department is charged with conducting a rigorous review of the accounting and expenditures at PSSDs, even to the point of having to review every dollar spent to determine whether it was for legitimate educational purposes. The ultimate goal of the process is to reconcile the rate so the actual amount paid is equal to the actual cost to educate the student. Therefore, the costs should be contained and controlled as a result.

However, there have been several problematic issues in practice. The very rules intended to control costs have facilitated growth of spending in some cases. For instance, current regulations stipulate that no PSSD administrator may be paid more than the highest paid public school employee in the State with the same administrative job title. As the below chart shows, the resulting maximum salaries far exceed comparable salaries at traditional public schools. Further, under the current system for determining PSSD tuition, PSSDs have little incentive to contain the growth of employee salaries so long as they remain below maximum levels. As a result, salaries have become targets rather than controls on PSSD spending.

This procedure appears to have been ineffective at controlling costs, as the rates for PSSD tuition have increased substantially since the inception of this regulation. It is worthwhile to note that the certified actual cost of tuition is almost always determined to be higher than the tentative rate, even after the Department conducts its review. Second, the demands of an effective review and reconciliation of rates for every PSSD strains the capacity of the Department’s finance staff. Finally, this process has led to ill-will among the parties involved. Taxpayers are suspicious that PSSDs are deliberately and artificially increasing their costs; PSSDs are suspicious that they have been targeted for extreme scrutiny and have been given an automatic presumption of dishonesty; and school districts are made party to a payment system over which they have little control and that almost always results in districts ultimately having to pay large amounts to PSSDs for underpayment of tuition.

If adopted, the proposal for this subchapter would change the process in significant and substantial ways that we believe would lead to more satisfactory results than those yielded by the current system. The first step in the new process would be to change the method

<b>Position</b>	<b>County</b>	<b>Max. salary</b>
Chief school administrator	Statewide	\$225,734
Supervisor	Bergen	\$187,038
Principal	Statewide	\$160,817
General teacher	Morris	\$153,204
Health/physical ed. teacher	Hudson	\$149,803
Special education teacher	Bergen	\$144,340
Physical therapist	Burlington	\$141,268
Guidance counselor	Middlesex	\$140,526
Librarian	Essex	\$133,987

by which the tuition rate is determined. “Tuition rate” would be defined as “the rate that may be charged to a sending district board of education for the school year determined by the assistant commissioner of the Division of Administration and Finance pursuant to N.J.A.C. 6A:23A-18.2.” The tuition rate would be set by the assistant commissioner in consultation with a stakeholder committee made up of nine members. It would not necessarily be the amount charged by a PSSD to a district, but instead would be a maximum rate amount and therefore inclusive of any lower rate. The current rate would be set by the assistant commissioner with due consideration to the rate from the prior year and other relevant factors, which would allow for both consistency and the flexibility to act pursuant to new circumstances, if needed. The rate would be comprised of both administrative and instructional costs. The minimum amount of tuition that must be spent on instructional costs would increase to 60 percent, and the maximum amount of tuition that may pay for administrative costs would decrease to 20 percent.

Two categories of expenses -- extraordinary expenses for an individual student as required by that student’s IEP and student-specific transportation expenses -- would be excluded from the new tuition rate amount. If either expense was required by an IEP, the amount to be paid would be determined in

the contract negotiated between the parties and paid to the PSSD by the district in addition to the tuition rate.

It should also be noted that throughout the current subchapter there are numerous references to the tentative tuition rate and the certified actual cost per student that would also require revising to bring the subchapter in accord with the proposed changes. Generally, this revision would consist of removing such references and, where appropriate, replacing them with references to the maximum tuition rate set under the proposed process.

The intention embodied in this entire proposal would allow for a flexible process that would encourage more robust negotiations between the parties with the expectation that costs would be reasonably controlled through such negotiations. The proposal also has a few simple measures for stabilizing and containing costs, as well as ensuring that certain minimum standards are met in the allocation of expenses. It is recommended that the Department and State Board periodically review and revise this regulation as described herein to achieve simplicity in the process and to effectuate results that are realistically more obtainable than those pursued currently.

**N.J.A.C. § 6A:23A-[22.7]22.5(a) Charter school response to Office of Fiscal Accountability and Compliance (OFAC) investigation report**

*“Any charter school that has been subject to an audit or investigation by the Department’s Office of Fiscal Accountability and Compliance (OFAC) [shall] may choose to discuss the findings [of the audit or investigation] at a public meeting of the [charter school] board of trustees if said findings clear the charter school, board of trustee members, employees or contractors of any wrongdoing. All other findings must be discussed at a public meeting of the board of trustees no later than 30 days after receipt of the findings.”*

The Department and State Board should amend this regulation, which stipulates requirements regarding OFAC investigations. Boards of Trustees of charter schools should be required discuss the findings of an OFAC investigation only if a violation or possible violation is determined to have occurred. This revision is consistent with a proposal earlier in the chapter to provide the same flexibility to other public schools.

**N.J.A.C. § 6A:23A-22.7(c) Charter school response to Office of Fiscal Accountability and Compliance (OFAC) investigation report**

*“The findings of violations or possible violations of the OFAC audit or investigation and the board of trustees’ corrective action plan shall be posted on the charter school’s website.”*

The Department and State Board should adopt this regulation, which would provide an additional requirement regarding OFAC investigations. Charter schools should be required to post an OFAC audit or investigation on their website only if there are negative findings. The addition of this language is consistent with another proposal in this chapter to ease requirements placed on other public schools.

**N.J.A.C. § 6A:23A-22.[8]6(a) Verification of payroll check distribution**

*“Beginning with the [2009-2010]2012-13 school year, each charter school identified by the Commissioner as requiring increased State oversight due to fiscal or operational irregularities shall, at least once every three years[,] between the months of September through May, [charter schools shall] require each charter school employee to report to a central location(s) and produce picture identification and sign for release of his or her paycheck or direct deposit voucher. The [district] charter school may exclude per diem substitutes from the required verification. Other charter schools are recommended but not required to undertake this procedure.”*

The Department and State Board should amend this regulation, which requires all charter schools to verify payroll at least once every three years. The change would target the requirement only to charter schools identified by the Commissioner as requiring increased State oversight due to fiscal or operational irregularities. All non-targeted charter schools would be given the opportunity to have their employees report and re-verify their identification triennially, but would not be required to do so. This change also would establish a new start date for this subsection because the code has been altered to reduce its scope.

The regulatory changes would ease burdens on charter schools that are running efficiently and are consistent with requirements in this chapter proposed for other public schools.

## Chapter 26: Educational Facilities

### Overview

This chapter helps ensure that the State’s educational facilities are safe, healthy and able to support an effective educational environment. The revisions proposed by the Task Force eschew overly particular district reporting requirements and adopt easily adjustable, more convenient means of communications between the Department and local administrators. In addition, regulations referring to repealed or expired statutes are proposed for elimination.

The Task Force also recommends that the Department and State Board eliminate Chapter 26A, which governs comprehensive maintenance plans, and merge its substance into a new subchapter of Chapter 26, Sections 20.1 through 20.9. Providing educators with duplicate provisions relating to school facilities in multiple chapters of code is confusing and detracts from a key Task Force objective – ease of reference. Reducing the amount of time local administrators spend navigating the regulatory code and interpreting relevant rules would allow more resources to be devoted to improving student outcomes.

### **N.J.A.C. § 6A:26-2.2 Completion of long-range facilities plans<sup>28</sup>**

*“(a) Each LRFP shall include: 1. Enrollment projections for the school district for the five years covered by the plan, by grade level, as set forth in the Fall Survey Report for grades K through 12 and the ASSA for preschool programs, and utilizing enrollment figures as of October 15 of the previous year as the base enrollment figures. Students enrolled in the school district who are attending charter schools, students attending the schools of the school district pursuant to the school choice program, and students enrolled in the school district but attending private schools for the disabled shall be separately identified in enrollment projections, and shall be excluded from the calculation of the number of unhoused students pursuant to (b) below. i. The enrollment figures shall be certified by a qualified demographer; ...]”*

As described in the statute section of this Final Report, the Task Force recommends to eliminate the statutory mandate on all districts to produce LRFPs. Absent this statutory change, the Task Force recommends the below changes to existing code to ease the burden currently borne by districts.

To streamline the reporting process for long-range facilities plans (LRFPs), the Department and State Board should eliminate this section. Currently, regulations dictate that school districts must complete the LRFP using Department-provided software, which already delineates precisely what the LRFP must include. Placing several pages of detail in Department regulations is duplicative and also limits the Department’s flexibility to alter reporting requirements as the need arises.

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<sup>28</sup> Long-range facilities plans are documents required by statute that detail a school district's school facilities needs and its plan to address their needs for the ensuing five years.

**N.J.A.C. § 6A:26-2.3(b) and (d) Review and approval of long-range facilities plans**

*“(b) Within 60 days of the date of the notification that a plan is complete, the Commissioner shall notify the school district of the final determination of the LRFP. A final determination shall set forth: ... [5. A final determination of programmatic models designed by the school district to support the achievement of the Core Curriculum Content Standards by the FTE students in the school district; 6. Spaces approved as additional space pursuant to (d) below;] ... [8. Spaces in excess of the facilities efficiency standards which may not be eligible for State support; 9. Facilities not eligible for State support;] ... [11. Identification of school facilities for which new construction was proposed in lieu of rehabilitation ... (d) The Commissioner shall, as part of the approval of the LRFP, approve requests for additional or inconsistent space ...]”*

The Department and State Board should eliminate the above provisions that require the Department’s Division of Administration and Finance to make determinations concerning districts’ future construction projects while reviewing long-range facilities plans — a document each district submits up to five years in advance of actual construction. It would be more appropriate to make such decisions during the project review stage.

**N.J.A.C. § 6A:26-3.2(b) School facilities projects**

*“An application for a school facilities project shall [contain the following information: ... 15. Any additional information that a school district deems relevant for the Commissioner’s review of the school facilities project] be submitted on a form supplied by the Commissioner.”*

The Department and State Board should revise this section. Rather than using the regulatory code to codify a list of what must be included in a facilities project application, the proposed change would require districts to use a form designated by the Commissioner. The proposed alternative would give the Commissioner discretion and simplify the process of modifying the application procedure as the need arises.

**N.J.A.C. § 6A:26-6.5 Private schools for disabled students and schools for disabled students operated by the New Jersey Department of Human Services**

*“(a) This section shall govern review of project documents for capital projects at private schools for disabled students [which] that are approved or seeking approval pursuant to N.J.A.C. 6A:14-7 [and schools for disabled students operated by the Department of Human Services]. Review and approval by the [Division] division is required for the type of work set forth in N.J.A.C. 6A:26-5.1(a). (b) Submission and review of plans and specifications shall be conducted as follows: 1. Educational specifications shall be prepared and submitted pursuant to N.J.A.C. 6A:26-5.2, and schematic plans shall be prepared and submitted pursuant to N.J.A.C. 6A:26-5.3 [except that they shall be signed by the executive director and board president of the private schools for disabled students or the New Jersey Department of Human Services.] ... ”*

The Department and State Board should remove PSSDs from the requirements of a Department review of “project document for capital projects.” Also burdensome on the Department, the rule is unnecessary in light of local municipal zoning and construction standards, which should be sufficient to address the safety and standards needed when a school is constructed.

### ***Chapter 26A: Comprehensive Maintenance Plans***

This chapter contains rules detailing the required components of each district's comprehensive maintenance plan for school facilities, which is mandated by the 2000 Educational Facilities Construction and Financing Act. As stated previously, the Task Force recommends the prescriptive requirements of Chapter 26A be reduced and the remaining requirements be transferred to Chapter 26: Educational Facilities, thereby eliminating the need for this chapter.

## Chapter 27: Student Transportation

### Overview

Chapter 27 provides rules governing the transportation of students to and from school and school-related activities. The Task Force found a number of areas for improvement. For example, districts should have more flexibility to choose between providing transportation through inter-district partnerships and giving families aid in lieu of transportation. Next, transportation regulations promulgated by the Motor Vehicle Commission regarding school buses should not be duplicated in this chapter. Lastly, rules regarding when transportation contracts may be renewed should be clarified.

Small changes in this chapter would provide greater flexibility to districts, eliminate redundant code and ensure fiscal responsibility.

### N.J.A.C. § 6A:27-3.1(h) General provisions

*“Charter schools may use general funds for nonmandated student transportation.”*

The Department and State Board should add language to resolve any confusion concerning charter schools’ voluntary provision of student transportation. Although charter schools are mandated by statute or regulation to provide transportation to certain students, this revision would clarify that the schools also have the authority to provide transportation services to additional students if they so choose.

### N.J.A.C. § 6A:27-10.1(c) and (d) General requirements

*“(c) Resident district boards of education shall utilize a CTSA to transport students going to a special education or vocational school located outside of the resident school district[, and nonpublic school students whose parents received aid in lieu of transportation in the prior school year]. District boards of education may also utilize the CTSA for any other transportation needs. (d) [Transportation for a special education or vocational school student newly assigned to a school located outside of the resident school district, or a newly registered nonpublic school student for which no route currently exists, shall be given to a CTSA. If the CTSA is unable to coordinate transportation for this student with students from other school districts, the resident district board of education may choose to provide the transportation or, in the case of nonpublic school students, pay aid in lieu of transportation.] Resident district boards of education that paid aid in lieu of transportation in the prior year or have determined they cannot provide transportation for the ensuing school year shall attempt to utilize a CTSA before paying aid in lieu of transportation.”*

The Department and State Board should revise this section, clarifying when districts are required to use Coordinated Transportation Service Agencies (CTSA) — inter-district partnerships designed to pool resources and lower transportation costs. Under the suggested amendment, subsection (c) would expressly state that transportation to special education or vocational schools in other school districts

must be accomplished by means of a CTSA. However, consistent with N.J.A.C. 6A:27-2.1(b)2, school districts that fall under the requirements of subsection (d) would be allowed to attempt to use a CTSA but would need not do so if it is not the most cost-effective means of providing transportation.

### *Chapter 30: Evaluation of the Performance of School Districts*

We proposed in the Initial Report a fundamentally revised system of accountability for the State. The proposal included recommended revisions to QSAC that would replace both NCLB and QSAC and would provide new approaches to supporting schools' improvement efforts. In some respects, this recommendation will require statutory changes in addition to the federal approval of flexibility from ESEA that was granted in February 2012, and, thus, will not be implemented in full in time for the upcoming 2012-13 school year. In the meanwhile, a Department working group examined the regulations implementing QSAC to streamline the current process within the confines of the existing statute. The Task Force wholeheartedly endorses the resulting regulatory reform, which the State Board of Education adopted on March 7, 2012.

Under QSAC, the Department evaluates school districts in five areas: fiscal management, governance, instruction and program, operation management, and personnel. Districts were measured on a total of 334 indicators within the five review sections. Under the statute, districts must meet 80 percent of the indicators in all five areas to be State certified; districts falling below 80 percent in one or more sections must implement an improvement plan and other actions as directed by the Department.

The streamlined process keeps the five review sections intact, but reduces the number of indicators from 334 to 54. In addition, the new process calls for each superintendent to annually submit to the Department a "statement of assurance" to verify that the school system is meeting 49 other standards in each of the five sections. Each school board must approve the document by saying that it attests, to the best of its knowledge, that the district is complying with the standards in the statement of assurance.

Making the QSAC process more efficient and less time-consuming will allow districts to more efficiently use limited resources and to focus attention on factors that directly impact student achievement. While this regulatory reform should not be viewed as a substitute for more comprehensive reform, the revision will yield better data for the Department and districts while substantially reducing the compliance burden of the current process.

## Chapter 32: School District Operations

### Overview

Chapter 32 outlines the State's rules regarding schools' daily operations. It addresses issues related to the employment of teachers and administrators and their evaluation. Changes recommended by the Task Force included new limitations on physical examinations of teachers, alongside the statutory recommendation that the antiquated procedure be eliminated from law. The Task Force also suggests that districts be allowed and encouraged to store student records electronically.

The Task Force suggests eliminating the section related to failing schools, as its proposed remedy is more bureaucracy, rather than greater focus on student performance. The State should also revise this chapter's references to dropouts, since current regulations imply acceptable dropout levels. The State should instead be encouraging all students to graduate prepared for a lifetime of success in college and career.

### **N.J.A.C. § 6A:32-3.1(a) Special meetings of district boards of education**

*"The secretary of the district board of education shall call a special meeting of the district board of education whenever: 1. Requested by the president of the district board of education [to do so]; [or] 2. Requested by the chief school administrator; or 3. [When presented] Presented with a petition signed by a majority of the full membership of the district board of education requesting the special meeting."*

The Department and State Board should revise this subsection in response to feedback from superintendents. A chief school administrator, in addition to the board's president, should be allowed to unilaterally call a special meeting of a district board of education. This will provide flexibility for the superintendent to assemble the board for urgent matters.

### **N.J.A.C. § 6A:32-4.1(b) through (d) Employment of teaching staff**

*"(b) Each district board of education shall determine [the types of background experiences and personal qualities, if any, that the school district requires or prefers successful candidates for specific positions to possess in addition to appropriate State certification. Such local requirements shall be based upon a careful review of the position in question, and the requirements shall emphasize the nature of experience and the quality of individual achievement desired, rather than only the amount of experience.] guidelines for the hiring of all staff. (c) No teaching staff member shall be employed by any district board of education unless he or she is the holder of a valid certificate (see N.J.S.A. 18A:26-2). [In addition, district boards of education should exercise their right and responsibility to require job candidates to present other, more detailed documentation of their competency. Such documentation includes resumes, references, records of past experiences, college transcripts, certification test scores, assessment reports, internship evaluations, and other documentation of competency relevant to the specific position.] [(d) District boards of education shall assign to administrative positions those functions that are consistent with the individual qualifications of the position occupant, and shall support the establishment of*

*structures for making instructional decisions that take administrator qualifications into account.] [(e) Teaching staff members shall be employed by the district board of education based upon the specific instructional needs of students of the school district and each school within the district.] (d) Pursuant to N.J.A.C. 6A:9, Professional Licensure and Standards, the district board of education shall provide certified personnel needed to implement a thorough and efficient system of free public schools.”*

The Department and State Board should eliminate subsection (d), along with provisions of subsections (b), (c), and (e). As with other subchapter regulations that govern the employment and supervision of teaching staff, the current regulatory language offers only vague and abstract guidance where commonsense determinations of district boards of education should control.

Additionally, the Task Force recommends in the statutory recommendations section restructuring the employment process to empower superintendents to hire new district employees subject to a vote by the district board authorizing a new position.

**N.J.A.C. § 6A:32-4.1((f))(e) Employment of teaching staff**

*“Each school shall be assigned the services of a full-time [non-teaching] principal to be responsible for administration and supervision of the school. [1.] When a full-time [non-teaching] principal is not assigned to a school, the district board of education, upon advice of the chief school administrator, shall submit to the Commissioner for approval a plan that ensures adequate supervision of students and staff.”*

*The Department and State Board should revise this regulation, which currently mandates that every school employ a full-time principal who may not hold any teaching responsibilities. While the primary responsibility of the principal should continue to be administration and supervision of the school, the principal should be allowed to have limited teaching responsibilities, such as providing coverage for an absent teacher or leading a particular class. For schools that are very small or that operate using an unorthodox model, such as a teacher cooperative, this regulation enables these schools to utilize an alternative approach to supervising students and staff, in lieu of a full-time principal, with the approval of the Department.*

**N.J.A.C. § 6A:32-4.2 Full-time employment of teachers**

*“[(a) The district board of education shall prescribe the period of time in each day required for full-time employment of teachers that shall not be less than four clock hours. (b) Any full-time teacher employed in both a morning and an afternoon session shall be entitled to a duty-free lunch period during the hours normally used for lunch periods in the school. The duty-free lunch period shall not be less than 30 minutes except in a school where the lunch period for students is less than 30 minutes. In such cases, the duty-free lunch period shall not be less than the lunch period time allowed to students.]”*

The Department and State Board should delete this section. Decisions concerning such matters as the appropriate length of a teacher's lunch period are best left to the discretion of district boards of education and to terms of collective bargaining agreements.

**N.J.A.C. § 6A:32-4.3(i) Evaluation of tenured and nontenured chief school administrators**

*"The evaluation procedure for a nontenured chief school administrator shall be completed by April [30]15 each year."*

The Department and State Board should revise the date by which a district board must complete its superintendent evaluation. For districts that hold school board elections in April, the current April 30 deadline means newly elected board members might be required to evaluate the chief school administrator just days after taking office, which is well before they are sufficiently knowledgeable about the administrator's performance. The April 15 deadline would ensure that evaluations are completed by incumbent district board members.

**N.J.A.C. § 6A:32-[4.7]4.3 Approval of paraprofessional staff**

*"[(a) The county superintendent shall annually approve school aides and/or classroom aides who assist in the supervision of student activities under the direction of a principal, teacher or other designated certified professional personnel. (b) In order to employ a paraprofessional, the district board of education shall develop a job description and standards for each appointment. The description and standards shall be based on the school district's needs and shall include: 1. The duties to be performed; 2. The types of proficiencies needed; 3. The academic and/or experience qualifications; 4. The arrangement for supervision of the aide; and 5. The compensation. (c) The chief school administrator shall submit the job description and standards in (b) above to the county superintendent for approval. The county superintendent shall review the description and standards proposed for classroom aide positions. If, after review of the description and standards, the county superintendent determines that the school district requires the paraprofessional position, he or she shall approve the school district's use of the position and notify the district board of education in writing of the approval.] (a) Statements of assurance affirming that all paraprofessional staff hired were employed as instructional or health and safety personnel or in accordance with the requirements of IEPs shall be submitted to the executive county superintendent by September 30 and January 31."*

The Department and State Board should alter the current system for employment of paraprofessional staff. Requiring executive county superintendent approval of each individual hire is onerous to both district boards of education and executive county superintendents. Due to the volume of requests for approval, executive county superintendents are currently unable to perform a meaningful review of districts' hiring decisions. The suggested revision grants districts autonomy in the employment of instructional or health and safety paraprofessional personnel and paraprofessionals hired for special education purposes. Superintendents would be required to submit statements of assurance twice per

school year affirming the district's adherence to this rule, instead of seeking executive county superintendent approval for each individual hire.

**N.J.A.C. § 6A:32-[4.8]4.4(a)3 Support residencies for regularly-certified, inexperienced first-year principals**

*"[As part of the support residency, the school district] The new principal shall [require the new principal] be required to undergo an assessment of performance at a State-approved center, college or university with a principal certification program during the pre-residency phase. The sole purpose of this assessment shall be to provide a diagnosis of strengths and weaknesses as a basis for designing continuing education and support exercises."*

The Department and State Board should revise this subsection, allowing new principals to undergo required assessments at State-approved colleges and universities, in addition to existing certification centers. This addition would broaden the variety of options available to principals who, in turn, would benefit from the training experience of New Jersey's institutions of higher education.

**N.J.A.C. § 6A:32-6.2. Policies and procedures for employee physical examinations**

*"[District] Pursuant to N.J.S.A. 18A:16-2, district boards of education shall adopt written policies and procedures for the physical examination of [employees, and may adopt written policies and procedures for candidates for employment. Such policies shall be based on the advice and recommendation of the school district medical inspector,] candidates for employment and, where applicable, for the physical examination of employees. The policies shall provide for notification to school employees regarding the requirements for physical examinations[,] and establish procedures to assure confidentiality during the collection, transmission and storage of employee medical records [pursuant to N.J.A.C. 6A:32-6.3(f)]."*

The Department and State Board should revise this section to rectify an error. The regulation currently incorrectly construes its underlying statute, N.J.S.A. 18A:16-2. The law requires the physical examination of candidates for employment, but leaves the examination of current employees to a district's discretion.

Additionally, the Task Force recommends in the statutory recommendations section repealing the law mandating that districts require any candidate with a conditional offer of employment to undergo a physical examination. This statutory change would render moot the regulations.

**N.J.A.C. § 6A:32-6.3(a) and (b) Requirements of physical examinations**

*"(a) [Any candidate for employment may be required to undergo a physical examination that may include, but not be limited to, health history, health screenings and medical evaluation and drug testing. The preemployment physical examination shall not be used to determine a candidate's disabilities. Such examination] Physical examinations shall be used only to determine whether [the] an applicant is able to*

*perform with reasonable accommodation job-related functions pursuant to P.L. 101-336, Americans with Disabilities Act of 1990 or when a school district determines that there is a reasonable basis that such an examination would be necessary to protect the health of students. [(b) Newly employed staff shall be required to undergo a physical examination which shall include, but not be limited to: 1. A health history completed by the individual or his or her physician which shall include: i. Past serious illnesses and injuries; ii. Current health problems; iii. Allergies; and iv. Record of immunizations. 2. Health screenings which shall include: i. Height and weight; ii. Blood pressure; iii. Pulse and respiratory rate; and iv. Vision screening, hearing screening and Mantoux test for tuberculosis. 3. A medical evaluation which shall include, but not be limited to, a record of immunizations. Guidance regarding immunizations for adults may be found in the document, Adult Immunization: Recommendations of the Immunization Practices Advisory Committee (ACIP). Copies are available from the Immunization Program, Centers for Disease Control, Public Health, United States Department of Health and Human Services, Atlanta, Georgia 30333.]”*

The Department and State Board should eliminate portions of subsection (a) and all of subsection (b). Until statutory changes in line with the Task Force’s earlier recommendations are made, districts should use preemployment physical examinations of candidates solely for two purposes – to assure that an applicant is able to perform with reasonable accommodation job-related functions pursuant to the Americans with Disabilities Act of 1990 or to establish that the candidate’s hiring would not interfere with the health of students. The change would respect teaching candidates as professionals, protect student health and provide clarification to districts, all within the statutory framework of N.J.S.A. 18A:16-2.

**N.J.A.C. § 6A:32-7.4 Maintenance and security of student records**

*“(a) The chief school administrator or his or her designee shall be responsible for the security of student records maintained in the school district and shall devise procedures for assuring that access to such records is limited to authorized persons. [(b) Records for each individual student shall be maintained in a central file at the school attended by the student. When records are maintained in different locations, a notation in the central file as to where such other records may be found is required. 1. Each district board of education shall maintain student health records in a secure accessible manner: i. Records shall be located in a locking cabinet or room; ii. Records kept in electronic form shall be both accessible and secure;] (b) School districts may store electronically all documents. [iii.] (c) Student health records, whether stored on paper or electronically, shall be maintained separately from other student records, until such time as graduation or termination whereupon the health history and immunization record shall be removed from the student’s health record and placed in the student’s mandated record. [iv. Records shall be located in the school building or complex to which the student is assigned; and v.] (d) Records shall be accessible during the hours in which the school program is in operation. [(c)] (e) When records are stored [in a computerized system, computer programmed security blocks are required to protect against any security violations of the records stored therein. To guard against the loss of student records, school districts shall maintain an updated hard copy and backup versions of student records] electronically, appropriate security and backup procedures shall be administered.”*

As part of an effort to modernize districts' record-keeping practices and reduce costs, the Department and State Board should revise this section. Districts should be encouraged to store future records electronically, which would reduce storage and maintenance costs. Districts with secure, backed-up electronic storage systems would no longer be required to maintain hard copies of student records. Additionally, districts would be permitted to store records centrally rather than at each student's school so long as the records are accessible during the school day. Provisions relating to the storage of paper records would be retained. The changes would reduce financial and operational burdens on districts while ensuring the security of vital records.

**N.J.A.C. § 6A:32-7.8(b) through (e) Retention and disposal of student records**

*“(b) Student records of currently enrolled students, other than [that] records described in [(e)] (d) below, may be disposed of after the information is no longer necessary to provide educational services to a student. [Such disposition shall be accomplished only after written parental or adult student notification and written parental or adult student permission has been granted or after reasonable attempts of such notification and reasonable attempts to secure parental or adult student permission have been unsuccessful.] (c) Upon graduation or permanent departure of a student from the school district[:], information in student records, other than that described in (d) below, may be disposed of, but only in accordance with the Destruction of Public Records Law, N.J.S.A. 47:3-15 et seq. [1. The parent or adult student shall be notified in writing that a copy of the entire student record will be provided to them upon request. 2. Information in student records, other than that described in (e) below, may be disposed of, but only in accordance with the Destruction of Public Records Law, N.J.S.A. 47:3-15 et seq. Such disposition shall be accomplished only after written parental or adult student notification and written parental or adult student permission has been granted, or after reasonable attempts at such notification and reasonable attempts to secure parental or adult student permission have been unsuccessful and prior written authorization has been obtained from the New Jersey State Records Committee in the New Jersey Department of State. (d) No additions shall be made to the record after graduation or permanent departure without the prior written consent of the parent or adult student.] [(e)] (d) The New Jersey public school district of last enrollment, graduation or permanent departure of the student from the school district shall keep for 100 years a mandated record of a student’s name, date of birth, name of parents, gender, citizenship, [address, telephone number,] health history and immunization, standardized assessment [and test answer sheet (protocol)] results, grades, attendance, classes attended, grade level completed, year completed[,] and years of attendance.”*

The Department and State Board should revise subsections (b) and (c), eliminating the costly requirement that districts obtain written permission before altering or destroying records no longer useful to the education process. Subsection (e) should also be amended, eliminating the requirement to retain certain paper records or other information such as telephone numbers that are unlikely to be useful after a student's graduation.

**N.J.A.C. § 6A:32-9.1 General requirements**

*“(a) [The program of activities or sports to be employed by any school district in competitive contests, games or events or in exhibitions with individual students or teams of one or more schools of the same school district, or of other school districts, shall be recommended annually by the chief school administrator to the district board of education for approval.] All school districts shall comply with N.J.S.A. 18A:36-37 concerning student-athletes. ... [(d) Each candidate for a place on a school athletic squad or team shall be given a medical examination pursuant to N.J.A.C. 6A:16-2.2(h). (e) The district board of education shall adopt a policy regarding the content and procedures for the administration of the medical examination required pursuant to N.J.A.C. 6A:16-2.2(h). Nothing in this section shall be interpreted as precluding the district board of education from adopting content and procedures in excess of the minimum requirements set forth herein. (f) Any examination conducted by a physician other than the medical inspector or designated team doctor shall be reported to the medical inspector or designated team doctor on a form issued by the Commissioner of Education, and, as a minimum, include that content adopted by the district board of education, If, at the request of the parent or legal guardian, the medical examination is conducted by a physician other than the medical inspector or designated team doctor, such examination shall not be at the expense of the district board of education.]”*

The Department and State board should eliminate many of this section’s provisions, allowing school districts and chief school administrators to formulate their own procedures for the management of school athletics programs. Other provisions offered for deletion are already governed by N.J.A.C. § 6A:16-2.2, such as the requirement that all students receive medical examinations prior to participation on a school-sponsored athletic team.

**N.J.A.C. § 6A:32-10.1(a) General and 6A:32-10.3 Costs and tuition**

*“10.1(a) The rules for the approval of full-time public schools shall apply to all elementary and secondary summer sessions. No school summer session may be operated or approved unless it is operated by a district board of education [without charge to students domiciled within the school district] and in compliance with N.J.S.A. 18A:11-15. ... 10.3(a) [For students domiciled within the school district, the district board of education shall not charge tuition for any remedial or advanced course. (b) Tuition may be charged for enrichment courses which carry no credit and are determined by the county superintendent of schools to have no direct relationship to the curriculum.]”*

The Department and State Board should amend the sections to reflect changes to the underlying statute, N.J.S.A. 18A:11-15, which now authorizes the collection of tuition for summer schools.

**N.J.A.C. § 6A:32-12.2 School-level planning**

*“[(a) The school-level planning element shall be rated acceptable upon demonstration of performance in the following three indicators: 1. School report card: i. Annually, the school district shall disseminate a report card of each school, which shall contain statistical information specified by the Department of Education, to all staff and parents. The school district shall also make the report card available to the*

*media. ii. The documentation/activities for Group 1 and Group 2 school districts evaluated pursuant to N.J.A.C. 6A:30, Evaluation of the Performance of School Districts, shall be the school report card included in the annual report; 2. School-level plan: i. By September 30, each school in the school district shall develop and implement a two-year plan based on school report card data. This plan shall include student performance objectives, a review of progress by teaching and administrative staff, and the involvement of parents. ii. At least once per semester, each school shall conduct meetings by grade level, Department, team or similarly appropriate group to review the school level plan. ...]*”

The Department and State Board should eliminate this section. The State’s new accountability system, including associated data reporting and schedule of differentiated interventions, will serve to address issues of student performance in school districts. The regulation merely mandates meetings and additional bureaucracy in the event of a school failing to meet minimum State standards and, therefore, should be eliminated.

**N.J.A.C. § 6A:32-13.1 Student attendance and 6A:32-13.2 Dropouts**

*“[13.1(a) The average daily attendance rate for each school district shall average 90 percent or higher as calculated for the three years prior to the school year in which the school district is monitored. (b) Each school with a three-year average below 90 percent shall develop performance objectives to improve student attendance, pursuant to N.J.A.C. 6A:32-12.2(a)3. (c) The documentation/activities for Group 1 school districts evaluated pursuant to N.J.A.C. 6A:30, Evaluation of the Performance of School Districts, shall be: 1. The ‘New Jersey School Register Summary’ provided by the Department; and 2. Student performance objectives, if below State standard. (d) The documentation/activities for Group 2 school districts evaluated pursuant to N.J.A.C. 6A:30, Evaluation of the Performance of School Districts, shall be: 1. The ‘New Jersey School Register’ provided by the Department; 2. The ‘School Register Summary Report,’ prepared by the Department of Education; and 3. Student performance objectives, if below State standard. 13.2(a) The dropout rate for students in grades seven through 12 shall not exceed 10 percent, as calculated for the years prior to the school year in which the school district is monitored. (b) Dropouts are defined as students who were 16 years of age or older who failed to complete the school year. (c) Each school with a three-year average dropout rate exceeding 10 percent, as calculated for the years prior to monitoring, shall develop performance objectives to reduce the dropout rate, pursuant to N.J.A.C. 6A:32-12.2(a)3. (d) The documentation/activities for Group 1 and Group 2 school districts evaluated pursuant to N.J.A.C. 6A:30, Evaluation of the Performance of School Districts, shall be: 1. The fall report (consolidated enrollment: dropout information); 2. The application for State school aid; and 3. Student performance objectives, if required.]”*

The Department and State Board should delete the above sections. Interventions in schools that require the greatest assistance, such as those with persistently low student attendance rates, should be customized and coordinated by the Department’s Regional Achievement Centers as part of the Department’s unified accountability system rather than through standalone measures such as this regulation.

**N.J.A.C. § 6A:32-13.3(b) and (c) Guidance and counseling**

*“(b) The documentation/activities for Group 1 school districts shall be: 1. A written description of guidance and counseling services; and 2. District board of education minutes. (c) The documentation/activities for Group 2 school districts evaluated pursuant to N.J.A.C. 6A:30, Evaluation of the Performance of School Districts, shall be: 1. A written description of guidance and counseling services; 2. District board of education minutes; 3. Staff interviews; and 4. School visits.]”*

The Department and State Board should eliminate this section to allow for flexibility in schools' provision of guidance and counseling services.

## Innovation

### *Chapter 5: Regulatory Equivalency and Waiver*

#### **Overview**

Chapter 5 explains the procedure by which the Commissioner may provide to school districts regulatory flexibility by granting a waiver of a specific rule, or an equivalency to a specific rule, so school districts can best provide effective and efficient educational programs. The Task Force recommends revisions to this chapter to clarify that waivers and equivalencies may be granted to charter schools, in addition to public school districts, educational services commissioners, jointure commissions, private schools for students with disabilities and other educational institutions. In addition, the process for requesting a waiver or equivalency, and of the Commissioner’s review of the documents, should be streamlined to reduce bureaucracy.

#### **N.J.A.C. § 6A:5-1.1 Purpose**

*“The purpose of this chapter is to provide regulatory flexibility for school districts and charter schools to meet the requirements of the rules contained in the New Jersey Administrative Code [Title 6 and] Title 6A ...”*

The Department and State Board should clarify that the waiver process applies to charter schools, as well as to school districts.

## Chapter 11: Charter Schools<sup>29</sup>

### Overview

Chapter 11 provides rules concerning New Jersey's charter school program, a system of independently-operated, alternative public schools that provide choice to families and students. In particular, the chapter defines relevant terms and explains logistics and concerns related to the application and approval process for new schools and the procedures for amending, suspending and revoking charters, if conditions warrant such actions. The chapter also outlines rules for operating and monitoring charter schools.

The Task Force recommends numerous substantive changes to this chapter. In response to feedback from charter school operators and from the Department's Office of Charter Schools, the charter application process should be structured in line with best practices from the National Association of Charter School Authorizers. The application process should be divided into two written phases rather than a single written phase, and the "fast-track" review process should be lengthened by a month due to the high volume of applications. Various Department rules regarding the eligibility of charter founders and charter applications should be streamlined to reflect underlying statutes.

The charter itself should serve as an accountability document, listing the performance and reporting expectations of charter schools. The Department's powers to enforce the expectations should be expanded through a strengthened probation process. Duplicative or unnecessary reporting requirements for charter school operators should be eliminated, and charter schools should be granted additional flexibility to amend their charters.

Finally, reflecting the Department's educator effectiveness initiative, charter schools should be required to implement an educator evaluation system of their choosing. The evaluation system should form the basis of tenure removal decisions through a streamlined process established by statute for charter school employees.

The changes would encourage innovation while ensuring accountability for results.

### N.J.A.C. § 6A:11-1.2 Definitions

"Charter agreement" means a written agreement between a charter school and the Commissioner that sets forth criteria the charter school shall be expected to satisfy, including, but not limited to, measureable performance goals and indicators in the charter school's Performance Framework."

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<sup>29</sup> The Task Force endorsed these recommended revisions to charter school regulations prior to the June 2012 release by the Department of similar regulations. The Task Force affirms its support for the revised regulations proposed by the Department.

The Department and State Board should add this definition of “charter agreement” to reflect the new accountability document used for charter schools. The change would allow the Department to better hold charter schools accountable to their performance goals, and it would permit charter schools to understand more fully what is expected of them.

**N.J.A.C. § 6A:11-1.2 Definitions**

“Demonstrable experience” means a record of success in engendering student growth and improving the academic performance of at-risk, English language learner, and special education students; and evidence of financial stability.”

The Department and State Board should add this definition to clarify the eligibility of applicants for the expedited action application process.

**N.J.A.C. § 6A:11-1.2 Definitions**

“[Early] Expedited action’ means to allow an applicant to apply early and receive an early decision regarding the status of the application for a charter. It also permits an approved applicant to open a charter school on an expedited timeline. The application must be submitted by October 15 to receive a decision in advance of the standard schedule and no later than [January] February 15.”

The Department and State Board should add a month to the “expedited action” charter application review timeline. Given the growing number of applications submitted through the “expedited action” process, an additional month would afford the Office of Charter Schools time to ensure that its analyses of applications for new charters through the accelerated process is thorough and not rushed.

**N.J.A.C. § 6A:11-1.2 Definitions**

“Educator evaluation system’ means a system by which a charter school measures the effectiveness of an educator through a measurement of student learning growth and educator practice.”

The Department and State Board should add this definition of “educator evaluation system” to reflect the new requirement for charter schools.

**N.J.A.C. § 6A:11-1.2 Definitions**

“Eligible applicant’ means teaching staff members from anywhere in the State, parents of children attending the schools of the district [board] of [education] residence, a combination of teaching staff members and parents, or an institution of higher education or a private entity located within the State in conjunction with teaching staff members and parents of children attending the schools of the district [board] of [education] residence.”

The Department and State Board should clarify this definition to bring it in accordance with the underlying statute. In the past, some otherwise qualified charter applicants had trouble finding a co-founder who met the somewhat arbitrary definition of “eligible founder.” To allow more flexibility for charter school applicants, the definition of “eligible applicant” should clearly state that an eligible applicant is a teaching staff member from anywhere in the State or a parent of any school within the district or region of residence.

**N.J.A.C. § 6A:11-1.2 Definitions**

*“Region of residence’ means [contiguous] school districts in which a charter school operates and is the charter school’s district of residence.”*

The Department and State Board should modify this definition to align it with the usage of the term in the underlying statute. This will ensure more equitable charter school access for all students in New Jersey and maintain consistency in language and intent through all charter school regulations.

**N.J.A.C. § 6A:11-1.2 Definitions**

*“Satellite campus’ means a school facility, located within a district with a priority school or former Abbott District as of July 1, 2012, operated by a charter school under the school’s charter that is in addition to the facility identified in the charter school application or charter, if subsequently amended.”*

The Department and State Board should add this definition to codify the existing practices of charter schools and of the Department’s Office of Charter Schools.

**N.J.A.C. § 6A:11-2.1 Application and approval process**

*“(b)1. Complete the New Jersey Charter School Application, which shall be annually disseminated by the Department [of Education] no later than August 31 of each year, [and which includes a description of the areas listed in N.J.S.A. 18A:36A-5 and a description of the following as each relates to the charter school: ...] 2. The application shall be conducted in two phases: phase one and phase two. The phase one application shall include in an executive summary the following information: ... 3iii. The Commissioner shall notify a qualified applicant about whether it has been invited to participate in an in-depth interview with the Commissioner or his or her designee within the timeline defined by the Department. ... [(g)](e) [The] Following review of phase two applications, the Commissioner or designee(s) shall conduct an in-depth interview with [each eligible applicant for a charter school] qualified applicants.”*

The Department and State Board should modify this regulation. Currently, there is only one written phase in the charter application process, which is followed by a chance to provide addenda to clarify questions that stem from the written application. Under the proposed amendments, the charter application process would transition to a two-phase written application: a short general application in phase one and then a longer application in phase two for the strongest phase-one applicants.

**N.J.A.C. § 6A:11-2.1(b)[2]4i Application and approval process**

*“Include as qualified founders [a teaching staff member or a parent with a child attending a school of the district board of education in accordance with N.J.S.A. 18A:36A-4(a) from each of the contiguous district boards of education that comprise the region] at least one eligible applicant; and”*

The Department and State Board should clarify this definition to bring it in line with the underlying statute. In the past, some otherwise qualified charter applicants had trouble finding a co-founder who met the somewhat arbitrary definition of “eligible founder.” To allow more flexibility for charter school applicants, the definition of “eligible applicant” in the proposed amendments would clearly state that an eligible applicant is a teaching staff member from anywhere in the State or a parent of any school within the district or region of residence.

**N.J.A.C. § 6A:11-2.1(c) and (d) Application and approval process**

*“[(c) Following the initial review of the application, the Department of Education may request subsequent information as addenda to the application. (d) The applicant shall submit addenda to the Department of Education and the district board(s) of education or State district superintendents of the school district(s) of residence of the proposed charter school.]”*

The Department and State Board should delete this regulation because the proposed new structure of the application process with two written phases would obviate the need for an addenda process.

**N.J.A.C. § 6A:11-2.1(g) Application and approval process**

*“For phase one of the October 15 expedited application, the Department will review applications received from founders with demonstrable experience operating an education institution. The application review process for phase two will proceed as set forth in (d) and (e) above.”*

The Department and State Board should add this regulation to clarify the intent of the “expedited action” charter application process. There are currently two charter application deadlines in the State, with one process on a much shorter timeline than the other. However, there is no distinction in law or regulation to explain the different role of each process. The longer application period in existence for many years would continue for the majority of applicants. The shorter “expedited action” application process, which ordinarily requires an applicant to be prepared to open a new charter school roughly six months following application approval, would now only be for experienced applicants more ready for the tighter turnaround from application to opening.

**N.J.A.C. § 6A:11-2.1 (i) Application and approval process**

*“The Commissioner may approve an application for a charter, which shall be effective when all necessary documents and information are received by the Commissioner and following satisfactory completion of the preparedness visit as determined by the Commissioner. ...”*

The Department and State Board should modify this regulation to reflect that it is the Department’s practice to approve the final charter only after satisfactory completion of the preparedness visit.

**N.J.A.C. § 6A:11-2.1[(l)](k) Application and approval process**

*“All statutorily required documentation shall be submitted to the Department [of Education] by June 30. The final granting of the charter by the Commissioner shall be effective when all required documentation as listed in (i) above is submitted and approved by the Department [of Education] no later than July 15 and following satisfactory completion of the preparedness visit as determined by the Commissioner.”*

The Department and State Board should modify this regulation to reflect that it is the Department’s practice to approve the final charter only after satisfactory completion of the preparedness visit. The change would codify the practice.

**N.J.A.C. § 6A:11-2.2(b) Reporting**

*“The board of trustees of a charter school shall submit documentation annually to the Commissioner for approval prior to the opening of school on dates specified by and in a format prescribed by the Commissioner. The documentation shall include, but is not limited to, copies of: 1. A new lease, mortgage or title to its facility if the charter school has changed facilities; 2. A valid certificate of occupancy for “E” (education) use issued by the local municipal enforcing official at N.J.A.C. 5:32-2 if the charter school has changed facilities; 3. An annual sanitary inspection report with satisfactory rating; 4. An annual fire inspection certificate with “Ae” (education) code life hazard use at N.J.A.C. 5:70-4; 5. A list of the lead person, teachers and professional support staff if any charter school staff has changed; 6. The [Authorization for Emergent Hiring Pending Completion of Criminal History Check] authorization for emergent hiring pending completion of criminal history check form or [Criminal History Approval] criminal history approval letter for each employee of the charter school if any charter school staff has changed; and 7. Evidence of a uniform system of double-entry bookkeeping that is consistent with [generally accepted accounting principles (]GAAP[)].”*

The Department and State Board should revise this regulation. Although the charter school annual reporting requirement is statutory, the scope of that requirement is defined in regulation. Charter schools that have not changed certain features of their school in more than a year would be exempted from redundant annual reporting on stable features.

**N.J.A.C. § 6A:11-2.3(b) Renewal of charter**

*“The Commissioner shall grant or deny the renewal of a charter upon the comprehensive review of the school including, but not limited to: 1. A renewal application submitted by a charter school to the Commissioner, the respective county superintendent of schools and the district board(s) of education or State district superintendent(s) of the district of residence of the charter school no later than 4:15 P.M. on October 15 of the last school year of the current charter, or on a date prescribed by the Commissioner with no less than 30 days notice; 2. If the charter school failed to meet any standards set forth in its charter agreement or the Performance Framework in a school’s charter. ... 11. The review of the charter school’s educator evaluation system.”*

The Department and State Board should modify this regulation to strengthen accountability for charter school performance. Currently, the reasons provided in regulation for non-renewal of a charter do not emphasize the centrality of academic achievement. The change would add failure to adhere to charter agreement and the educator evaluation system as possible reasons for the non-renewal of a charter school. Additionally, the Department should be given flexibility in setting dates for renewal applications so long as district boards of education have sufficient time to review and respond to these renewal applications.

**N.J.A.C. § 6A:11-2.4(a) Probation and revocation of charter**

*“The Commissioner may place a charter school on probationary status for a period of [90 days] time as determined by the Commissioner to allow the implementation of a remedial plan upon a finding that the charter school is not operating in compliance with its charter, statutes or regulations.”*

The Department and State Board should modify this regulation to provide the Commissioner with greater flexibility in placing charter schools on probation. Currently, the Commissioner may only place a school on 90 days of probation with a 90-day extension. The change would enable the Commissioner to place a charter school on probation for the appropriate amount of time. Ninety days might be too long if the problem can be corrected before that time, while it might be too short if the problem requires more work or evidence of academic progress than can be achieved in 90 days.

**N.J.A.C. § 6A:11-2.4(b) Probation and revocation of charter**

*“... 3. Failure of the remedial plan to correct the conditions [which] that caused the probationary status. The Commissioner may place a school on probation before charter revocation, but probationary or conditional status is not necessary for revocation; or 4. Failure of the charter school to meet any standards set forth in its charter agreement or the Performance Framework.”*

The Department and State Board should modify this regulation to clarify that the Commissioner may revoke a school’s charter without first placing the school on probation. Additionally, the charter agreement would allow the Department to better hold charter schools accountable to their performance goals, and it would allow charter schools to understand more fully what is expected of

them. Since the ultimate accountability is to be able to close a school not meeting its performance goals, the revision would make clear that a failure to adhere to a charter agreement could lead to revocation of the charter.

**N.J.A.C. § 6A:11-2.6(a) Amendment to charter**

*“A charter school may apply to the Commissioner for an amendment to the charter following the final granting of the charter. 1. Examples of what a charter school may seek amendment for include, but are not limited to, the following: i. Expanding enrollment; ii. Expanding grade levels; iii. Changing or adding a district or region of residence; or iv. Opening a new satellite campus. ... [1]2.ii. Be made by [October] February 15 of the previous school year to increase enrollment in the subsequent school year. [2. The amendment shall not change the mission, goals and objectives of a charter school.]”*

The Department and State Board should modify this regulation to expand the charter amendment process. The current process excludes several frequently desired and reasonable amendments to a charter, such as expanding grade levels. Additionally, the current process does not allow for the streamlined expansion of high-quality charter schools as is possible in other states. The proposed change would allow more flexibility for existing charter schools to amend their charters and expand their reach while enhancing accountability. All proposed charter amendments would be provided to the boards of education of the charter school’s district(s) of residence and the district boards would be provided opportunity to offer comment to the Commissioner.

The proposed amendments also would change the date by which charter schools must apply for an amendment to their charters to expand enrollment. The new deadline would be February 15 of the school year prior to the requested expansion; the current deadline is October 15 of the previous school year. The change would give charter school trustees more time to consider serving additional students.

**N.J.A.C. § 6A:11-2.6(b) Amendment to charter**

*“The Department [of Education] shall determine whether the amendments are eligible for approval and shall evaluate the amendments based on N.J.S.A. 18A:36A-1 et seq. and this chapter. The Commissioner shall review a charter school’s performance data in assessing the need for a possible charter amendment.”*

The Department and State Board should modify this regulation to specify that the Commissioner is empowered to review a charter school’s performance in determining whether it should be allowed to amend its charter.

**N.J.A.C. § 6A:11-2.6(c) Amendment to charter**

*“The district board(s) of education or State district superintendent(s) of the district of residence of a charter school may submit comments regarding the amendment request to the Commissioner within [21] 60 days of receipt of the resolution of the board of trustees.”*

The Department and State Board should change the amount of time allotted to school district boards of education to review and comment on proposed amendments to a school’s charter from 21 to 60 days in order to provide optimal opportunities for school districts to provide input.

**N.J.A.C. § 6A:11-6.1 Tenure acquisition**

*“[All teaching staff members, janitors and secretaries shall acquire streamline tenure in a charter school after three consecutive academic years, together with employment at the beginning of the next succeeding academic year, in accordance with the tenure acquisition criteria as set forth in N.J.S.A. 18A:28-5(b), 18A:28-6 and 18A:17-2(b)2.] An employee of a charter school shall acquire streamline tenure pursuant to guidelines developed by the Commissioner. The charter school shall specify the security and protection to be afforded to the employee in accordance with the Commissioner’s guidelines.”*

The Department and State Board should modify this regulation to enable charter schools to develop teacher evaluation and tenure processes that are relevant and based on their own accountability systems, consistent with the Commissioner’s guidelines.

## Next Steps

With the release of this Final Report, the Task Force officially expires. Yet the work undertaken and described herein -- reforming our State's education regulations and statutes and developing a revised accountability system -- will continue with this Final Report as a blueprint.

As noted, the Department already has undertaken several initiatives relating to the Task Force's recommendations on accountability, including submitting and receiving flexibility from various federal ESEA requirements in February 2012, and implementing revisions to the existing QSAC process that ease the burden on schools and school districts. With the waiver approval in February 2012, the Department is empowered to begin implementing an improved, unitary system of accountability to replace the existing ESEA structure. Key additional work remains.

The 46 statutes highlighted for revision will be forwarded to the Legislature for its review. The Task Force hopes that the Legislature will review and act on the recommendations. The Department stands ready to assist with research and review.

The 20 revised chapters of regulatory code summarized in the Final Report have been shared with the Department for its thorough review. The Task Force recommends the adoption of all of these revisions. The multi-month adoption process will afford numerous opportunities for further public input on the proposed revisions, most of which the Task Force hopes will be implemented in time to impact the 2013-2014 school year.

Finally, the Task Force believes its work should not be viewed as a one-time assignment. Rather, the Department should establish an ongoing process to review all State education rules and Department practices to ensure that they optimally improve student achievement, ensure fiscal responsibility, and protect student health and safety.

## Appendix

### Additional Regulatory Reform Recommendations

#### Academic

##### *Appendix – Chapter 7: Managing for Equality and Equity in Education*

###### **N.J.A.C. § 6A:7-1.9(g) Accountability**

*“[Annual progress in meeting targets for all equity goals shall be included in the Quality Assurance Annual Report.]”*

The Department and State Board should eliminate this regulation. The Quality Assurance Annual Report was eliminated and replaced by the QSAC law of 2005; thus, this code is non-operative.

##### *Appendix – Chapter 8: Standards and Assessment*

###### **N.J.A.C. § 6A:8-3.1(a)6 Curriculum and Instruction**

*“District boards of education shall actively assist and support professional development for teachers, educational services staff[,] and school leaders, including their efforts to meet [the] mandatory professional development requirements [as] specified in N.J.A.C. 6A:9[-15 and 16]. [i .District boards of education shall, ... review and approve local professional development plans for teachers ... including the following: (1) Improvement of teachers’ understanding of the content and pedagogy ...; (2) Individual and collaborative professional learning ...; and (3) Evaluation and analysis of professional development results in order to improve professional development.]”*

The Department and State Board should delete this duplicative regulation prescribing review and approval of the local professional development plan and its subcomponents. Professional development is addressed in Chapter 9 and, therefore, is redundant here.

###### **N.J.A.C. § 6A:8-3.1(c)3 Curriculum and Instruction**

*“District boards of education shall provide the time and resources to develop, review[,] and enhance interdisciplinary connections, supportive curricula and instructional tools for helping students acquire required knowledge and skills. [These]The tools include, but are not limited to: i. A pacing guide; ii. A list of core instructional materials, including various levels of texts at each grade level; iii. Benchmark assessments; and iv. Modifications for special education students, for ELLs in accordance with N.J.A.C. 6A:15, for students at-risk of school failure and for gifted students.”*

The Department and State Board should revise this regulation to clarify that modifications also apply to students at risk of failure in school.

**N.J.A.C. § 6A:8-4.1(c) Statewide assessment system**

*“District boards of education shall, according to a schedule prescribed by the Commissioner, administer the applicable Statewide assessments, including the six major components: the elementary assessment component for grades three through five, the middle school assessment component for grades six through eight, the High School Proficiency Assessment (HSPA) [and Competency Assessments], the Alternative High School Assessment (AHSA) ...”*

The Department and State Board should eliminate the regulation requiring districts to administer competency assessments. This would enable local school districts to determine the type of assessments they want to use to determine students’ mastery of the Core Curriculum Content Standards in addition to Statewide assessments. The reference to competency assessments should be deleted throughout the chapter.

The Task Force notes that the Department’s College and Career Readiness Task Force has examined current high school assessments, among other issues. Should the work of the College and Career Readiness Task Force result in any proposed changes to high school assessments, this regulation would need to be amended accordingly.

**N.J.A.C. § 6A:8-4.1(c)3 Statewide assessment system**

*“The Department shall implement [the HSPA and High School Competency Assessment component of the Statewide assessment] a high school assessment program component of the Core Curriculum Content Standards [according to the following schedule:] that assesses at a minimum language arts and mathematics.”*

The Department proposes amending this regulation to clarify that the implementation of the Common Core State Standards requires the development of a new high school assessment program. The Department plans to focus initially on assessing student progress in language arts and mathematics.

**N.J.A.C. § 6A:8-4.4(c) Annual review and evaluation of school districts**

*“[The Department of Education, ... shall evaluate a district board of education subject to evaluation according to N.J.A.C. 6A:30, other than county special services school districts, educational services commissions, and jointure commissions, every seven years. The evaluation will be based, in part, on a district board of education’s performance in achieving the proficiency levels of the Core Curriculum Content Standards ...]”*

The Department and State Board should eliminate this reference to the Department's additional evaluation of a district board of education, which is a vestige of a previous accountability system, the Quality Annual Assurance Report. The Department's evaluation of school districts is thoroughly addressed in Chapter 30, rendering this additional requirement unnecessary.

**N.J.A.C. § 6A:8-5.2(f)5 High school diplomas**

*"The number of students denied graduation from the 12th grade class solely because of failure to pass the HSPA or [SRA] AHSA, based on the provisions of [N.J.A.C. 6A:8-5.1(a)3] this chapter."*

The Department and State Board should amend this regulation to replace the Special Review Assessment (SRA) with the Alternate High School Assessment (AHSA), introduced in 2010.

**Appendix – Chapter 13A: Elements of High-Quality Preschool Programs**

**N.J.A.C. § 6A:13A-1.2 Definitions**

*"['Early childhood advisory council' or 'ECAC' means an advisory group of community stakeholders interested in the education and welfare of children in preschool through grade three that is convened by the school district.] ... ['Five-year preschool program plan and annual updates' means the school district's programmatic plan beginning with the 2009-2010 school year with annual updates, to implement the preschool program, meeting the provisions set forth in this chapter.] ..."*

The Department and State Board should eliminate various definitions that either currently do not appear in the chapter or would be eliminated through the proposed amendments.

**N.J.A.C. § 6A:13A-2.1(e)1, (f)2, (i)1, (k)2 and (n) Eligibility**

*"(e)1. Offer age-eligible, non-resident, at-risk children who receive preschool education aid, a full-day preschool program under a [Department approved] written agreement between district boards of education to enroll those children in their preschool program; and/or ... (f)2. The child meets the eligibility requirements for universal or targeted preschool, as applicable, in the child's district of residence and a [Department approved] written agreement exists between the two school districts that includes the transfer of State-approved per-pupil School Funding Reform Act (SFRA) preschool education aid from the sending district of residence to the district of parental employment; or ... (i)1. Offer age-eligible, non-resident, at-risk children, who receive preschool education aid, a full-day preschool program under a [Department approved] written agreement between district boards of education to enroll those children in their preschool program that includes the transfer of State-approved per-pupil SFRA preschool education aid from the sending district of residence to the district of parental employment; ... (k)2. The child meets the eligibility requirements for universal or targeted preschool in the child's district of residence and a [Department approved] written agreement exists between the two school districts that*

*includes the transfer of State-approved per-pupil SFRA preschool education aid from the sending district of residence to the district of parental employment; or ... (n) Any [Department approved] written agreement established between district boards of education to provide preschool programs pursuant to (a) through (m) above shall include the responsibilities for oversight of the preschool program elements set forth in this chapter.”*

The Department and State Board should eliminate the words “Department approved” throughout this section. As under the proposed amendments, the Department would allow school districts to set up agreements based on their particularized needs. This modification would eliminate unnecessary red tape and allow school districts to develop their own written agreements, based on their unique, local circumstances.

**N.J.A.C. § 6A:13A-4.2 [Master teachers] Preschool coaches**

*“(a) The district board of education shall provide [master teachers] preschool coaches at a ratio of no more than 20 preschool classrooms for each [master teacher] preschool coach to ensure coaching and classroom support for classroom teachers. The district board of education shall provide additional [master teachers] preschool coaches to assist uncertified or inexperienced teachers, and to provide professional development that supports English language learners and children in inclusive classroom settings. For school districts with fewer than 20 preschool classrooms, the [master teacher]preschool coach position, described in the school district's initial five-year preschool program plan and[/or] subsequent annual [update]budget-planning workbook, as required[,] and approved by the Department, may be fulfilled in one of the following ways: ...”*

The Department and State Board should replace the term “master teacher” with the term “preschool coach” as “coach” is a position category already used and accepted in other grade levels. This would merely be a change in nomenclature. Also, the language regarding the plan should be modified to remove the reference to annual plan updates, as these would no longer be required.

**N.J.A.C. § 6A:13A-5.1(a) Curriculum**

*“The district board of education shall ensure implementation of a comprehensive curriculum supported by research[, aligned with the Preschool Standards, and linked to the New Jersey Core Curriculum Content Standards (CCCS)]. The school district’s choice of curricula shall be described in the five-year preschool program plan and/or annual update as required and approved] and aligned with the New Jersey Core Curriculum Content Standards (CCCS) as determined by the Department ...”*

The Department and State Board should revise this regulation. The new language reflects that there would not be a universally required five-year preschool plan or associated annual updates.

**N.J.A.C. § 6A:13A-6.1 Transition**

*“[(a) The district board of education shall include transition initiatives from program entry to kindergarten through grade three in its five-year preschool program plan and/or annual update, as required and approved by the Department, that describe: 1. The process for collaborating with other preschool through grade three administrators in the school district; 2. Methods for communicating information about individual children to their new kindergarten and elementary teachers; and in particular the results of the comprehensive performance-based assessment; 3. The process for identifying and communicating the curriculum and pedagogical information about the preschool program to the kindergarten and elementary teachers; and 4. The process for providing information to parents about the kindergarten program and the transition plan from preschool through grade three.] The district board of education shall, through the implementation of articulated programming and curriculum, ensure effective transition from preschool through third grade for children, families and staff.”*

The Department and State Board should revise this regulation to remove the reference to the five-year plan, as it would no longer be required of existing programs. The Preschool Implementation Guidelines would continue to provide guidance for districts to determine their individualized transition strategies.

**N.J.A.C. § 6A:13A-9.2(a) Informal dispute resolution process**

*“[The district board of education and contracting private provider or local Head Start agency shall attempt to resolve any dispute that may arise. 1. If the dispute cannot be resolved locally, an appeal may be filed to the Commissioner pursuant to N.J.A.C. 6A:3, Controversies and Disputes.]”*

The Department and State Board should eliminate this regulation. It is unnecessary since appeals are already covered in other chapters of State code.

**N.J.A.C. § 6A:13A-[9.3]8.2(a) Renewal or non-renewal of a preschool program contract**

*“1i. The school district shall notify any contracting private provider or local Head Start agency in writing on or before May 1 of each contract year of its intent to renew the preschool program contract for an additional one year term. ... [Any school district notification of non-renewal shall follow the protocol established by the Division of Early Childhood Education and detail justifiable reason(s) for non-renewal of the preschool program contract.] ... [v. The Department may request additional information from either party.] [vi. The Department shall affirm or deny the appropriateness of the non-renewal decision in writing to the school district and the contracting private provider or local Head Start agency.]”*

The Department and State Board should make the above deletions to the subchapter. As mentioned earlier, school districts would be granted the authority to negotiate their own contracts, including non-renewal.

**N.J.A.C. § 6A:13A-[9.4]8.3(a)4, (b)1, (b)2, (d) and (f) Termination of a preschool program contract**

*“(a)4. [Any other reasonable cause within the discretion of the school district and written approval from the Department.] “(b)1. If a contracting private provider or local Head Start agency fails to comply with all terms of the preschool program contract or applicable Federal, State or local requirements, the school district shall notify in writing the contracting private provider or local Head Start agency [and the Department] of the deficiency [in writing] and provide a timeframe for compliance. “(b)2. If the contracting private provider or local Head Start agency fails to resolve the deficiency within the time provided, the school district may initiate termination of the preschool program contract upon written notice to the contracting private provider or local Head Start agency and the Department. [Termination of the contract shall be subject to written approval by the Department to the school district and contracting private provider or local Head Start agency.] “(d) The school district and the [contracting] contracted private provider or contracted local Head Start agency may terminate the preschool program contract by mutual agreement, in writing, upon notice to [and receipt of written approval from] the Department. [1. In the event of termination under this provision, said termination shall take effect upon the 30th day from the date the school district and the contracting private provider or local Head Start agency receive written approval from the Department to terminate the preschool program contract.] “[(f) In the event of non-renewal or termination of the preschool program contract by the school district or the contracting private provider or local Head Start agency, the contracting private provider or local Head Start agency may be required by the school district to continue the service until the school district has found an appropriate placement for all children. At no time shall the contracting private provider or local Head Start agency be required to continue and be reimbursed for the service for more than 90 days beyond the expiration date of the existing preschool program contract.]”*

The Department and State Board should eliminate all of the above phrasing. As stated earlier, the proposed amendments would give school districts the authority to negotiate their own contracts with providers, determine the content of those contracts consistent with this chapter, and decide upon the conditions that would determine contract termination.

**N.J.A.C. § 6A:13A-[10.2]9.2(a) Private provider and local Head Start agency fiscal responsibilities**

*“(a) Any private provider or local Head Start agency contracting with a school district to provide a full-day preschool program pursuant to this chapter shall implement sound fiscal practices including, but not limited to: 1. Maintenance of a financial management system that provides timely, accurate, current and complete disclosure of all financial activities related to the preschool program operating under preschool education aid and in accordance with generally accepted accounting principles; 2. Certification that the proposed budget-planning [workbook,] documents submitted to the district board of education[, is] are true and accurate; [3. Making all educational, administrative and indirect support cost expenditures in strict accordance with the budget planning workbook approved by the district board of education and, as appropriate also approved by the Department]; ... [5. Posting revenue and expenditures related to preschool education aid to separate accounts in the contracting private provider and local Head Start agency general ledger and not commingling with revenue and expenditures related to other funding sources;] [6]4. Requesting from the district board of education[,] any budget transfers or budget-*

*planning [workbook] document amendments [to the approved budget planning workbook or]; and [i. if the Department approved a private provider budget [planning workbook] based on a line-item review, amendments to or budget transfers within the approved budget-planning workbook shall be approved by the district board of education. When applicable, private provider budget transfers shall also be subject to Department notification and/or approval; and] [7]5. Making all financial and program information available on request for inspection at any time to the school district or Department designee.”*

The Department and State Board should make the above changes. The issue of segregation of funds is already addressed by the section regarding generally accepted accounting principles. Also, replacement of the term “planning workbook” with “budget-planning documents” would provide school districts with the flexibility to determine expenditure tracking systems based on providers’ current accounting systems. Since the Department would not be approving provider budgets, related phrases also are proposed for deletion.

#### **Appendix – Chapter 16: Programs to Support Student Development**

##### **N.J.A.C. § 6A:16-1.3 Definitions**

*“Asthma [Action Plan] treatment plan’ means a form [approved by the Commissioner of Education], completed by the medical home[,], that is specifically designed to indicate differentiated symptoms and appropriate action to be taken by school staff to manage the care of a student [that] who suffers from asthma-related illnesses pursuant to N.J.S.A. 18A:40-12.8(b). The [Asthma Action Plan] asthma treatment plan shall serve as an accompaniment to the student’s Individualized Healthcare Plan. [N.J.S.A. 18A:40-12.8(b) refers to the asthma action plan as the asthma treatment plan.]”*

The Department and State Board should amend the term “Asthma Action Plan” to “asthma treatment plan” for consistency with the term used in N.J.S.A. 18A:40-12.8. The definition would remain the same.

##### **N.J.A.C. § 6A:16-1.3 Definitions**

*“Harassment, intimidation or bullying’ means any gesture [or], any written, verbal or physical act, or any electronic communication, whether a single incident or a series of incidents, in accordance with N.J.S.A. 18A:37-14, that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability, or by any other distinguishing characteristic, that takes place on school property, at any school-sponsored function, [or] on a school bus, or off school grounds as provided for in N.J.S.A. 18A:37-14 and 15.3, that substantially disrupts or interferes with the orderly operation of the school or the rights of other students and that a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student or damaging the student’s property or placing a student in reasonable fear of physical or emotional harm to his or her person or damage to his or her property; [or] has the effect of insulting or*

*demeaning any student or group of students [in such a way as to cause substantial disruption in, or substantial interference with, the orderly operation of the school.]; or creates a hostile educational environment for a student by interfering with the student's education or by severely or pervasively causing physical or emotional harm to the student."*

The Department and State Board should amend the definition for "harassment, intimidation or bullying" for consistency with the new Anti-Bullying Bill of Rights law.

#### **N.J.A.C. § 6A:16-1.3 Definitions**

*"Medical home' means a health care provider, including Family Care providers as defined in N.J.S.A. 30:4J-12, and that provider's practice site chosen by the student's parent or guardian for the provision of health care."*

The Department and State Board should amend the definition for "medical home" to clarify that it includes Family Care. Medical home in this chapter refers to the default provider of medical care for a student. The above revision is necessary to clarify that Family Care providers are considered a medical home to reduce the number of requests for district physical examinations of student athletes whose families participate in the State's Family Care health care coverage.

#### **N.J.A.C. § 6A:16-1.4 School district policies and procedures**

*"[(a) Each district board of education shall develop and adopt written policies, procedures, mechanisms or programs governing the following school functions: ...]"*

The Department and State Board should delete this entire section of code, as it simply lists policies, procedures, mechanisms and programs that are already described in this chapter or elsewhere in State education regulations. The Department should provide this list on its website as guidance rather than through regulation.

#### **N.J.A.C. § 6A:16-2.2(f) Required health services**

*"Each student medical examination shall be conducted at the medical home of the student. If a student does not have a medical home, the school district shall provide this examination at the school physician's office or other comparably equipped facility, pursuant to N.J.S.A. 18A:40-4. [1. For the purpose of the physical examination required in (h)1 below, the student's parent may choose either the school physician or their own private physician. 2. A full report of the examination shall be maintained as part of the student's health record.]"*

The Department and State Board should amend this regulation to ensure consistency with statutory requirements. Additionally, the selection of the medical provider has been addressed elsewhere in the chapter.

**N.J.A.C. § 6A:16-2.2(h)1ii(2) Required health services**

*“The medical report shall include a determination concerning the student’s participation [from the examining physician, advanced practice nurse or physician’s assistant which] that includes, at a minimum, the following normalities: ...”*

The Department and State Board should amend this regulation since statute already specifies who is authorized to conduct medical examinations of pupils.

**N.J.A.C. § 6A:16-2.2(h)2i and ii Required health services**

*“i. Each school district shall require parents to provide entry examination documentation of each student within 30 days upon enrolling into school. ii. When a student is transferring to another school, [each] the sending school district shall ensure that student documentation of an entry examination is forwarded to the transfer school district [pursuant to N.J.A.C. 6A:16-2.4(d)].”*

The Department and State Board should amend this regulation for consistency with the term “entry examination” used in this code. An additional amendment is proposed to clarify the responsibilities of schools involved in the transfer and receipt of student documentation of physical examinations conducted upon a student’s entrance to the first school when a student transfers to another school.

**N.J.A.C. § 6A:16-2.3(b)2 and 3 Health services personnel**

*“[2. The certified school nurse shall possess an educational certificate for school nurse or school nurse/non-instructional pursuant to N.J.S.A. 18A:40-3.2 and N.J.A.C. 6A:9-13.3 and 13.4. 3. The certified school nurse shall possess a current license as a registered nurse from the State Board of Nursing and valid, current Providers Cardiopulmonary Resuscitation/ Automated External Defibrillator (AED) certification as issued by the American Heart Association, the American Red Cross, the National Safety Council or other entities determined by the Department of Health and Senior Services to comply with the American Heart Association’s CPR guidelines.]”*

The Department and State Board should delete this regulation, which is covered in greater depth in N.J.A.C. § 6A:9, Licensure and Certification.

**N.J.A.C. § 6A:16-2.3(c) and (d) Health services personnel**

*“[(c) A certified school nurse who possesses the school nurse/non-instructional certificate is not authorized to teach in areas related to health pursuant to N.J.A.C. 6A:9-13.4.] [(d)](c) School districts may appoint a noncertified nurse under the supervision of a certified school nurse to supplement the services of a certified school nurse [as outlined in N.J.S.A. 18A:40-3.3.] provided that: 1. The noncertified nurse shall be assigned to the same school building or complex as the certified school nurse pursuant to*

*N.J.A.C. 18A:40-3.3. [2. A noncertified nurse shall possess a current license as a registered nurse from the State Board of Nursing and a valid, current Providers Cardiopulmonary Resuscitation/AED certification as issued by the American Heart Association, the American Red Cross, the National Safety Council or other entities determined by the Department of Health and Senior Services to comply with American Heart Association CPR guidelines.]”*

The Department and State Board should eliminate this regulation, as the responsibilities of certified instructional and non-instructional school nurses and issues of licensure are addressed in greater depth in N.J.A.C. § 6A:9, Licensure and Certification.

**N.J.A.C. § 6A:16-2.4(c) Required student health records**

*“[The school district shall maintain student health records in accordance with N.J.A.C. 6A:32-7.4 as follows: 1. Student health records shall be maintained separately from other student records in a secure location; 2. Student health records kept in electronic form shall be both accessible and secure according to N.J.A.C. 6A:32-7.4(d); 3. Student health records shall be located in the school building or complex to which the student is assigned; 4. Student health records shall be accessible to authorized personnel while school is in session; and 5. The health and immunization record shall be removed from the student’s health record and placed in the student’s mandated record until such time as graduation or termination and kept according to the schedule set forth in N.J.A.C. 6A:32-7.8.]”*

The Department and State Board should amend this regulation regarding procedures for student health records. N.J.A.C. § 6A:32, School District Operations, addresses student records in considerable depth; therefore, there is no need to include the regulations here. Redundancy is likely to cause confusion and unnecessary complexity.

**N.J.A.C. § 6A:16-2.4(d) Required student health records**

*“[The school district shall ensure the following when transferring student health records: 1. Original mandated student health records that the schools are directed to compile pursuant to New Jersey statute, rule or authorized administrative directive shall be forwarded to the chief school administrator or his or her designee of the school district to which the student has transferred within 10 days of receipt of a written request and verification by the school district; 2. Duplicate mandated student health records which the schools have been directed to compile pursuant to New Jersey statute, rule or authorized administrative directive shall be forwarded to the chief school administrator or his or her designee of the nonpublic school to which the student has transferred within 10 days of receipt of a written request and verification by the school district; ...]”*

The Department and State Board should eliminate the regulation, as the transfer of student records is covered in greater detail in N.J.A.C. 6A:32, School District Operations, which makes this section duplicative and unnecessary.

**N.J.A.C. § 6A:16-3.1(a) Establishment of comprehensive alcohol, tobacco and other drug abuse programs**

*“(a) Each district board of education shall establish a comprehensive program of prevention, intervention, referral for evaluation, referral for treatment and continuity of care for student alcohol, tobacco and other drug abuse in the public elementary and secondary schools of the district according to the requirements of N.J.S.A. 18A:40A-3, 10 and 15. 1. The purpose of the prevention component of the program shall be to: i. Keep students from using alcohol, tobacco or other drugs; ii. Reduce or eliminate the incidence and prevalence of student alcohol, tobacco and other drug abuse; [iii. Increase the age of onset of students' first use of alcohol, tobacco or other drugs];... [iv] iii. Reduce the factors that place students at risk for involvement with alcohol, tobacco or other drugs through school and community-based planning processes; [v] iv. Contribute to the development of school environments and alternative activities that are alcohol, tobacco and other drug-free; [vi] v. Increase the knowledge and skills of students, staff and community members for avoiding the harmful effects of alcohol, tobacco and other drug use; and [vii] vi. Actively involve staff, parents and other community members in the development and implementation of prevention program plans.”*

The Department and State Board should revise this regulation, which details the purpose of the prevention component of comprehensive alcohol, tobacco and other drug abuse programs. To protect student health and safety, the programs should strive to do more than delay students' first use of alcohol, tobacco or other drugs. The remaining six stated purposes are both comprehensive and appropriate.

**N.J.A.C. § 6A:16-3.1(a)2 Establishment of comprehensive alcohol, tobacco and other drug abuse programs**

*“The purpose of the intervention, referral for evaluation and referral for treatment components of the program shall be to: i. identify students who are at risk for, or who have exhibited, alcohol, tobacco or other drug abuse or related problems and refer for treatment; ...”*

The Department and State Board should amend this regulation to stress the importance of referring students for treatment.

**N.J.A.C. § 6A:16-3.1(a)3 Establishment of comprehensive alcohol, tobacco and other drug abuse programs**

*“The purpose of the continuity of care component of the program shall be to: i. Assist with the provision of educational programs and services for students in treatment; and ii. [Plan and provide] Provide supportive services for students who are returning from treatment.”*

The Department and State Board should amend this regulation to stress the importance of providing treatment rather than focusing on planning.

**N.J.A.C. § 6A:16-[4.3]4.2(a)1 Reporting, notification and examination procedures for students suspected of being under the influence of alcohol or other drugs**

*“Any educational staff member or other professional to whom it appears that a student may be currently under the influence of alcohol or other drugs on school grounds, including on a school bus or at a school-sponsored function, shall report the matter as soon as possible to the principal or his or her designee and either the certified school nurse, the noncertified nurse, the school physician or the substance awareness coordinator, pursuant to N.J.S.A. 18A:40A-12. [i. In the absence of the principal, his or her designee shall be notified. ii. In instances where the principal and either the certified school nurse, the noncertified nurse, the school physician or the substance awareness coordinator are not in attendance, the staff member responsible for the school function shall be immediately notified.]”*

The Department and State Board should revise this regulation to empower the principal to designate another educator to oversee alcohol and drug issues in his or her absence, consistent with State statutes.

**N.J.A.C. § 6A:16-[4.3]4.2(b) Reporting, notification and examination procedures for students suspected of being under the influence of alcohol or other drugs**

*“In instances involving the suspected use of anabolic steroids, the [following shall apply according to the] requirements of N.J.S.A. 18A:40A-12(b) [:] shall apply. [1. Whenever any teaching staff member, certified or non-certified school nurse or other educational personnel shall have reason to believe that a student has used or may be using anabolic steroids, that person shall report the matter as soon as possible to the principal and either the certified or non-certified school nurse, the school physician or the substance awareness coordinator. ... 6. If the results of a referral for evaluation have positively determined that the student's involvement with and use of anabolic steroids represents a danger to the student's health and well-being, an individual who holds the Educational Services Certificate with the substance awareness coordinator endorsement issued by the New Jersey State Board of Examiners or an individual who holds either a school nurse, school nurse/non-instructional, school psychologist, school counselor, school social worker or student personnel services endorsement on the Educational Services Certificate and is trained to assess alcohol and other drug abuse shall initiate a referral for treatment to appropriate community agencies, as defined in N.J.A.C. 6A:16-4.1(b), to out-of-State agencies licensed by the appropriate State regulatory agency for alcohol and other drug services, or to private practitioners certified by the appropriate drug and alcohol licensing board.]”*

The Department and State Board should eliminate this regulation, as it largely repeats the language of the underlying statute without further protecting student health and safety.

**N.J.A.C. § 6A:16-5.2(a) School Violence Awareness Week**

*“Each district board of education shall observe “School Violence Awareness Week” during the week beginning with the third Monday in October of each year by organizing activities to prevent school violence according to N.J.S.A. 18A:36-5.1. [1. The district board of education’s activities shall include, but are not limited to, age-appropriate opportunities for student discussion on conflict resolution, issues of student diversity and tolerance. 2. The district board of education shall invite law enforcement personnel to join members of the teaching staff in the discussions. 3. The district board of education shall provide programs for school board employees that are designed to help them recognize warning signs of school violence and to instruct them on recommended conduct during an incident of school violence. 4. The district board of education shall hold an annual public hearing on violence and vandalism pursuant to N.J.S.A. 18A:17-46 and N.J.A.C. 6A:16-5.3.]”*

The Department and State Board should amend this regulation to remove language already prescribed in statute. Individual school districts should have the flexibility to determine how to observe the statutorily-mandated School Violence Awareness Week.

**N.J.A.C. § 6A:16-5.3(a) Incident reporting of violence, vandalism and alcohol and other drug abuse**

*“For purposes of reporting information to the [New Jersey] Department [of Education], pursuant to N.J.S.A.18A:17-46, any school employee who observes or has direct knowledge from a participant or victim of an act of violence, including harassment, intimidation and bullying, or the possession or distribution of alcohol or other drugs on school grounds, and any school employee who reports a student for being under the influence of alcohol or other drugs, according to the requirements of N.J.S.A. 18A:40A-12 [and N.J.A.C. 6A:16-4.3], shall file a report describing the incident to the school principal, in accordance with N.J.S.A. 18A:17-46.”*

The Department and State Board should amend this regulation to ensure consistency with the Anti-Bullying Bill of Rights.

**N.J.A.C. § 6A:16-6.3(e) Reporting students or staff members to law enforcement authorities**

*“School employees shall immediately notify the building principal and chief school administrator when in the course of their employment they develop reason to believe that a [hate crime] bias-related act has been committed or is about to be committed on school grounds, including on a school bus or at a school-sponsored function, or has been or is about to be committed by any student, whether on or off school grounds, including on a school bus or at a school-sponsored function, and whether [or not] such offense was or is to be committed during operating school hours, or a student enrolled in the school has been or is about to become the victim of a [hate crime] bias-related act, whether committed on or off school grounds, including on a school bus or at a school-sponsored function, or during operating school hours.”*

The Department and State Board should revise this regulation to use the term “bias-related act” rather than “hate crime,” consistent with statute.

**N.J.A.C. § 6A:16-6.5(d) Confidentiality of student or staff member involvement in alcohol or other drug abuse intervention and treatment programs**

*“Nothing in this section shall be construed to preclude the disclosure and reporting of information about illegal activity [which] that was learned by any school employee outside of the local school district’s comprehensive alcohol, tobacco and other drug abuse program. [1. Any such information about illegal activity shall be reported according to the requirements of N.J.A.C. 6A:16-6.3 and 6.4.]”*

The Department and State Board should amend this regulation to stress the importance of reporting illegal activity. Reporting and disclosure should be carried out in accordance with laws and statutes covering this illegal activity.

**N.J.A.C. § 6A:16-7.3(a)12 and 13 Long-term suspensions**

*“[12. Immediate return to the general education program if at any time it is found that the general education student did not commit the offense; 13. For a student with a disability found not to have committed the offense, the student’s program shall be determined in accordance with the provisions of N.J.A.C. 6A:14; and] 12. If at any time it is found that a student did not commit the offense, the student shall be returned immediately to the program from which he or she was removed; and ...”*

The Department and State Board should clarify this regulation. Students found innocent of an offense should be returned to the program from which they were removed. The proposed revision would consolidate rules regarding the immediate return of general education students and students with disabilities to the program from which they were removed upon determination that they did not commit an offense.

**N.J.A.C. § 6A:16-7.4 Mandated student removals from general education**

*“[(a) The district board of education shall follow N.J.A.C. 6A:16-5.5 for student removals for firearms offenses. (b) The district board of education shall follow N.J.A.C. 6A:16-5.6 for student removals for assaults with weapons offenses. (c) The district board of education shall follow N.J.A.C. 6A:16-5.7 for student removals for assaults on district board of education members or employees.]”*

The Department and State Board should delete this regulation. The rules are addressed in greater depth earlier in the chapter.

**N.J.A.C. § 6A:16-7.[8]6(a)3 Attendance**

*“A definition of unexcused absence that counts toward truancy, for the purpose of this section, that, at a minimum, shall be [based on] consistent with the definition of a school day, pursuant to N.J.A.C. 6A:32-8.3; [, and the following considerations: ...]”*

The Department and State Board should revise this regulation to clarify that rules regarding unexcused absence apply only to determinations of truancy, which has State Criminal Code ramifications. Districts would otherwise be able to set their own attendance policies, consistent with State statute.

**N.J.A.C. § 6A:16-[7.9]7.7 [Intimidation, harassment] Harassment, intimidation and bullying**

*“(a) Each district board of education shall develop, adopt and implement a policy prohibiting harassment, intimidation or bullying on school grounds, including on a school bus or at a school-sponsored function, pursuant to N.J.S.A. 18A:37-15. ...”*

The Department proposes to update this section to ensure consistency with the Anti-Bullying Bill of Rights law.

***Appendix – Chapter 19: Career and Technical Education Programs and Standards***

**N.J.A.C. § 6A:19-1.1(a)1 General Provisions**

*“Support developmental career education [at the elementary and middle school levels that is] designed to [inform students of career opportunities and to assist students in formulating an educational plan for the high school level] provide students opportunities to enhance career awareness, exploration, preparation and decision-making skills necessary for success in the workplace;”*

The Task Force recommends that the Department and State Board revise this regulation to align administrative code with the federal *Carl D. Perkins Career and Technical Education Improvement Act of 2006* (Perkins Act of 2006), which was enacted after the State Board authorized New Jersey’s existing Chapter 19.

“Programs of study” and other terminology required under the Perkins Act of 2006 are proposed for insertion throughout the suggested changes to Chapter 19. The Task Force recommends that the Department and State Board adopt all terminology and requirements updates associated with the Perkins Act of 2006.

The suggested changes also would align with the Department’s focus on ensuring that all students graduate high school ready for college and career.

**N.J.A.C. § 6A:19-1.2 Definitions**

*“The following words and terms[, when used in this subchapter,] shall have the following meanings when used in this subchapter, unless the context clearly indicates otherwise. ... ‘Admissions policy’ means the*

process established by a county vocational school district for admittance of students into a career and technical education program or program of study. ...”

The Department and State Board should consolidate the various “Definitions” sections contained in the current code and delete all unnecessary and outdated terms, with the exception of the definition section in Subchapter 7, Private Career Schools since the terms are unique to the subchapter. The Department should also clarify additional terms to ensure that the State’s career and technical education programs offer rigorous courses of study that prepare students for both the workforce and postsecondary study.

**N.J.A.C. § 6A:19-2.1(g) Administration of career and technical education programs and programs of study**

*“[A district board of education shall file with the Commissioner annual financial and statistical reports on activities in any program of career and technical education in order to be eligible to receive State or Federal aid.]”*

The Task Force recommends that the Department and State Board eliminate this and other suggested provisions of Subchapter 2.1. School districts are already required to account for funds received from the Department, making duplicative the existing language of this subchapter.

**N.J.A.C. § 6A:19-2.2(a) Delivery of career and technical education programs and programs of study by county vocational school districts**

*“County vocational school district career and technical education programs and programs of study shall provide a broad range of educational opportunities for students, and shall be [based upon unique circumstances governed by matters of economic demand, geography, program efficiencies, or the presence of specialized facilities integral to the offering of the programs] approved by the Department pursuant to N.J.A.C. 6A:19-3.1 and 3.2.”*

The Department and State Board should revise this section, which incorporates terminology required by the Perkins Act of 2006. The regulation should ensure that county vocational school programs provide students with a broad range of relevant programs that appropriately prepare current students for the workforce of the future.

**N.J.A.C. § 6A:19-[3.6]3.4 Career education and counseling**

*“(a) A district board of education, in fulfillment of the New Jersey Core Curriculum Content Standards, shall develop and implement a comprehensive guidance and academic counseling program for all students [to facilitate career awareness, exploration, and preparation, in accordance with N.J.A.C. 6A:8-3.2.], which is designed to: 1. Assist students in making and implementing informed educational and*

career choices, including opportunities to change career focus; and 2. Support students' academic attainment, career development and personal/social development."

The Department and State Board should revise this section. The proposed new language would delineate the type of guidance and counseling provided to students in accordance with the Core Curriculum Content Standards. Career and technical education students should receive assistance in examining and developing their educational and career goals, so that they are fully prepared to enter the workplace or postsecondary institutions.

**N.J.A.C. § 6A:19-4.1(b) Requirements of structured learning experiences**

"[Each district board of education shall ensure that structured learning experiences for students with disabilities shall include educational programs and services designed to enable them to achieve the structured learning experience objectives in accordance with the student's Individualized Education Program (IEP), pursuant to N.J.A.C. 6A:14.] Students who participate in structured learning experiences shall be a minimum of 16 years of age pursuant to N.J.A.C. 12:58-1, Child labor, and N.J.A.C. 12:56-18, Wage and hour, with the following exceptions: 1. Students of any age shall be permitted to participate in job shadowing structured learning experiences, which do not include hands-on activities; and 2. Students who are a minimum of 14 years of age shall be permitted to participate in a Work Experience Career Exploration Program (WECEP) pursuant to 29 CFR Part 570.35a."

The Department and State Board should revise this section, eliminating the first portion cited above. The changes would be in accordance with State child labor and wage and hour regulations. All State agencies should ensure that students are protected and that structured learning experiences follow the same stringent guidelines as other workplace experiences for children.

**N.J.A.C. § 6A:19-4.1(e) Requirements of structured learning experiences**

"[Transportation of the student to and from the site of the structured learning experience shall be the responsibility of the student, unless otherwise required pursuant to N.J.A.C. 6A:14, Special Education.] District boards of education shall maintain appropriate records for the structured learning experience, and may destroy such records once the student reaches the age of 21 pursuant to N.J.S.A. 34:2-21.12, Child labor."

The Department and State Board should revise this section to ensure compliance with State child labor laws without burdening school districts with unnecessarily onerous administrative requirements.

**N.J.A.C. § 6A:19-4.1(f) Requirements of structured learning experiences**

"[Each district board of education shall assess the progress of students participating in structured learning experiences in developing the knowledge and skills specified by the New Jersey Core Curriculum Content Standards if such experiences will be used to meet the graduation requirements of N.J.A.C. 6A:8-

5.1(a)1i(9) or (a)1ii(a)(A).] District boards of education shall develop structured learning experiences in compliance with all Federal and State statutes, regulations and hazardous orders, and based upon the required elements established by the Department as detailed in the New Jersey Structured Learning Experience Manual."

The Department and State Board should revise this section, eliminating the first portion cited above. The proposed changes reference the New Jersey Structured Learning Experience Manual. The new manual, which will be created by the Department's Office of Career and Technical Education, will contain material that the Task Force suggests eliminating from other sections of Subchapter 4. The new manual will be updated regularly.

#### **N.J.A.C. § 6A:19-4.2 Definitions**

*"[The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. 'Apprenticeship training' means a paid structured learning experience in which students who are enrolled in an approved program are placed into an employer-sponsored training program to learn a skilled trade or technical occupation that is clearly identified and commonly recognized throughout an industry, and that is customarily learned in a practical way through a structured, systematic program of on-the-job supervised training. Apprenticeship training involves manual, mechanical, or technical skills and knowledge and requires related theoretical instruction to supplement the on-the-job training. Apprentice training programs are registered with the New Jersey Department of Labor and Workforce Development and the U.S. Department of Labor, Bureau of Apprenticeship and Training, in compliance with 29 CFR §§29.29 and 29.30.]"*

The Department and State Board should eliminate this section; definitions should appear together in one subchapter and be streamlined. Many of the definitions contained in this section are proposed to be moved to N.J.A.C. § 6A:19-1.2, Definitions, or will be transferred to manuals created by the Department's Office of Career and Technical Education.

#### **N.J.A.C. § 6A:19-~~4.3~~4.2(a) Requirements and authority of structured learning experience coordinating personnel**

*"[Each district board of education shall ensure that students enrolled in approved programs and who are participating in cooperative education experiences or apprenticeship training are supervised by school personnel who meet the requirements at N.J.A.C. 6A:9-13.19, Cooperative education coordinator -- hazardous occupations, 13.20, Cooperative education coordinator, or 13.21, County apprenticeship coordinator, as appropriate.] District boards of education shall ensure that structured learning experiences are supervised by appropriately certified personnel. Supervision of structured learning experiences shall be conducted as follows: ... (4) Complete a minimum of 20 hours of Department-approved training in safety and health and required Department procedures and planning for structured learning environments pursuant to N.J.A.C. 6A:19."*

The Department and State Board should revise this section to ensure that structured learning experience coordinating personnel are properly certified and/or trained according to student placement. The majority of the new language currently is contained in N.J.A.C. § 6A:9, Professional Licensure and Standards, and is proposed to be moved to N.J.A.C. § 6A:19 because it pertains to training and not licensure requirements.

**N.J.A.C. § 6A:19-4.3]4.2(a)[1]2 to [3]4 Requirements and authority of structured learning experience coordinating personnel**

*“[1. Holds a standard instructional certificate;] 2. The chief school administrator may appoint career and technical education teachers who have completed the requirements of N.J.A.C. 6A:9-9.2(a)9iv to supervise students in cooperative education experiences and apprenticeship training only in their area(s) of endorsement. [2. Presents evidence of one year of full-time, successful classroom teaching experience; and] 3. The chief school administrator may appoint teachers to supervise any cooperative education experience and apprenticeship training in non-hazardous occupations if they meet either of the following requirements. The teachers must: i. Hold a cooperative education coordinator certificate--hazardous occupations in accordance with N.J.A.C. 6A:9-13.19; or ii. Hold a cooperative education coordinator certificate in accordance with N.J.A.C. 6A:9-13.20. [3. Completes the study requirements found at N.J.A.C. 6A:9-13.19(b)2i and ii, 13.20(b)2i and ii, or 13.21(b)3i and ii.] 4. The chief school administrator may appoint teachers to supervise any cooperative education experiences and apprenticeship training in hazardous occupations if they hold a cooperative education coordinator certificate -- hazardous occupations in accordance with N.J.A.C. 6A:9-13.19.”*

The Department and State Board should adopt the suggested revisions as they clarify supervisory requirements for student placements. Lack of specificity in existing code has led to confusion at the district level.

**N.J.A.C. § 6A:19-5.1 Performance targets and indicators**

*“(a) Each district board of education and State agency that offers career and technical education programs and programs of study established and operated in accordance with N.J.A.C. 6A:19-[3.1]3.2, shall be responsible for achieving the Statewide performance targets for a series of core indicators for secondary and postsecondary career and technical education students, [and] as well as other indicators of performance for career and technical education activities authorized under this chapter.”*

The Department and State Board should revise this section, adding the underlined language to align this subchapter with the Perkins Act of 2006. The change would also further advance the Department’s goal of providing all students with 21<sup>st</sup> century skills to better prepare them for college and career.

**N.J.A.C. § 6A:19-5.1(a)1 Performance targets and indicators**

*“Each district board of education and State agency shall [meet] achieve the levels of performance prescribed by the Department in the following areas: i. For secondary students: ... [ii. For postsecondary students in two- and four-year institutions of higher education:] ... [iii] ij. For postsecondary students in county vocational school districts or in two-year institutions of higher education:”*

The Department and State Board should revise this section, both eliminating and adding text. The changes would both combine indicators and add regulatory language required by the Perkins Act of 2006.

**N.J.A.C. § 6A:19-6.2 Definitions**

*“[The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. ‘Hazard analysis’ means a method of reviewing career and technical education program tools, equipment, materials, procedures, and processes in order to identify potential causes of injury or illness.]”*

The Department and State Board should eliminate this section; definitions should be listed together in one subchapter and streamlined. Many of the definitions contained in this section are proposed to be moved to 6A:19-1.2, Definitions, or transferred to manuals created by the Department’s Office of Career and Technical Education.

**N.J.A.C. § 6A:19-[6.5]6.4(a) Career and Technical Education Safety and [health plan] Health Plan**

*“All district boards of education and other institutions and agencies operating a career and technical education [programs or courses] program, program of study, cooperative education experience, and/or apprenticeship training in a hazardous occupation shall [organize]; 1. Organize, adopt[,] and implement a written [career and technical education safety and health plan] Career and Technical Education Safety and Health Plan describing the safety and health program being used to protect students and staff from safety and health risks [on and offsite. A] in the career and technical education classroom or at a school-sponsored cooperative education experience or apprenticeship training worksite; 2. Align the safety and health program to the self-inspection checklists covering environmental, health and safety regulations for secondary career and technical education programs in New Jersey public schools found in the New Jersey Safe Schools Manual for career and technical education, which was developed by the Environmental and Occupational Health Sciences Institute for this purpose, and which may be downloaded from the Department’s and the N.J. Safe Schools Program’s websites; 3. Retain on file a copy of the plan[, indicating] that indicates the [district board of education, the agency or institution’s] plan’s adoption and approval[shall be retained on file by the agency or institution and made]; 4. Make the plan available, upon request, to the Department [of Education].”*

The Department and State Board should revise this section. The changes above would reference the New Jersey Safe Schools Manual, which is the official career and technical safety and health manual for

districts. It provides guidance about running career and technical education programs, as well as the development and implementation of career and technical education safety and health plans. At present, the manual is updated quarterly and provides more timely information than can be expected from the more cumbersome administrative code process.

**N.J.A.C. § 6A:19-[6.5]6.4(d)1 Safety and health plan**

*“(d) The [safety and health plan] Career and Technical Education Safety and Health Plan shall contain, [as] at a minimum, the following: 1. A statement of the general policies for the safe and healthy operation of all [vocational] career and technical education programs, [courses and structured learning experiences] programs of study, cooperative education experiences and apprenticeship training in hazardous occupations;”*

The Department and State Board should revise this section. By eliminating or adding the above language, the State would ensure that all areas of career and technical education (programs, programs of student, cooperative education experience, and apprenticeship training) that involve hazardous occupations are covered by requisite Career and Technical Education Safety and Health Plans. This clarification would provide improved protections for students who are training for hazardous occupations but have not yet mastered the nuances and techniques that keep them safe.

**N.J.A.C. § 6A:19-[6.5]6.4(d)9 Safety and health plan**

*“Procedures required for the investigation of all reportable incidents and the implementation of corrective action under N.J.A.C. 6A:19-[7.5]6.5 [and implement corrective action,] where possible.”*

The Department and State Board should revise this section. By eliminating and adding the text above, the State would implement corrective action in this area of code, confirming that school districts must change conditions and behaviors that have previously led to health and safety infractions.

***Appendix – Chapter 20: Adult Education Programs<sup>30</sup>***

**N.J.A.C. § 6:30-3.4(b) to (d) Eligibility for enrollment and State aid**

*“[(b) To qualify for State aid a person shall: 1. Have met the requirements set forth in (a) above; 2. Have an educational plan on file; and 3. Have met the following attendance requirement: i. Be enrolled and on the school register as of October 15 of the current school year; and ii. Be in attendance at least once from October 16 through October 31, unless excused by the adult high school principal for reasonable cause. ...*

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<sup>30</sup> Adult education regulations currently reside in Chapter 30 of Title 6 of New Jersey Administrative Code, while all other education regulations reside in Title 6A. The Task Force recommends that all education regulations be consolidated in Title 6A.

*(d) Persons enrolled pursuant to (a)2i and 3i above shall not qualify for State aid with respect to their participation in the adult high school.]”*

The Department and State Board should delete the above regulations. School districts currently do not receive State aid for adult education programs, and thus a procedure for determining eligibility for State aid is unnecessary.

**N.J.A.C. § [6:30-3.5]6A:20-2.3(a) Adults with special needs**

*“Limited English proficient adults shall be required to demonstrate language fluency on [the Maculaitis Assessment Program] a State-approved English proficiency assessment at a score level determined by the State Board of Education.”*

The Department and State Board should amend this regulation to indicate that GED programs no longer administer the Maculaitis test. The amendment would give the Commissioner flexibility to select an appropriate assessment to measure English proficiency.

**N.J.A.C. § [6:30-3.7]6A:20-2.4 (a) Graduation**

*“[The] A district board of education [of each] operating an adult high school shall adopt policies for adult high school graduation requirements pursuant to law and rule. Policies shall include passing the Statewide assessment test. 1. When adults are unable to pass the Statewide assessment test, there shall be further evaluation through [a Special Review Assessment] the Alternative High School Assessment pursuant to N.J.A.C. 6A:8-5.1(a)5 and 6], Standards and Assessment. 2. When limited English proficient adults are unable to pass the Statewide assessment test, they shall be further evaluated through [a Special Review Assessment] the Alternative High School Assessment pursuant to N.J.A.C. [6:7-1(b)3, 4 and 5] 6A:8 and shall demonstrate English language fluency on [the Maculaitis Assessment Program] a State-approved English proficiency assessment as a requirement for graduation.”*

The Department and State Board should amend this regulation to clarify that the Special Review Assessment has been replaced with the Alternative High School Assessment and that GED programs no longer administer the Maculaitis test to measure English proficiency.

**N.J.A.C. § [6:30-3.8]6A:20-2.5 (a)2 and 6i Award of credit**

*“2.[ Credits may be awarded for other than the remedial courses which lead to a degree and are taken at an accredited college.] Courses taken at an accredited college that lead to a degree and are not remedial courses must be verified by an official transcript. [Five credits may be awarded for each course meeting two semesters or one year. Credit may be prorated for courses meeting for shorter periods of time.] One and two-thirds credits may be awarded for each college credit ... 6i. The apprentice training must be approved by the [Office of School-to-Career and College Initiatives at the Department of Education] Department of Labor and Workforce Development;”*

The Department and State Board should amend this regulation to clarify unclear language regarding the awarding of credits for certain college courses. For instance, in recognition of the varying lengths and structures of community college courses, credit awarded toward a high school diploma should vary based on the number of community college credits. Additionally, this particular program has been moved by law under the auspices of the Department of Labor and Workforce Development, which now has the authority to approve apprenticeship programs consistent with its own standards. The amendment to clarify the housing of the program within the Department of Labor and Workforce Development is proposed to be made throughout the chapter, where applicable.

**N.J.A.C. § [6:30-3.9]6A:20-2.6 Awarding credit for foreign studies**

*“[(a)] Credit for the equivalent of American secondary school studies experienced in a foreign country [may only be awarded as determined by the Manager, Bureau of Adult Education and Family Literacy] shall be reviewed by a recognized foreign credential evaluation expert or service following an evaluation of transcript(s) presented by the adult. [(b) Transcript evaluation shall be for the purpose of participating in an adult high school program and shall be transmitted to the Bureau of Adult Education and Family Literacy with a written request for such an evaluation by the principal of the adult high school. 1. Each request for a transcript evaluation shall be accompanied by a \$25.00 fee payable by the local educational agency. 2. Transcript evaluations may be made by staff at an approved adult high school for adult students in attendance providing that the evaluator has been trained by the Division of Academic and Career Standards and has been approved as an adult transcript evaluator by the Manager, Bureau of Adult Education and Family Literacy.]”*

The Department and State Board should amend this regulation to clarify that courses from another country should be reviewed by individuals with expertise in this area. The Department of Education and the Department of Labor and Workforce Development do not have the expertise or resources to conduct foreign transcript evaluations or to train individuals to conduct such evaluations. The reasonable costs for foreign transcript evaluations and selection of experts in this area should be a responsibility of the adult seeking such service.

**N.J.A.C. § 6:30-3.11 Maintaining financial records**

*“[The financial records of all adult high schools shall be maintained in appropriate accounts pursuant to N.J.A.C. 6A:23A.]”*

The Department and State Board should delete this regulation as the maintenance of financial records for all schools is covered elsewhere in code.

## Talent

### *Appendix – Chapter 9: Professional Licensure and Standards*

#### **N.J.A.C. § 6A:9-3.3(a) Professional Standards for Teachers**

*“The Learner and Learning (Standards One to Three) 1) Standard One: Learner Development. The teacher understands how learners grow and develop, recognizing that patterns of learning and development vary individually within and across the cognitive, linguistic, social, emotional and physical areas, and designs and implements developmentally appropriate and challenging learning experiences. i. Performances (1) The teacher regularly assesses individual and group performance to design and modify instruction to meet learners’ needs in each area of development (cognitive, linguistic, social, emotional and physical) and scaffolds the next level of development. (2) The teacher creates developmentally appropriate instruction that takes into account individual learners’ strengths, interests and needs, and that enables each learner to advance and accelerate his or her learning. (3) The teacher collaborates with families, communities, colleagues and other professionals to promote learner growth and development. ...”*

The Department and State Board should adopt the proposed revised standards for teachers as they clarify and update the existing standards and better conform to the Core Curriculum Content Standards (CCCS). The proposed changes have been developed by employees of the Department and reviewed by the Professional Teaching Standards Board. They include necessary changes to the ever-evolving profession of teaching.

The amendments also would update the New Jersey Professional Standards for Teachers by incorporating current research on teaching practice and new understandings of learners and the learning process. They would provide a clear vision of the performances, knowledge, and dispositions that teachers need to be effective in supporting all students in reaching the goal of being ready to enter college or the workforce in today’s world.

The proposed amendments would assist districts, higher education institutions and alternate-route providers that prepare teachers and all educators by clarifying the professional standards for teachers, which serve as the foundation for pre-service education, certification, induction and mentoring programs, educator evaluation systems, and professional development. The proposed amendments would continue to conform to the CCCS and the federal No Child Left Behind Act (NCLB) regarding “highly qualified teachers.”

While the proposed standards would cover the same broad areas of professional practice as the existing ones, there are numerous critical updates to note: (1) the importance of personalized learning for diverse learners; (2) a stronger focus on the learner’s application of knowledge and skills; (3) improved assessment of literacy to reflect the importance of using a variety of assessments to understand each

learner's progress; (4) a collaborative professional culture; and (5) new leadership roles for teachers and administrators in building a shared vision, advocating for students, and communicating with families.

**N.J.A.C. § 6A:9-3.4(a) Professional Standards for School Leaders**

*"... 1) Standard 1, Vision, Mission and Goals: An education leader promotes the success of every student by facilitating the development, articulation, implementation and stewardship of a vision of learning that is shared and supported by all stakeholders. To meet this standard, an education leader fulfills the following functions: i. Collaboratively develops and implements a shared vision and mission; ii. Collects and uses data to identify goals, assesses organizational effectiveness and promotes organizational learning; iii. Creates and implements plans to achieve goals; iv. Promotes continuous and sustainable improvement; and v. Monitors and evaluates progress and revises plans."*

Similar to the amendments proposed to the professional standards for teachers, the proposals in this section are meant to incorporate what has been learned about education leadership in the past decade. Research has drawn attention to the crucial connection between school leadership and student achievement, and the proposed revised standards are meant to reflect this connection.

The revised standards rely on the following principles: 1) reflect the centrality of student learning; 2) acknowledge the changing role of the school leader; 3) recognize the collaborative nature of school leadership; 4) improve the quality of the profession; 5) inform performance-based systems of assessment and evaluation for school leaders; 6) demonstrate integration and coherence; and 7) advance access, opportunity, and empowerment for all members of the school community.

As so much of licensure, certification, and professional development in Chapter 9 connects to the standards set forth for all educators, it is critical for the Department and State Board to update and improve the teacher and school leader standards to best reflect current research and the philosophy that the effectiveness of educators most directly influences student achievement.

**N.J.A.C. § 6A:9-4.2(a) Powers and Duties**

*"[The Board of Examiners shall issue appropriate certificates to teach or to administer, direct, or supervise, the teaching, instruction or educational guidance of pupils in public schools operated by district boards of education, ... The authority to issue certificates also includes the authority to refuse to issue a certificate under appropriate circumstances as set forth in N.J.A.C. 6A:9-17.2. All actions taken by the Board of Examiners shall be taken pursuant to rules adopted by the State Board.]"*

The Department and State Board should delete this section because the regulation is repetitive and, therefore, unnecessary. The make-up of the Board of Examiners and its powers and duties are described fully in the underlying statute, N.J.S.A. § 18A:6-38.

**N.J.A.C. § 6A:9-5.6 Oath of allegiance required**

*"[(a) Every person who applies for a certificate for employment in any of the public schools of this State shall subscribe to the oath of allegiance and office prescribed in N.J.S.A. 41:1-3. (b) Any person who is a citizen or subject of any country other than the United States is required to file an oath to support the Constitution of the United States while so employed.]"*

The Department and State Board should eliminate this section as the requirement is explained fully in the underlying statute, N.J.S.A. § 41:1-3.

**N.J.A.C. § 6A:9-10.4 Post-baccalaureate and graduate-level teacher preparation programs**

*"(a) A teacher preparation program at a post-baccalaureate or graduate[-] level that leads to a recommendation for a CEAS in instructional fields ... shall require its students to meet the following requirements: (1) Hold a bachelor's degree ...; (2) ... achieve a 2.75 cumulative GPA where a 4.00 equals an A grade; ...; (3) Present an undergraduate major or 30 semester-hour credits in a coherent sequence of courses in the subject teaching field from a regionally accredited college or university. ...; (4) Demonstrate continued competence, aptitude, motivation and potential for outstanding success in teaching ...; (5) Complete a student teaching experience in an early childhood, elementary or secondary setting[.]; and (6) Pass the appropriate State subject matter test(s)."*

The Department and State Board should also require that candidates for a CEAS pass the appropriate subject matter test(s) to better align the requirements for a CEAS with the requirements for a CE.

## Performance

### *Appendix – Chapter 1: Bylaws for the State Board of Education*

**N.J.A.C. § 6A:1-2.1 Parliamentary procedures**

*"Parliamentary procedures in meetings of the State Board of Education shall be governed by the most recent edition of Robert's Rules of Order [Newly Revised 10th Edition]."*

The Task Force recommends that the State Board use the most recent edition of Robert's Rules of Order for parliamentary procedure.

**N.J.A.C. § 6A:1-2.3 Special meetings**

*"Special meetings may be called at any time by the President [at any time] or by the secretary in conjunction with one board member. Public notice of such special meeting shall be made pursuant to law and regulation."*

The Task Force recommends that the power to call special meetings of the State Board of Education be expanded to include the Commissioner, who serves as secretary of the State Board. This would enable the State Board to respond more expediently to emergent incidents

**N.J.A.C. § 6A:1-4.1 Committee structure**

*“(a) The State Board of Education shall act as a committee of the whole. [The following standing committees shall be constituted: 1. Legal; and 2. Nominating.] (b) A nominating standing committee shall be constituted.”*

On July 7, 2008, Governor Corzine signed into law P.L. 2008, c. 36, which eliminated the role of the State Board of Education in determining appeals from Commissioner decisions. All decisions of the Commissioner now constitute final agency action under the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. Therefore, appeals of Commissioner’s decisions go directly to the Appellate Division of the Superior Court. As such, the Task Force recommends that legal committee of the State Board be dissolved.

**Appendix – Chapter 22: Residency**

**N.J.A.C. § 6A:22-3.4(e) Proof of eligibility**

*“Documents or information of the type referenced in (d) above, or pertinent parts thereof, may be considered by the district board of education in a manner consistent with Federal law if voluntarily disclosed by the applicant seeking enrollment. However, the district board of education may not, directly or indirectly, require or request such disclosure as an actual or implied condition of enrollment.”*

The Department and State Board should add language to ensure that districts comply with federal law when accepting documents as evidence of a student’s eligibility to attend school in the district.

**N.J.A.C. § 6A:22-6.1(a) Assessment of tuition where no appeal is filed and 6A:22-6.2(a) Assessment of tuition where appeal is filed**

*“6.1(a) If no appeal to the Commissioner is filed by the parent, guardian, adult student or district resident keeping an ‘affidavit’ student following notice of a determination of ineligibility, the district board of education may assess tuition for [any period] up to one year of a student’s ineligible attendance, including the 21-day period provided by N.J.S.A. 18A:38-1 for appeal to the Commissioner. ... ”*

*“6.2(a) If an appeal to the Commissioner is filed by the parent, guardian, adult student or district resident keeping an ‘affidavit’ student, where the petitioner does not sustain the burden of demonstrating entitlement to attend the schools of the district, or abandons the appeal through withdrawal, failure to*

*prosecute or any means other than settlement agreeing to waive or reduce tuition, the Commissioner may order assessment of tuition for [any period] up to one year of a student's ineligible attendance in a school district, including the 21-day period for filing of an appeal and the period during which the hearing and decision on appeal were pending. ..."*

To ensure fairness to students ultimately found ineligible to attend school in a given district, the Department and State Board should revise this section by limiting to one year's tuition any assessment against the students. Although N.J.A.C. § 6A:22-6.3(b) currently gives the Commissioner authority to make an "equitable determination" not to collect tuition in this instance, this revision would provide added protection by placing an upper limit on the Commissioner's discretion.

### ***Appendix – Chapter 23A: Fiscal Accountability, Efficiency and Budgeting Procedures***

#### **N.J.A.C § 6A:23A-2.2 School district regionalization and consolidation of services advisory committee**

*"[(a) Each Executive County Superintendent shall create a School District Regionalization and Consolidation of Services Advisory Committee (Advisory Committee) for the purpose of providing advice and consultation to the Executive County Superintendent on the issue of regionalization of school districts or consolidation of school district services ...]"*

The Department and State Board should eliminate this regulation, which required the executive county superintendent to create a School District Regionalization and Consolidation Committee to assist in developing a district consolidation plan for the creation of regional school districts. The proposed change would eliminate this provision since the statutory timeline expired on March 15, 2010.

#### **N.J.A.C. § 6A:23A-[2.3]2.2(a) Consolidation and sharing of services; joint and cooperative purchasing**

*"The [Executive County Superintendent, in consultation with the Advisory Committee,] executive county superintendent shall study the consolidation of local public school districts' administrative services, to the extent practical. ..."*

The Department and State Board should eliminate this regulation, which required the executive county superintendent to consult with the School District Regionalization and Consolidation Committee to assist in developing a district consolidation plan for the creation of regional school districts. The proposed change would eliminate this provision since the statutory timeline expired on March 15, 2010.

#### **N.J.A.C. § 6A:23A-2.5 Plan for district consolidation to create regional school districts**

*"[(a) The Executive County Superintendent, in consultation with the Advisory Committee, shall study the consolidation of local public school districts within the county, other than county school districts and*

*other than preschool or kindergarten through grade 12 operating school districts in the county, into one or more all purpose regional school districts ...]*”

The Department and State Board should eliminate this subsection, which required the executive county superintendent to submit to the Commissioner a district consolidation plan for the creation of regional school districts. The proposed change would eliminate this provision since the statutory timeline expired on March 15, 2010.

**N.J.A.C. § 6A:23A-2.6 Transportation efficiency study**

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

The Department and State Board should eliminate this subsection, which required the executive county superintendent to complete a study of pupil transportation services in the county no later than July 12, 2009. The proposed change would eliminate this provision since the statutory timeline expired on that date.

**N.J.A.C. § 6A:23A-2.7 Shared special education services**

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

The Department and State Board should eliminate this subsection, which required the executive county superintendent to assess the needs of shared special education services within the consolidated districts established pursuant to N.J.S.A. § 18A:7-8. The proposed change would eliminate this provision since the statutory timeline expired on March 15, 2010.

**N.J.A.C. § 6A:23A-5.3(b)[1] and [2]1 Failure to maximize Special Education Medicaid Initiative (SEMI)**

*“[1. For the 2008-09 school year, the waiver request must be submitted to the Executive County Superintendent by September 1, 2008. The Executive County Superintendent shall promptly review the request and render a decision no later than September 30, 2008. 2. Beginning with the 2009-2010 school year, the] 1. The application for a waiver of the requirements of this section shall be made to the [Executive County Superintendent] executive county superintendent no less than 45 days prior to the submission of the school district’s proposed budget for the school year to which the waiver request applies. ...”*

This regulation establishes a waiver process regarding the Special Education Medicaid Initiative (SEMI) beginning in the 2008-09 school year. The Department and State Board should clarify and simplify this regulation to delete language regarding the initial timeline for implementation as the rule has been in place for more than two years.

**N.J.A.C. § 6A:23A-5.3(c)1 Failure to maximize Special Education Medicaid Initiative (SEMI)**

*“[Beginning with the 2009-2010 school year, the] The school district shall recognize as revenue in its annual district budget no less than 90 percent of said projection.”*

This regulation defines what should be recognized as revenue for purposes of the SEMI beginning in the 2009-2010 school year. The Department and State Board should clarify and simplify the code by eliminating the initial timeline for implementation as the rule has been in place for more than two years.

**N.J.A.C. § 6A:23A-5.3(f) Failure to maximize Special Education Medicaid Initiative (SEMI)**

*“[Each district that has less than 90 percent participation of SEMI eligible students in the 2007-2008 school year or has failed to comply with all program requirements set forth in (e) above, shall demonstrate a good faith effort to achieve maximum participation and to maximize available SEMI revenue during the 2008-2009 school year by submitting a SEMI action plan to the Executive County Superintendent for review and approval by September 1, 2008. In subsequent years, each] Each school district that has less than 90 percent participation of SEMI-eligible students in the prebudget year or that has failed to comply with all program requirements set forth in (e) above shall submit a SEMI action plan to the [Executive County Superintendent] executive county superintendent for review and approval as part of the school district’s proposed budget submission.”*

This regulation establishes guidance regarding acceptable participation rates for the SEMI beginning in the 2008-09 school year. The Department and State Board should modify this regulation to eliminate instructions regarding the initial implementation as the rule has been in place for more than two years.

**N.J.A.C. § 6A:23A-6.2(a)2i Nepotism policy**

*“A person employed by the school district on the effective date of the policy or the date a relative becomes a school board member or chief school administrator shall not be prohibited from continuing to be employed or to be promoted in the school district. However, this provision will not pertain to extending an employment contract to allow for an increase in annual pay directly related to an extension of the work year; and”*

The Department and State Board should amend this regulation, which allows an existing school district employee to continue to serve in his or her position upon a relative’s election as a school board member or appointment as the chief school administrator of the same district. The regulation furthers the objective of this subsection, which is to avoid preferential treatment for employed relatives.

The proposed change would clarify that an extension of the work year (for example, from 10 to 12 months) is allowed under this regulation as long as the new annual pay is prorated based on the rate prior to the extension. This change would ensure that the related school board member or chief school administrator does not have the opportunity to increase their relative's rate of pay through a work-year extension.

**N.J.A.C. § 6A:23A-6.6(a) Standard operating procedures for business functions**

*"[By December 31, 2009, each] Each school district and county vocational school district shall [establish] have SOPs for each task or function of the business operations of the school district."*

The Department and State Board should adopt the proposed changes, which would delete the date for implementation of the standard operating procedures (SOPs) since it has passed. This change would be in line with the assumption that districts already have implemented SOPs. The use of "have" would clarify that the requirement of district SOPs would be a continuous requirement.

**N.J.A.C. § 6A:23A-6.7(b) Financial and human resource management systems; access controls**

*"{Districts} School districts affected by (a) above that do not currently maintain an ERP system shall fully implement one by the [2010-2011]2014-15 school year and maintain both the existing system(s) and run a beta test ERP system during the [2009-2010]2013-14 school year. A statement of assurance verifying the acquisition and full implementation of the system must be filed by the superintendent with the county office of education. Failure to purchase and/or implement the system shall require a review by the county office of education, which may result in further sanctions including the possible loss of State aid. In addition, false assurances by the superintendent may result in disciplinary action by the Commissioner."*

The Department and State Board should adopt the above changes, which would modify the date for implementation of an ERP integration system<sup>31</sup> where required and not yet implemented. The amendments would remove confusion and allow districts sufficient time to prepare for implementation. This change also would modify the date for a test run of the ERP integration system while maintaining the existing system. Finally, monitoring of the implementation would occur through a statement of assurance.

**N.J.A.C. § 6A:23A-6.8(a) Personnel tracking and accounting**

*"A school district and county vocational school district shall maintain an accurate, complete[,] and up-to-date automated position control roster to track the actual number and category of employees and the*

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<sup>31</sup> Enterprise Resource Planning (ERP) software enables organizations to use a system of integrated applications to manage key functions, such as human resources, finance, accounting, purchasing, inventory, and planning.

*detailed information for each. [Districts that do not currently maintain a position control roster as defined, or were not previously required to maintain a position control roster, shall fully implement one by December 31, 2009.] The position control roster shall: ...”*

The Department and State Board should clarify the code by removing a past deadline that required districts not maintaining control rosters to have a complete roster by the stipulated date. It is assumed that all districts now have fully implemented control rosters, and a new deadline is unnecessary.

**N.J.A.C. § 6A:23A-7.1(a) School district travel expenditures**

*“Each school district, charter school and private school for students with disabilities shall ensure the effective and efficient use of funds by adopting and implementing policies and procedures that are in accordance with N.J.S.A. 18A:11-12. [and State of New Jersey Department of the Treasury, Office of Management and Budget Circulars 08-19-OMB and 06-14-OMB (OMB Circulars) and any superseding circulars pertaining to travel, meals, events and entertainment, and the additional requirements set forth in this subchapter. If any superseding circulars of the Office of Management and Budget conflict with the provisions of these rules, the provisions of the superseding circulars shall govern.]”*

The Department and State Board should adopt the proposed addition to simplify and clarify the code by deleting references to OMB Circulars.

**N.J.A.C. § 6A:23A-7.1(c) School district travel expenditures**

*“[Any sections in the OMB Circulars that conflict with New Jersey school law (N.J.S.A. 18A:1-1 et seq.) shall not be included in the school board policy nor authorized under this section. This includes, but is not limited to, the authority to issue travel] Travel charge cards [as allowed under the OMB Circulars, but] are not authorized for school districts under New Jersey school law.”*

The Task Force recommends that the Department and State Board adopt the proposed addition to clarify that all statutory provisions applying to school districts take precedence over conflicting provisions in OMB Circulars.

**N.J.A.C. § 6A:23A-7.2(c)3 Board policy for travel expenditures**

*“[In compliance with State travel payment guidelines as established by the Department of the Treasury and with guidelines established by the Federal Office of Management and Budget; except that those guidelines that conflict with the provisions of Title 18A of the New Jersey Statutes shall not be applicable, including, but not limited to, the authority to issue travel charge cards.] The district board of education shall specify in its travel policy the applicable restrictions and requirements set forth in the [State] this subchapter and Federal guidelines including, but not limited to, types of travel, methods of transportation, mileage allowance, subsistence allowance, and submission of supporting documentation including receipts, checks or vouchers.”*

The Department and State Board should amend this regulation, which provides for board adoption of a travel policy in compliance with this subchapter. The proposed addition would simplify the code by eliminating redundant requirements.

**N.J.A.C. § 6A:23A-7.2(f) Board policy for travel expenditures**

*“[A board shall require that a board member shall not act in his or her official capacity in any matter in which he or she or a member of his or her immediate family has a personal involvement that is or creates some benefit to the school official or member of his or her immediate family; or undertake any employment or service, whether compensated or not, which may reasonably be expected to prejudice his or her independence of judgment in the execution of his or her official duties.]”*

The Department and State Board should delete this regulation, which restates the ethical obligations of school board members set forth elsewhere in code and law. The proposed deletion would simplify and clarify the code by removing this redundant provision. The prohibition on conflicts of interest and nepotism are more thoroughly set forth in the statutory provisions relating to ethics, conflicts, and nepotism, and the general statement set forth here leads to confusion.

**N.J.A.C. § 6A:23A-7.7(b) and (c) Sanctions for violations of travel requirements**

*“[(b) A person who approves any travel request or reimbursement in violation of the district's policy or this subchapter shall be required to reimburse the school district in an amount equal to three times the cost associated with attending the event pursuant to N.J.S.A. 18A:11-12. 1. The board policy shall include the designation of either the Chief School Administrator or School Business Administrator, or designate both, as the person(s) who are the final approval authority for travel and therefore, subject to this penalty. (c) An employee or board member who violates the school district's travel policy or these rules shall be required to reimburse the school district in an amount equal to three times the cost associated with attending the event pursuant to N.J.S.A. 18A:11-12.]”*

The Department and State Board should delete this subsection, which provides penalties for violations of the travel policy and merely restates statutory requirements. Deletion of this section would eliminate any potential for confusion.

**N.J.A.C. § 6A:23A-7.9(c) Travel methods**

*“[Pursuant to OMB Circulars, the] The following travel methods requirements apply:”*

The Department and State Board should amend this regulation, which proscribes certain modes of transportation. The above changes simply would remove the reference to OMB Circulars.

**N.J.A.C. § 6A:23A-7.9(c)4i1 Travel methods**

*“[In accordance with the OMB Circulars, if] If any condition in an existing negotiated contract is in conflict with [the Circulars] this subchapter, such as the mileage reimbursement rate, the provision of the contract will prevail.”*

The Department and State Board should amend this regulation, which addresses conflict between the travel regulations and collective bargaining agreements. The above changes simply would remove the reference to OMB Circulars.

**N.J.A.C. § 6A:23A-7.10(a) Routing of travel**

*“[(a) Pursuant to OMB Circulars: 1.] (a) All travel shall be by the most direct, economical and usually-traveled route. Travel by other routes as a result of official necessity shall only be eligible for payment or reimbursement if satisfactorily established in advance of such travel. [2.] (b) In any case where a person travels by indirect route for personal convenience, the extra expense shall be borne by the individual. [3.](c) Reimbursement for expenses shall be based only on charges that do not exceed what would have been incurred by using the most direct, economical and usually-traveled route.”*

The Department and State Board should amend this regulation, which addresses travel routes. The proposed changes would update the enumeration of the code to accommodate the removal of the introduction: “Pursuant to OMB Circulars:”.

**N.J.A.C. § 6A:23A-7.11[(f)](d)1 Subsistence allowance – overnight travel**

*“Allowable per diem reimbursement for lodging, meals and incidentals shall be actual reasonable costs, not to exceed the Federal per diem rates for the event location. Registration and conference fees are not subject to the Federal per diem rate caps. If the event location is not listed, the maximum per diem allowance shall be \$31.00 for meal/incidental expenses and \$60.00 for lodging[, or amounts listed in any superseding NJOMB circular].”*

The Department and State Board should amend this regulation to remove a reference to OMB Circulars, which would be consistent with the removal of such references throughout the proposed modifications.

**N.J.A.C. § 6A:23A-8.5(a) Designation of general fund balances**

*“Each district board of education shall, at a minimum, designate in the original budget certified for taxes an estimate of [unreserved] unrestricted general fund balance at June 30 of the prebudget year in excess of the limitations contained in N.J.S.A. 18A:7F-7, less any excess amounts approved by the Commissioner for deposit into a capital reserve account pursuant to N.J.A.C. 6A:23A-14.1, less any Federal impact aid anticipated to be received in the prebudget year, 50 percent of any school bus advertising revenue anticipated pursuant to N.J.S.A. 18A:39-1, and any general fund balances [reserved] restricted by law or regulation [or designation], committed or assigned.”*

The Department and State Board should amend this regulation, which requires districts to estimate in the budget their general fund balance. The change from “unreserved” to “unrestricted” would reflect GAAP principles, while adding “50 percent of any school bus advertising revenue ...” would reflect recent statutory changes in this area.

**N.J.A.C. § 6A:23A-8.5(b) Designation of general fund balances**

*“If a school district's audited [undesigned] unrestricted general fund balance at June 30 of any school year exceeds the amounts permitted in (a) above, the district board of education shall reserve and designate the excess amount in the subsequent year's budget.”*

The Department and State Board should amend this regulation, which involves the designation of general fund balances. The change from “unreserved” to “unrestricted” would reflect GAAP principles.

**N.J.A.C. § 6A:23A-8.6(a) and (b) Appropriation of [unrestricted] unreserved debt service fund balance; exception**

*“(a) A district board of education shall appropriate annually all [unreserved] unrestricted debt service fund balances in the budget certified for taxes unless expressly authorized and documented by the voters in a bond referendum, after transfer of unexpended bond proceeds pursuant to N.J.A.C. 6A:26[-4.6(c)], or upon formal Commissioner approval after review of documented authorization by the voters in a public meeting. (b) A district board of education shall include in the bond referendum or documented authorization pursuant to (a) above, the specific purpose for maintaining the [unreserved] unrestricted debt service fund balance and duration that the [unreserved] unrestricted debt service fund balance will be maintained.”*

The Department and State Board should adopt the above amendments to the regulations requiring the appropriation of certain fund balances. The proposed changes from “unreserved” to “unrestricted” would reflect GAAP principles.

**N.J.A.C. § 6A:23A-9.1(c)5 Executive [County Superintendent] county superintendent budget review**

*“5. The [comparative spending guide] Taxpayers' Guide to Education Spending;”*

This subsection requires the executive county superintendent to take the Comparative Spending Guide into account when reviewing district budgets. The Department and State Board should adopt the proposed amendment to reflect the change of title from Comparative Spending Guide to Taxpayers' Guide to Education Spending.

**N.J.A.C. § 6A:23A-9.3(a) Efficiency standards for review of administrative and non-instructional expenditures and efficient business practices**

*“For purposes of [Executive County Superintendent] executive county superintendent budget reviews pursuant to N.J.A.C. 6A:23A-9.1 through 9.5 [and tax levy cap waivers pursuant to N.J.S.A. 18A:7F-39], the standards and requirements set forth in this section shall apply.”*

The Department and State Board should amend this regulation, which provides additional standards for the county-level review of school district budgets. The proposed change would reflect the statutory removal of the waiver authority discussed later in this chapter.

**N.J.A.C. § 6A:23A-9.3(b) and (c)2 Efficiency standards for review of administrative and non-instructional expenditures and efficient business practices**

*“(b) In making a determination as to whether a school district has implemented all potential administrative efficiencies and/or eliminated all excessive non-instructional costs, the [Executive County Superintendent] executive county superintendent shall consider the efficiency standards and [Comparative Spending Guide] Taxpayers’ Guide to Education Spending indicators in (c) below as guidelines and applied based on district-specific circumstances, including, but not limited to, the school district’s spending relative to its adequacy budget, the school district’s results on NJQSAC and other measures of efficiency and effectiveness. ... (c)2. Indicators from the [Comparative Spending Guide] Taxpayers’ Guide to Education Spending for school districts’ operating type and enrollment range indexed to the budget year by the applicable growth in the Consumer Price Index (CPI) as follows: ...”*

The Department and State Board should amend this subsection, which requires the executive county superintendent to take the Comparative Spending Guide into account when reviewing district budgets for administrative and non-instructional expenditures. The proposed change would update the title to Taxpayers’ Guide to Education Spending.

**N.J.A.C. § 6A:23A-9.7(a)1xii Procedures following voter defeat of proposed budget; municipal governing body or board of school estimate action**

*“The applicable portions of the [comparative spending guide] Taxpayers’ Guide to Education Spending.”*

The Department and State Board should amend this subsection, which specifies that the district must provide to the county office and municipal governing body certain information upon voter defeat of a proposed district budget including the comparative spending guide. The proposed change would reflect the title change from Comparative Spending Guide to Taxpayers’ Guide to Education Spending.

**N.J.A.C. § 6A:23A-9.7(a)1xiv and (b)1iv Procedures following voter defeat of proposed budget; municipal governing body or board of school estimate action**

*“[xiv. Pursuant to N.J.S.A. 18A:7F-5(d)9, beginning in 2012-2013, separate questions that were rejected by the voters;] ... [iv. Pursuant to N.J.S.A. 18A:7F-5(d)9, beginning in 2012-2013, separate questions that were rejected by the voters;]”*

The Department and State Board should delete the above regulations, which provide for the reporting of separate questions rejected by the voters to the county office and municipal governing body. The authority for appeal of separate questions has been repealed by statute.

**N.J.A.C. § 6A:23A-9.7(b)4i Procedures following voter defeat of proposed budget; municipal governing body or board of school estimate action**

*“The general fund tax levy certification, in the form of a resolution, shall be for the base budget amount [and] plus[, beginning in 2012-13,] any additional amounts approved by the voters through separate questions.”*

The Department and State Board should amend this regulation, which concerns the budget approval process following voter defeat. The authority for appeal of separate questions was repealed by statute.

**N.J.A.C. § 6A:23A-9.9(b)4ix Application for Commissioner restoration of budget reductions**

*“The district's relative standing in the [Comparative Spending Guide] Taxpayers' Guide to Education Spending on the indicators for [Total Administration, Administrative Salaries and Benefits, Total Operations and Maintenance of Plant, Board Contributions to the Food Service Program and Extracurricular Costs] total administration; administrative salaries and benefits; total operations and maintenance of plant; board contributions to the food service program; and extracurricular costs;”*

The Department and State Board should adopt the proposed amendments to this regulation, which concerns the budget approval process following voter defeat. The proposed changes would reflect the title change from Comparative Spending Guide to Taxpayers' Guide to Education Spending.

**N.J.A.C. § 6A:23A-9.9(b)4x Application for Commissioner restoration of budget reductions**

*“The school district's original budget to actual spending and [undesigned] unreserved general fund balance usage and projections trend histories;”*

The Department and State Board should amend this regulation, which concerns the budget approval process following voter defeat. The change from “unreserved” to “unrestricted” would reflect GAAP principles.

**N.J.A.C. § 6A:23A-10.1 Moratorium on spending growth limitation and municipal governing body authority to determine amount to be raised upon voter rejection of separate proposal**

*“(a) For the 2008-09 school year through the 2011-12 school year, the tax levy growth limitation established pursuant to N.J.S.A. 18A:7F-37 through 40 and N.J.A.C. 6A:23A-11, shall be applied to the annual school budgets for those years in lieu of the spending growth limitation established pursuant to N.J.S.A. 18A:7F-5, and N.J.A.C. 6A:23A-10.2 and 10.3 (banked cap). ...”*

The Department and State Board should delete this section, which concerns the spending growth limitation. The removal of this section would reflect statutory changes that established a cap on local property tax levy increases as the vehicle for limiting district spending rather than a spending-growth limitation.

**N.J.A.C. § 6A:23A-[10.3]10.1(a) Unused spending authority (banked cap)**

*“Pursuant to N.J.S.A. 18A:7F-[5a]39, a district board of education [that increases its net budget between the prebudget year and budget years less than that authorized pursuant to N.J.S.A. 18A:7F-5d may include 50 percent of the unused spending authority, which is the amount of the difference between its actual net budget and its permitted net budget, in either of the next two succeeding budget years.] may add to its adjusted tax levy in any one of the next three succeeding budget years the amount of the difference between the maximum allowable amount to be raised by taxation and the actual raised by taxation for the current budget year.”*

The Department and State Board should amend this regulation, which concerns the ability of districts to “bank” cap. The proposed changes, which would bring the regulation into alignment with the statutory provisions establishing a two percent levy cap, would allow a district not raising its levy to the full amount of the cap to “bank” that amount for use during the next three years. This would provide districts with more flexibility for better budget planning and stability in an environment of tight budgetary controls.

**N.J.A.C. § 6A:23A-[10.3]10.1(b), (c) and (d) Unused spending authority (banked cap)**

*“(b) A district board of education shall comply with all of the following requirements when including unused [spending] tax authority in either of the next [two] three budget years: 1. Fully exhaust all [spending] tax authority authorized pursuant to N.J.S.A. 18A:7F-5d in the budget prior to including unused [spending] tax authority calculated under (a) above in that budget year; 2. Adopt and submit with the budget application a true copy of a formal board resolution [which] that contains the need for and the amount of the unused [spending] tax authority to be included in the base budget, and a statement that said need must be completed by the end of the budget year and cannot be deferred or incrementally completed over a longer period of time; and 3. Submit with the budget application a true copy of the minutes of the board meeting at which the need for the unused [spending] tax authority to be included in the base budget was formally introduced and discussed in public. (c) Unused [spending] tax authority calculated pursuant to (a) above that is created by merging a passed separate proposal(s)*

*with the base budget shall not be considered unused [spending] tax authority available to a district board of education in the next [two] three subsequent budget years. (d) A district board of education shall fully utilize unused [spending] tax authority from the prior prebudget year before utilizing unused [spending] tax authority from the prebudget year.”*

The Department and State Board should amend this regulation, which concerns the ability of districts to “bank” cap. The proposed amendments merely would reflect changes proposed elsewhere in the code regarding the move from a spending-growth limitation to a levy-growth limitation and would allow districts to spend the banked cap over three years.

**N.J.A.C. § 6A:23A-11.1(a)2 Adjusted tax levy growth limitation**

*“Adjustments for [a reduction in total unrestricted State aid in the prebudget year calculated pursuant to N.J.S.A. 18A:7F-38,] an increase in health care costs calculated pursuant to N.J.A.C. 6A:23A-[11.4]11.3, [and Commissioner approved waivers granted pursuant to N.J.S.A. 18A:7F-39] and an increase in normal and accrued liability pension contributions (Public Employees’ Retirement System (PERS)) pension deferral.”*

The Department and State Board should amend this regulation, which concerns adjustments to the tax levy growth limitation. The proposed changes would bring the regulation into alignment with the statutory provisions establishing a two percent levy cap.

**N.J.A.C. § 6A:23A-11.1(b) Adjusted tax levy growth limitation**

*“[The tax levy growth limitation calculated in (a) shall be reduced by the amount of the State aid increase, if any, that exceeds two percent or the CPI, whichever is greater, for a school district which is spending above adequacy as determined pursuant to N.J.S.A. 18A:7F-47d and has a prebudget year general fund tax levy greater than its local share as calculated pursuant to N.J.S.A. 18A:7F-52. i. The CPI shall not exceed four percent. ii. If the reduction would bring the school district’s spending below adequacy, the amount of the reduction made to the school district’s tax levy growth limitation shall not be greater than the amount that brings the school district’s spending to adequacy; and iii. Any reduction pursuant to this provision shall be a one-time adjustment and shall be restored in the prebudget year adjusted tax levy used to calculate the adjusted tax levy growth limitation for the subsequent budget year.]”*

The Department and State Board should delete this regulation, which concerns adjustments to the tax levy growth limitation. The proposed change would bring the regulation into alignment with the statutory provisions establishing a two percent levy cap and eliminating the need for a CPI calculation.

**N.J.A.C. § 6A:23A-11.3 Adjustment for a reduction in total unrestricted State aid**

*"[(a) The amount of the adjustment for a reduction in total unrestricted State aid, if any, shall be the decrease in unrestricted State aid between the budget year and prebudget year. The adjustment shall be calculated by the Department and provided to the school districts. (b) The adjustment shall be for a reduction in total unrestricted State aid, and shall not be by individual State aid category amounts.]"*

The Department and State Board should delete this regulation, which concerns adjustments to the tax levy growth limitation. The proposed changes would bring the regulation into alignment with the statutory provisions establishing a two percent levy cap since there is no longer an adjustment available for unrestricted State aid.

**N.J.A.C. § 6A:23A-~~11.4~~11.3(b) Adjustment for an increase in health care costs**

*"The adjustment for an increase in health care costs shall be the amount of the increase between the prebudget and budget years in excess of ~~four~~two percent, except that the sum of ~~four~~two percent and any amount in excess of ~~four~~two percent expressed as a percentage shall not exceed the average percentage increase of the SEHBP for purposes of determining the amount of the adjustment."*

The Department and State Board should adopt the proposed changes to this regulation, which concerns adjustments to the tax levy growth limitation. The proposed changes would bring the regulation into alignment with the statutory provisions establishing a two percent levy cap, which limit at two percent the adjustment for health care costs.

**N.J.A.C. § 6A:23A-~~11.4~~11.3(b)1 Adjustment for an increase in health care costs**

*"For the purpose of this calculation, the health care cost for the prebudget year shall equal the projected cost or actual cost, when available, of medical and prescription drug insurance [as of February 1 of the prebudget year] from the original budget of the prebudget year."*

The Department and State Board should amend this regulation, which concerns adjustments to the tax levy growth limitation. The proposed changes are technical in nature to reflect the statutory provisions establishing a two percent levy cap.

**N.J.A.C. § 6A:23A-12.1 through 12.12 Commissioner waiver of tax levy growth limitation; separate voter approval**

*"[12.1(a)A district board of education may submit waiver requests of the tax levy growth limitation to the Commissioner for review and decision pursuant to N.J.S.A. 18A:7F-39. ...]"*

The Department and State Board should delete this provision. The authority for Commissioner waivers of the tax levy growth limitation have been eliminated by the new law restricting tax levy increases to

two percent per year with limited exceptions. All of the waivers provided in N.J.A.C. § 6A:23A-12.1 through 12.12 have been rendered inoperative by statute and should be removed from regulation.

**N.J.A.C. § 6A:23A-~~12.13~~12.1 Voter authorization for separate proposal(s)**

*“(a) [Not withstanding N.J.A.C.6A:23A-12.12(l), a] A district board of education may put the matter of exceeding the tax levy limitation to the local voters.”*

The Department and State Board should add to the tax levy growth limitation the proposed wording concerning waivers. The proposed addition would reflect current law.

**N.J.A.C. § 6A:23A-13.1(a) Commissioner-adjusted tax levies; Commissioner budget reallocations and directives; transfers and underestimated year-end surplus**

*“Transfers from line accounts that include [waiver amounts approved by the Commissioner and] expenditures and/or reallocations directed by the Commissioner are prohibited unless approved in writing by the [Executive County Superintendent] executive county superintendent and in accordance with the provisions of N.J.S.A. 18A:22-8.1. ...”*

The Department and State Board should amend this regulation, which concerns line-item transfers including waiver amounts. The proposed changes would reflect the statutory removal of the waiver authority.

**N.J.A.C. § 6A:23A-13.1(b) Commissioner-adjusted tax levies; Commissioner budget reallocations and directives; transfers and underestimated year-end surplus**

*“[Where actual audited undesignated general fund balance at the fiscal year-end exceeds the estimated amount reflected in a school district’s originally approved budget that contained an adjustment to the tax levy limitation approved by the Commissioner, any excess amount shall be reserved for the offset of Commissioner waiver requests, if any, in the second subsequent year budget and reflected as such in the CAFR for the budget year.]”*

The Department and State Board should delete this regulation, which reserves certain funds to be applied against any waiver amount. The proposed change would reflect the statutory removal of the waiver authority.

**N.J.A.C. § 6A:23A-13.3(i) Transfers during the budget year**

*“Each district board of education shall maintain a report of current month and year-to-date transfers between general fund appropriation accounts as defined in (e) above, in a format prescribed by the Commissioner[,] or in a format developed locally and approved by the [Executive County Superintendent] executive county superintendent, and submit to the executive county superintendent such report to the*

*[Executive County Superintendent] with any transfer requests and in accordance with the submission requirements of the board secretary's and treasurer's financial reports under N.J.A.C. 6A:[23-2.12]23A-16.10."*

The Department and State Board should amend this regulation, which requires a report be maintained of transfer requests. The proposed change would correct the referenced code section.

**N.J.A.C. § 6A:23A-14.1(b)1 Capital reserve**

*"To implement eligible capital projects as determined by the Office of School Facilities and included in the school district's LRFP as required pursuant to N.J.S.A.18A:7G- 4(a) and N.J.A.C. 6A:26[-2]; and"*

The Department and State Board should amend this subsection, which places limitations on the use of capital reserve funds. The proposed changes would clarify the language to ensure that funds may be used only for projects deemed eligible by the Department, thus ensuring responsible use of taxpayer funds.

**N.J.A.C. § 6A:23A-14.1(c) Capital reserve**

*"A district board of education may increase the balance in the capital reserve account by[1. Appropriating] appropriating funds in the annual general fund budget certified for taxes to meet the needs of the [LRFP that are not met by state support; or 2. Requesting approval from the Executive County Superintendent, as the Commissioner's designee, to appropriate any excess unreserved general fund balance as calculated in the supporting documentation of the proposed budget into a capital reserve in the proposed budget ...] local funds needed for a State-approved school facility or other project."*

The Department and State Board should amend this subsection, which concerns how districts can increase capital reserve account balances. The proposed change would clarify that the capital reserve account can be used only to fund specific projects approved by the State, thus ensuring responsible use of taxpayer funds.

**N.J.A.C. § 6A:23A-14.1(d) Capital reserve**

*"A district board of education[, at its option,] may satisfy the withdrawal approval requirements set forth in (h) below when funds are deposited into the capital reserve account in the annual budget pursuant to (c)[1 and 2] above using the designated line item, supporting documentation[, and a statement of purpose in the advertised budget. ..."*

The Department and State Board should amend this subsection, which concerns how districts can increase the balance in capital reserve accounts. The proposed change would reflect the deletion of N.J.A.C. § 6A:23A-14.1(c)2.

**N.J.A.C. § 6A:23A-14.1[(g)](h) Capital reserve**

*“The district board of education shall maintain an amount of funds in the capital reserve account that does not exceed the amount needed to implement [the] other approved capital projects in a school district's LRF as determined by the Office of School Facilities that are not met by State support.”*

The Department and State Board should adopt amendments to this subsection, which concerns the maximum balance in capital reserve accounts. The proposed changes merely would clarify that capital reserve account funds can be used only to fund specific projects approved by the State.

**N.J.A.C. § 6A:23A-14.1[(h)](i)1 and 3 Capital reserve**

*“1. By board resolution for the transfer of funds to the line items in the capital outlay major account/fund to fund pre-development or other pre-application costs associated with architects, lawyers and construction managers for eligible school facilities projects included in the approved LRF as determined by the Office of School Facilities. ... [3. By board resolution for the transfer of funds to the line items in the capital outlay major account/fund to fund the total costs, less any excess costs, of another capital project, which would otherwise be eligible for State support, as determined in accordance with N.J.A.C. 6A:26-3;]”*

The Department and State Board should amend this subsection, which concerns how districts can withdraw funds from capital reserve accounts. The proposed change merely would clarify that capital reserve accounts can be used only to fund specific projects approved by the State.

**N.J.A.C. § 6A:23A-14.1(i) Capital reserve**

*“[Notwithstanding (h) above, a district board of education or board of school estimate may, at any time, apply to the Commissioner for approval to withdraw funds from its capital reserve account for uses authorized in (b) above. A district board of education or board of school estimate may make a withdrawal pursuant to this subsection only upon receipt of written approval of the Commissioner. To obtain the Commissioner's approval, the district board of education shall establish to the satisfaction of the Commissioner that an emergent condition exists necessitating an immediate withdrawal of capital reserve account funds.]”*

The Department and State Board should delete this subsection, which provides restrictions on the withdrawal of funds from capital reserve accounts. The removal of this subsection would reflect changes proposed elsewhere in this subchapter that would allow the Office of School Facilities to approve the projects.

**N.J.A.C. § 6A:23A-14.1(l) Capital reserve**

*“A district board of education or board of school estimate, as appropriate, may supplement a capital reserve account through a transfer by board resolution of any unanticipated revenue and/or unexpended line-item appropriation amounts anticipated at year end for withdrawal in subsequent school years. Any such transfer resolution shall be adopted by the board no earlier than June 1 and no later than June 30 of the respective school year.”*

N.J.A.C. § 6A:23A-14.1 provides criteria for the addition of funds to a district’s capital reserve account. The Department and State Board should add the language proposed above to provide that a district may appropriate to the account unanticipated revenue or unexpended funds.

**N.J.A.C. § 6A:23A-14.2(h) Maintenance reserve**

*“A district board of education or board of school estimate, as appropriate, may supplement a maintenance reserve account through a transfer by board resolution of any unanticipated revenue and/or unexpended line-item appropriation amounts anticipated at year end for withdrawal in subsequent school years. Any such transfer resolution shall be adopted by the board no earlier than June 1 and no later than June 30 of the respective school year.”*

N.J.A.C. § 6A:23A-14.2 provides criteria for the addition of monies to a maintenance reserve fund. The Department and State Board should add the proposed language to allow a district to appropriate to the account unanticipated revenue or unexpended funds.

**N.J.A.C. § 6A:23A-14.3 Supplementation of capital reserve and maintenance reserve accounts**

*“[(a) A district board of education or board of school estimate, as appropriate, may supplement a capital reserve account through a transfer by board resolution of any unanticipated revenue ... (b) A district board of education or board of school estimate, as appropriate, may supplement a maintenance reserve account through a transfer by board resolution of any unanticipated revenue ...]”*

The Department and State Board should adopt the above change, which would move the language in subsection 14.3 to 14.2 (maintenance reserve) and 14.1 (capital reserve).

**N.J.A.C. § 6A:23A-[14.4]14.3(a)3ii Establishment of other reserve accounts**

*“Make full appropriation of the reserve for the tuition adjustment in the [third] second year following the contract year; and”*

The Department and State Board should amend this subsection, which concerns the establishment of other reserve accounts including a tuition reserve account. The proposed changes would reflect other proposed code changes concerning tuition.

**N.J.A.C. § 6A:23A-[14. 4]14.3(a)3iii Establishment of other reserve accounts**

*“[Exclude from the cap calculation the budgeted fund balance and appropriation of the tuition adjustment reserve in the third year following the contract year for such tuition adjustments; and]”*

The Department and State Board should delete this subsection, which concerns the establishment of other reserve accounts including a tuition reserve account. The proposed deletion would reflect the statutory change from a spending-growth limitation to levy-growth limitation.

**N.J.A.C. § 6A:23A-16.1(b) Prescribed system of double-entry bookkeeping and GAAP accounting**

*“Each district board of education and charter school board of trustees shall ensure that the uniform system is fully consistent with [the "generally accepted accounting principles" (henceforth referred to as] GAAP[]] as set forth in the Governmental Accounting and Financial Reporting Standards Original Pronouncements, published annually by the Governmental Accounting Standards Board (GASB; 401 Merritt 7, P.O. Box 5116, Norwalk CT), incorporated herein by reference as amended and supplemented, and is compatible with the financial accounting terminology and classifications established in the Federal accounting manual, Financial Accounting for Local and State School Systems, [2003] 2009 Edition by the National Center for Education Statistics (NCES[;], K Street NW, Washington, DC 20006), incorporated herein by reference, as amended and supplemented as prepared, published and distributed by the Commissioner, as required by N.J.S.A. 18A:4-14.”*

The Department and State Board should amend this regulation, which would require school district accounts to conform to GAAP. This proposed change would update the edition of the federal accounting manual that districts reference.

**N.J.A.C. § 6A:23A-16.2(f)1 Principles and directives for accounting and reporting**

*“Each district board of education and charter school board of trustees shall use, for financial reporting to the Department [of Education], a uniform minimum chart of accounts published and distributed by the Commissioner consistent with Financial Accounting for Local and State School Systems, [2003] 2009 Edition, developed by the National Center for Education Statistics (NCES[;], K Street NW, Washington DC 20006), incorporated herein by reference, as amended and supplemented.”*

The Department and State Board should amend this regulation, which requires school district accounts to conform to GAAP. The proposed change would update the edition of the federal accounting manual that districts reference.

**N.J.A.C. § 6A:23A-16.4(d) Minimum bond requirements for treasurer of school moneys**

*“If a school district eliminates the position of treasurer, the person assuming the duties must have a bond or have their bond increased by the amount of the treasurer’s bond.”*

N.J.A.C. § 6A:23A-16.4 concerns bonding requirements for the treasurer of school moneys. The Department and State Board should add the proposed language to ensure that any individual assuming the duties of a treasurer in districts that opt to eliminate the position is bonded to the same degree as the former treasurer. The new language would maintain the security associated with bonding while providing districts with the opportunity to eliminate a potentially superfluous, obsolete or otherwise unnecessary position.

**N.J.A.C. § 6A:23A-18.2(a) Tuition rate procedures**

*“[The board of directors of an approved private school for students with disabilities located in New Jersey shall determine the final tuition rate charged to be an amount less than or equal to the certified actual cost per student. The board of directors shall identify the certified actual cost per student and final tuition rate charged in the audited financial statements submitted to the Department pursuant to N.J.A.C. 6A:23A-18.9. ...] The maximum tuition rate charged by the approved private schools for students with disabilities shall be determined by the assistant commissioner of the Division of Administration and Finance in consultation with a committee appointed by the Commissioner. The committee shall be comprised of two representatives from private schools for students with disabilities, one from a for-profit school and one from a nonprofit school, and five members appointed by the Commissioner. In determining the maximum tuition rate, the assistant commissioner shall consider prior years’ certified audited tuition rates and other relevant factors. 1. Extraordinary services required by the student’s Individualized Education Plan (IEP) shall be paid by the sending school district and are not included in the tuition rate. 2. Transportation from home to school is the responsibility of the school district of residence when the student’s IEP assigns them to the private school and either the student meets the distance requirements of the law governing transportation or the student’s IEP says that they need transportation. Such transportation costs shall be paid by the sending school district and is not included in the tuition rate. 3. Costs for the program shall include instructional costs and administrative costs, as defined in the chart of accounts, as follows: i. For the 2006-2007 school year and thereafter, minimum instructional costs of [55] 60 percent and maximum administrative costs of [25] 20 percent. 4. Unless otherwise determined pursuant to (b) below, the approved private school for students with disabilities shall charge one [tentative] tuition rate[, charge one final tuition rate, and calculate one certified actual cost] per student for the school year. ...”*

The Department and State Board should revise this regulation to change the methodology for determining the tuition rate at PSSDs. Currently, the Department sets a tentative payment rate for PSSDs and then adjusts the rate based on a reconciliation of the allowable spending of each PSSD. For the reasons explained previously, the Department should set a maximum tuition rate for each disability classification and allow PSSDs to spend the funds as they see fit, so long as spending on instructional costs exceeds 60 percent and spending on administrative costs falls below 20 percent of tuition. Additionally, two categories of expenses would be excluded from the new tuition rate amount: extraordinary expenses for an individual student as required by that student’s IEP, and student-specific transportation expenses.

**N.J.A.C. § 6A:23A-18.2(b) Tuition rate procedures**

*“An approved private school for students with disabilities may charge one tuition rate per school location for the school year, or separate tuition rates by class type and by school location for the school year. Approved private schools for students with disabilities that choose to charge by class type shall: 1. Maintain bookkeeping and accounting records by class type and school location for the school year; and 2. Charge a separate tuition rate for each class type served; [3. Prepare in the Department-prescribed format the audited costs by class type for the first two years that tuition is charged by class type in order for the Commissioner to determine the tentative tuition rates in accordance with (i) below; and 4. Determine on a pro rata basis the individual share of a particular allowable cost item for a class type, when it is not possible to charge the actual amount expended, in accordance with the following ratios or an alternative method as approved by the Commissioner: i. Ratio of average daily enrollment in each class type to the total average daily enrollment; ii. Ratio of square feet of floor space in each class type to the total square feet of floor space used; and iii. Direct costs.]”*

The Department and State Board should revise this regulation to eliminate the burdensome requirements under the current system for PSSDs that charge separate tuition rates for different class types and school locations. Specifically, a PSSD that charges separate tuition rates would have to maintain records for only the different class types or school locations and actually charge a separate tuition rate for each class type served, both of which are current requirements. Such a PSSD would no longer have to prepare a document that details the audited costs by class type for the first two years, which is currently required for the determination of the tentative tuition rate. The same PSSD would also no longer have to determine the individual share of each cost item on a pro rata basis in accordance with attendance, floor space ratios and direct costs, which currently are required for the purpose of determining the certified actual cost per student. The revisions would change how tuition payments are determined and would also alleviate a regulatory burden for PSSDs and the Department.

**N.J.A.C. § 6A:23A-18.2(i) Tuition rate procedures**

*“(i) The [Commissioner] assistant commissioner of the Division of Administration and Finance will issue notification of the maximum [tentative] tuition rate for approved private schools for students with disabilities no later than January 1 for the ensuing school year, [calculated as follows:] determined in accordance with N.J.A.C. 6A:23A-18.2. [1. The maximum tentative tuition rate per student shall equal the product of the audited actual cost per student for the school year prior to the current school year inflated by twice the spending growth limitation of 2.5 percent and any applicable change to this percentage identified in N.J.S.A. 18A:7F-5d or the CPI, whichever is greater ...]”*

The Department and State Board should revise this regulation to eliminate the requirement that the tentative tuition rate be calculated pursuant to a formula based on the actual cost from the prior school year as inflated by either a spending growth limitation or by the rate of inflation indicated by the Consumer Price Index. Additionally, language incorporating a for-profit surcharge or a non-profit capital

fund contribution into the tuition rate should be eliminated, because both concepts embodied in N.J.A.C. § 6A:23A-8.6 and 8.7, respectively, would be eliminated through the adoption of this proposal. The only remaining requirement would be for the Department to give notice of the determination for the maximum tuition rate by January 1 in the prior school year. The changes would comport with the overall process as proposed for amendment and generally would simplify and reduce the regulatory requirements on the Department and PSSDs.

**N.J.A.C. § 6A:23A-18.2(j) to (m) Tuition rate procedures**

*“(j) The Commissioner may approve a higher tentative tuition rate for any year in which the approved private school for students with disabilities can prove to the satisfaction of the Commissioner that the maximum tentative tuition rate for the year is not adequate and would cause an undue financial hardship on the private school. ... (m) If the tentative tuition rate for the school year established by written contractual agreement pursuant to (h) above is less than the final tuition rate charged for the school year, the approved private school for students with disabilities may charge each sending district board of education all or part of the difference owed, but the same final tuition rate shall be charged to each sending district board of education. The sending district board of education shall pay the difference on a mutually agreed upon date during the second school year following the year for which the actual cost per student is certified.]”*

The Department and State Board should revise the regulations to completely eliminate items (j), (k), (l) and (m), as all deal with the process by which the tentative tuition rates currently are established and subsequently paid. The current process would not be required under the proposed system. The primary goals reflected by the changes would be to achieve simplicity and to reduce regulatory burdens on the parties.

**N.J.A.C. § 6A:23A-18.2(o), (p) and (q) Tuition rate procedures**

*“(o) An approved private school for students with disabilities shall reference as guidance the list of maximum allowable salaries by job title and county according to the job titles contained in N.J.A.C. 6A:9 which pertain to approved private schools for students with disabilities that is published by the Commissioner. Except for administrative job titles referenced in (p) below, maximum allowable salaries are based on the highest contracted salaries (not including payment of unused sick and vacation days and severance pay) of certified staff by job title in a district board of education for any prior year indexed by the average increase in salary between the two preceding school years for each job title. ... (p) An approved private school for students with disabilities shall reference as guidance a list of maximum allowable salaries by administrative and job titles and county according to the job titles contained in N.J.A.C. 6A:9 and 6A:23A-18.1 which pertain to approved private schools for students with disabilities that is published by the Commissioner. Maximum allowable salaries are based on the highest contracted salary (not including payment of unused sick and vacation days and severance pay) by administrative job title for the entire State in a district board of education, special services district board of education and educational services commissions with comparable average daily enrollments for any prior year, indexed*

*by the average increase in salary between the two preceding school years for each job title. ...]”*

The Department and State Board should eliminate the regulations, which stipulate that no PSSD administrator may be paid more than the highest paid public school employee in the State with the same administrative job title. The resulting maximum salaries far exceed comparable salaries at traditional public schools. Further, under the current system for determining PSSD tuition, PSSDs have little incentive to contain the growth of employee salaries so long as they remain below maximum levels. As a result, salaries have become targets rather than controls on PSSD spending.

Instead, salaries should be determined through robust negotiations as long as overall spending conforms to the maximum tuition amounts set by the Department, instructional spending constitutes at least 60 percent of overall spending and administrative spending equals no more than another 20 percent.

**N.J.A.C. § 6A:23A-18.2[(r)](k) Tuition rate procedures**

*“An approved private school for students with disabilities shall employ staff pursuant to the list of the recognized job titles in accordance with N.J.A.C. 6A:9 that require certification [and N.J.A.C. 6A:23A-18.1 that require a bachelor's degree, which is published by the Commissioner]. An approved private school for students with disabilities shall only hire staff or consultants in job titles that require certification or a bachelor's degree if such titles are included on this list, or if such titles are unrecognized job titles that are approved annually in accordance with N.J.A.C. 6A:9-5.5. [The approved private school for students with disabilities may use unrecognized administrative job titles, but maximum salaries of these titles are restricted in accordance with N.J.A.C. 6A:23A-18.5(a)9. If an approved private school for students with disabilities hires staff in administrative or support job titles such as but not limited to Chief Executive Officer or Chief Financial Officer, the maximum salaries of such job titles shall be limited to the maximum salary of a director in accordance with N.J.A.C. 6A:23A-18.2(p).]”*

The Department and State Board should remove requirements regarding which job titles PSSDs may assign their employees. In addition, the reference to the applicability of maximum salary amounts should also be removed, as such salary maximums will no longer be applicable for any positions. The requirement therein for staff to be properly certificated and licensed, as needed, should be maintained.

**N.J.A.C. § 6A:23A-18.3(d), (e), (f) and (g) New approved private schools for students with disabilities**

*“[(d) An approved private school for students with disabilities shall amortize start-up costs, if any, over a 60-month period. (e) For the first two years of operation of an approved private school for students with disabilities, the tentative tuition rate charged at each site shall be established annually and be based on budgeted allowable costs. An approved private school for students with disabilities shall submit such estimated cost(s) to the Assistant Commissioner, Division of Finance for approval no later than 90 days preceding the beginning of each school year. The proposed budget shall be on a form prepared by the Assistant Commissioner, Division of Finance which provides for, but is not limited to, the following: 1. Fiscal and programmatic data; 2. Projected allowable cost items and projected enrollments; 3. A*

*projected budget that reflects administrative costs not in excess of, and instructional costs not less than, the percentages identified in N.J.A.C. 6A:23A-18.2(a)3 and as defined in the chart of accounts; 4. A report of all funding resources; 5. An affidavit of compliance; and 6. A statement of assurance. ...”*

The Department and State Board should eliminate the regulations, which all deal primarily with how newly approved schools are to be treated for the purposes of establishing the tentative tuition rate and certified actual cost per student, neither of which is part of this proposal. Future PSSDs would still have to apply to the Department for approval, which would depend on the school’s ability to demonstrate that a need exists for the program(s) offered by the school and on the provision of a minimum of 24 slots for students.

**N.J.A.C. § 6A:23A-18.4 Bookkeeping and accounting**

*“(a) An approved private school for students with disabilities shall maintain accounting and bookkeeping systems as prescribed in Financial Accounting for New Jersey Private Schools for students with disabilities issued by the Department in accordance with the following standards: 1. An approved private school for students with disabilities shall maintain accounts in accordance with generally accepted accounting principles (GAAP) as [defined] codified by the [American Institute of Certified Public Accountants] Financial Accounting Standards Board (FASB), except as already modified in this chapter. 2. [At a minimum, an] An approved private school for students with disabilities shall use accrual accounting [on a quarterly basis]. 3. An approved private school for students with disabilities shall capitalize fixed asset expenditures of \$2,000 or more and depreciate such expenditures using the straight line depreciation method and using a useful life consistent with current Federal tax law as defined in Internal Revenue Code Section 168 and class lives as defined in that section (also see IRS Publication 946)[, except for real property which may be depreciated using a useful life of 15 years or the term of the original mortgage, whichever is greater. 4. An approved private school for students with disabilities shall capitalize leasehold improvements and depreciate such improvements using the straight-line method and a useful life equal to that of the lease, but not less than five years].”*

The Department and State Board should revise the regulations. PSSDs should maintain financial accounts largely in accordance with generally accepted accounting principles (GAAP) as codified by the Financial Accounting Standards Board (FASB). The requirement for accrual accounting on a quarterly basis is unnecessarily burdensome; annual accounting is sufficient for fiscal monitoring purposes. The specific rules governing capitalization of fixed asset expenditures and leasehold improvements similarly are unnecessary, as GAAP accounting provides a clear set of rules. Rather than prescribe additional rules for how PSSDs should spend tuition funds, the Department should instead set rules regarding the maximum allowable tuition rate and the portion of tuition spent on instructional and administrative expenses.

**N.J.A.C. § 6A:23A-18.4(a)11 Bookkeeping and accounting**

*“[An approved private school for students with disabilities shall prepare a financial report in a format*

*prescribed or approved by the Commissioner each quarter at a minimum for the school year program. This report shall be submitted to the school's governing body and its acceptance shall be documented in the minutes of the meetings.]”*

The Department and State Board should eliminate this regulation. The Department should not require PSSDs to submit every 90 days a financial report approved by the school’s governing body. Rather than prescribe rules for how PSSDs specifically should spend tuition funds, the Department should set rules regarding the maximum allowable tuition rate and the portion of tuition spent on instructional and administrative expenses.

**N.J.A.C. § 6A:23A-18.4(a)14 and 15 Bookkeeping and accounting**

*“[14. An approved private school for students with disabilities that incurs contingent pay increases shall have in place an employee contract that contains the criteria by which the increase will be paid. The plan shall be submitted to the Commissioner for approval prior to implementation. The private school shall make payment of such increase upon achievement of the contractual contingencies as set forth in the approved plan. Such payment shall not be at the discretion of management. The employee contract shall contain the following: i. The date and signature of both the staff member and authorized school representative; ii. The average daily enrollment contingency the approved private school for students with disabilities must achieve in order to generate the increase; and iii. The specific dollar amount or percentage of original contracted salary to be paid pursuant to (a)14ii above. 15. An approved private school for students with disabilities that incurs merit pay increases shall have adopted a formal board policy that outlines the criteria of the merit pay plan(s). ...]”*

The Department and State Board should eliminate this regulation. The Department should not set specific rules prescribing when PSSDs may provide merit- or contingent-pay increases. Rather than set specific rules for how PSSDs specifically should spend tuition funds, the Department should instead set rules regarding the maximum allowable tuition rate and the portion of tuition spent on instructional and administrative expenses.

**N.J.A.C. § 6A:23A-18.4(a)18 Bookkeeping and accounting**

*“[A mileage record shall be maintained for each school-owned vehicle, leased vehicle or vehicle contained in a related party transaction involving the purchase of transportation services in a format prescribed by the Commissioner. The mileage record shall be maintained on a trip by trip basis and include any personal use including to/from work commutation. At the end of the fiscal year, the percentage determined by the total personal miles to total miles shall be applied to all costs associated with the vehicle(s) and those costs shall be excluded from the actual allowable costs. Vehicle costs may include, but not be limited to, the following: depreciation, lease costs, gas, oil, repairs and maintenance, insurance and car phone.]”*

The Department and State Board should eliminate this regulation. The Department should not require PSSDs to maintain mileage records for any vehicles required for school purposes. Rather than prescribe specific rules for how PSSDs should spend tuition funds, the Department should instead set rules regarding the maximum allowable tuition rate and the portion of tuition spent on instructional and administrative expenses.

**N.J.A.C. § 6A:23A-18.4(f) Bookkeeping and accounting**

*“An approved private school for students with disabilities shall establish, maintain and distribute an employee handbook to all staff. [The approved private school for students with disabilities shall include in the employee handbook an outline of all employee fringe benefits. All employee fringe benefits shall be adopted in a board of directors meeting and documented in the board minutes prior to implementing the fringe benefit. Employee fringe benefits that are consistent with N.J.A.C. 6A:23A-18.5(a)23 for which costs are deemed allowable are as follows: 1. Health insurance coverage (including dental and vision); 2. Life insurance; 3. Type(s) and qualification for retirement plan(s); 4. Severance pay; 5. Vacation; 6. Long term disability; 7. Sick day and personal day benefits; 8. Premium-only plans; 9. Cafeteria plans; 10. Section 125 plans; 11. Tuition reimbursement; and 12. Other benefits for which an approved private school for students with disabilities has applied and received written approval from the Commissioner.]”*

The Department and State Board should eliminate this regulation to be consistent with the process embodied in this proposal. In negotiations with their employees, PSSDs would have the flexibility to decide what fringe benefits to provide. Rather than prescribe specific rules for how PSSDs should spend tuition funds, the Department should instead set rules regarding the maximum allowable tuition rate and the portion of tuition spent on instructional and administrative expenses.

**N.J.A.C. § 6A:23A-18.4(k), (m), (o) and (p) Bookkeeping and accounting**

*“[(k) An approved private school for students with disabilities shall issue compensation increases after the start of the fiscal year only in accordance with N.J.A.C. 6A:23A-18.2(q), and when the increase: 1. Is due to a staff member(s) promotion that results in additional job responsibilities; 2. Is due to a staff member(s) attaining a higher degree or certification; 3. Is due to a staff member(s) additional job responsibilities such as a coach, class or school advisor or mentor; 4. Is in accordance with (a)14 or 15 above; or 5. Has been approved by the Department after review of a formal written request to the Assistant Commissioner, Division of Finance documenting the facts supporting the increase, if none of the above applies.] [(m) An approved private school for students with disabilities that incurs costs for a retirement plan(s) in accordance with N.J.A.C. 6A:23A-18.5(a)31 and/or medical benefits for retired employees in accordance with N.J.A.C. 6A:23A-18.5(a)56 shall include these costs in the certified actual cost per student on the cash basis of accounting.] [(o) An approved private school for students with disabilities shall comply with the maximum salaries determined in accordance with N.J.A.C. 6A:23A-18.2(o) and (p) and restricted in accordance with N.J.A.C. 6A:23A-18.5(a) 6, 8 and 9 regardless of the job titles used and whether these job titles comply with the list of job titles published by the Commissioner. (p) An approved private school for students with disabilities shall under no circumstances other than in*

*accordance with N.J.A.C. 6A:23A-18.4(k), provide compensation increases after the start of the fiscal year.]”*

The Department and State Board should eliminate the regulations to be consistent with the process embodied in this proposal. The Department no longer would set rules on how PSSDs account for the costs of retirement plans or the timing of compensation increases, but instead would set rules on the maximum allowable tuition rate and the portion of tuition spent on instructional and administrative expenses.

#### **N.J.A.C. § 6A:23A-18.5 Non-allowable costs**

*“(a) [Costs that are not allowable in the calculation of the certified actual cost per student include the following: ...] Non-allowable costs shall be limited to costs found to be patently unreasonable by the Commissioner or his or her representative(s) or the independent auditor/accountant. Costs shall be consistent with the individualized education program of a disabled student. They also shall be reasonable; that is, ordinary, necessary and not in excess of the cost incurred by an ordinarily prudent person in the administration of public funds. Costs shall be consistent with Federal guidelines issued as “Cost Principles for Non-Profit Organizations (OMB Circular A-122)” published as Title 2 in the Code of Federal Regulations (CFR) Subtitle A, chapter II, part 230 effective August 21, 2005, as amended and supplemented. (b) A cost found to be non-allowable shall be returned to the public school district of residence by the approved private school upon order of the Commissioner. (c) Failure to comply with this section may result in the Commissioner placing the approved private school for students with disabilities on conditional approval status.”*

The Department and State Board should eliminate the lengthy, yet non-exhaustive, list of 68 types of non-allowable costs and replace it with the proposed language above. As non-allowable costs play a crucial part in the current reconciliation process between the tentative tuition rate and the certified actual cost per student, the need for such a detailed list would be eliminated along with the reconciliation process under the proposed new methodology for determining the tuition rate at PSSDs. The simpler mechanism described in this revised regulation would enable the Department to identify non-allowable costs that are unreasonable in nature and not incurred as part of the normal operation of a PSSD, thereby facilitating the prevention and addressing of possible fraud or any other suspect activity.

#### **N.J.A.C. § 6A:23A-18.6 Surcharge**

*“[(a) For profit-making schools, the school's tuition rate may include an annual surcharge up to 2.5 percent of the private school's allowable actual costs. (b) For profit-making schools, interest earned in accordance with N.J.A.C. 6A:23A-18.2(h) is an unrestricted revenue and is not part of the school's surcharge computation. (c) For profit-making schools, the allowable Federal, State and local income tax liability in N.J.A.C. 6A:23A-18.5(a)39 is computed using only the public school placement tuition income and all allowable and non-allowable approved private school for students with disabilities expenses that are allowable tax deductions on the school's Federal, State and local income tax returns. (d) Any gain or*

*loss on the sale of fixed assets (except for buildings and/or land) or items originally purchased through funds charged in the certified actual cost per student shall be netted against or if applicable added to the total allowable costs to determine the certified actual cost per student.]”*

The Department and State Board should eliminate this section in its entirety. “Profit-making schools” currently are allowed to charge a 2.5 percent surcharge, which serves as a restricted profit. Under this proposal, nonprofit and for-profit PSSDs would face the same maximum tuition rates.

**N.J.A.C. § 6A:23A-18.7 Public school placement restricted working capital fund**

*“(a) For approved non-profit private schools for students with disabilities, the school's tuition rate may include an amount that will permit the school to establish a public school placement restricted working capital fund of up to 15 percent of the private school's allowable actual costs, for the 2006-2007 through 2007-2008 school year, but the private school shall not include an amount in excess of 2.5 percent of the private school's allowable actual costs per year. (b) Interest and/or dividends earned from the investment of tuition funds shall be netted against the school's total allowable costs incurred in account numbers classified as undistributed expenditures -- business and other support services when calculating the certified actual cost per student. (c) Any gain or loss on the sale of fixed assets (except for buildings and/or land) or items originally purchased through funds charged in the certified actual cost per student shall be netted against or if applicable added the total allowable costs to determine the certified actual cost per student. (d) Interest earned in accordance with N.J.A.C. 6A:23A-18.2(h) is unrestricted revenue and is not part of the school's public school placement restricted working capital fund computation.]”*

The Department and State Board should eliminate this section in its entirety. This section allows non-profit PSSDs to contribute into a working capital fund an amount in excess of the school's actual allowable costs, and is workable only as part of the current reconciliation process. As this proposal would eliminate that process, the requirements of this section would no longer be applicable.

**N.J.A.C. § 6A:23A-18.9(c) Audit requirements**

*“The approved private school for students with disabilities shall ensure that the audited financial statements reflect [the certified actual cost(s) per student as determined by the independent auditor and final tuition rate(s) charged at the end of the school year as determined by the school's management.] tuition revenue based upon the rate not to exceed the maximum established by the assistant commissioner pursuant to N.J.A.C. 6A:23A-18.2.”*

The Department and State Board should eliminate the regulations referring to the current reconciliation process as part of the annual audit. As this proposal would eliminate that process, the requirements of this section would no longer be applicable. Instead, this code should be replaced with language reflective of the proposed process and the maximum tuition rate established therein.

**N.J.A.C. § 6A:23A-18.9(d) Audit requirements**

*“[The approved private school for students with disabilities management representative(s) shall discuss with the auditor the results of the auditor's determination of the certified actual cost per student in order for management to determine the final tuition rate charged as a result of the audit. 1. The approved private school for students with disabilities shall charge as the final tuition rate an amount equal to or less than the certified actual cost per student. 2. The approved private school for students with disabilities shall ensure that the audit report contains a letter signed by both the school auditor and an authorized school representative indicating that both parties have met and discussed the audit, and that the determination of the final tuition rate charged was a management decision.] The audited data shall be submitted electronically to the Department in a format provided by the assistant commissioner.”*

The Department and State Board should also include a new subsection (d) to allow for the electronic submission to the Department of the documents related to the annual audit of PSSDs.

**N.J.A.C. § 6A:23A-18.9(f) and (h) Audit requirements**

*“[(f) The approved private school for students with disabilities shall not amend the final tuition rate charged after certification by the Commissioner.] ... (h) An approved private school for students with disabilities that files an audit postmarked after November 1 [shall cause the tentative tuition rate per student for the ensuing school year to be calculated based upon the audited actual cost per student for the school year two years prior to the current school year, and N.J.A.C. 6A:23A-18.2(j) will not apply.] may be subject to a fine, which will reduce the tuition rate for the subsequent year. Such fine shall be determined by the assistant commissioner of the Division of Administration and Finance.”*

The Department and State Board should eliminate (f) and amend (h) as the regulations currently refer to the reconciliation process as part of the annual audit. As this proposal eliminates the process, the requirements of this section would no longer be applicable.

**N.J.A.C. § 6A:23A-18.10 Appeals**

*“(a) The decision of the [Assistant Commissioner] assistant commissioner, Division of Administration and Finance regarding the calculation of the [tentative] tuition [rate] revenue pursuant to N.J.A.C. 6A:23A-18.2[(j)], regarding the approval of [a tentative] tuition [rate] revenue pursuant to N.J.A.C. 6A:23A-18.3 and regarding conditional approval status pursuant to N.J.A.C. 6A:23A-18.9(i), may be appealed in accordance with N.J.A.C. 6A:3. (b) The decision of the [Assistant Commissioner] assistant commissioner, Division of Administration and Finance in regard to certification may be appealed in accordance with N.J.A.C. 6A:3. (c) The decision of the Commissioner in regard to N.J.A.C. 6A:23A-18.3, New private schools for students with disabilities, may be appealed [to the State Board of Education] in accordance with [N.J.S.A. 18A:6-27 and] N.J.A.C. 6A:4.”*

The Department and State Board should revise this regulation. The appellate jurisdiction of the State Board was removed in 2008 by the Legislature and should be deleted from this regulation. Additionally, references to the tentative tuition rate should be replaced.

**N.J.A.C. § 6A:23A-18.13(f) Fiscal monitoring of approved private schools for students with disabilities and corrective action plans**

*“When an approved private school for students with disabilities is determined to be in noncompliance, the Commissioner may: 1. Issue a conditional approval status when noncompliance with State rules and/or implementation of the corrective action plan is demonstrated; or 2. Immediately remove program approval when it is documented that the health, safety or welfare of the students is in danger. 3. Require that the private school for students with disabilities refund excess tuition charged to the sending school districts if it is determined that the amount charged was noncompliant with N.J.A.C. 6A:23A-18.2. 4. If the audited expenditures for instruction are below 60 percent of total expenditures or the administrative costs exceed 20 percent of total expenditures, the per-pupil tuition rate charged shall be reduced by the costs that are noncompliant and refunded to the sending school districts. Income taxes of a for-profit private school for students with disabilities, claims and judgments shall not be included in total expenditures for purposes of this section.”*

The Department and State Board should revise this regulation to change how non-allowable costs are to be refunded to sending districts, as well as to include a mechanism to address instances where a PSSD does not comply with the allowable percentages for instructional and administrative costs as detailed in the proposed N.J.A.C. 6A:23A-18.2.

**N.J.A.C. § 6A:23A-[22.5]22.4(c) Public school contract law**

*“Charter schools are prohibited from contracting with legal counsel or using in-house legal counsel to pursue any affirmative claim or cause of action on behalf of charter school administrators and/or any individual board members for any claim or cause of action in which the damages to be awarded would benefit an individual rather than the charter school as a whole.”*

The Department and State Board should adopt this regulation to prohibit charter schools from pursuing certain legal actions that would benefit individuals rather than the charter school as a whole. The addition of this language would make the code consistent with statutory requirements placed on other public schools.

**N.J.A.C. § 6A:23A-[22.10]22.8(a)[2]1 Nepotism policy**

*“A provision prohibiting any relative of a board member, lead person or chief school administrator from being employed in an office or position in that charter school except that a person employed [or to be promoted] by the charter school on the effective date of the policy or the date a relative becomes a board member or chief school administrator shall not be prohibited from continuing to be employed or to*

*be promoted in the school[, and a]. This allowance does not pertain to extending an employment contract to allow for an increase in pay related to the extension of the work year. A charter school may employ a relative of a board member, lead person[,] or chief school administrator provided that the charter school has obtained approval from the executive county superintendent [of schools]. Such approval shall be granted only upon demonstration by the charter school [district] that it conducted a thorough search for candidates and [that] the proposed candidate is the only qualified and available person for the position;"*

The Department and State Board should amend this regulation, which clarifies that an extension of the work year (for example, from 10 to 12 months) is allowed under this regulation as long as the new annual pay is prorated based on the rate prior to the extension. This change would ensure that the related school board member or chief school administrator does not have the opportunity to increase their relative's rate of pay through a work-year extension.

#### **Appendix – Chapter 26: Educational Facilities**

##### **N.J.A.C. § 6A:26-2.1(a) Responsibilities of school district**

*"[In every school year ending in a "0" or "5," every school district shall submit,] Following the approval of the 2005 LRFP, each school district shall amend its LRFP at least once every five years on software made available by the Department, and in accordance with the instructions for completing the software, ..."*

The Department and State Board should revise this section governing school districts' submission of long-range facility plans (LRFPs), which address a district's long-term building needs. Although this proposal would still require school districts to amend their plans once every five years, it would allow them to do so at a time of their choosing rather than every school year ending in a "0" or "5." This additional flexibility would help reduce administrative burdens, enabling local officials to comply with State regulations on a timeframe that is more convenient to their respective districts.

##### **N.J.A.C. § 6A:26-3.9(b) and (c)3 Design and construction of Schools Development Authority school facilities projects**

*"(b) [After approval of the LRFP for a school district that is required to use the Authority, the school district, Department and Authority shall meet ... and identify the need for temporary facilities, if any.] The Schools Development Authority, in consultation with the Commissioner, SDA districts and the governing bodies of the municipalities in which the SDA districts are situated, shall establish a Statewide strategic plan to be used in the sequencing of SDA district school facilities projects based upon the projects' educational priority rankings and issues that impact the SDA's ability to complete the projects. ... [3. Non-Abbott school districts required to use the Authority shall submit to the Division a pre-development application ... and, if the Division approves the request, the cost of developing the*

*applications shall be allocated to the applicable approved project and deemed eligible for a State share.]”*

The Department and State Board should revise this regulation to better reflect the statutory requirements for the project prioritization process. Also, since current law does not require non-Abbott school districts to use the Schools Development Authority, such references should be eliminated to avoid confusion.

**N.J.A.C. § 6A:26-15.1 Right-to know requests**

*“[(a) Government records or records in connection with EFCFA that are in the Department's possession are subject to disclosure ...]”*

The Department and State Board should eliminate this regulation. Public access to government records currently is governed by the Open Public Records Act, which replaced the State’s right-to-know law in 2002. Maintaining a parallel set of regulations serves only to duplicate or conflict with existing law.

***Appendix – Chapter 27: Student Transportation***

**N.J.A.C. § 6A:27-2.1(b)1 General provisions**

*“The resident district board of education is not required to bid for nonpublic school services when transportation is provided utilizing a district-owned vehicle, public transportation, through a renewal of an existing contract qualifying for renewal under N.J.S.A. 18A:39-3, or an agreement with another district board of education.”*

The Department and State Board should revise this section. The bidding process for school transportation contracts is designed to ensure transparency, efficiency, and the lowest possible cost to the taxpayer. The current wording of this section, found in the subchapter dealing with nonpublic school transportation, suggests that all such contracts can be renewed without bidding. The suggested amendment clarifies that a contract is exempt from the bidding process only if it qualifies for extension under the numerous criteria imposed by N.J.S.A. § 18A:39-3. The change will ensure that student transportation is contracted in a manner that protects taxpayers.

**N.J.A.C. § 6A:27-7.1(b) General provisions**

*“District boards of education shall consult and comply with all statutes governing motor vehicles and all Motor Vehicle Commission regulations pertaining to school transportation.”*

The Department and State Board should eliminate any duplication of regulations promulgated by the Motor Vehicle Commission, which are found in Title 13 of the N. J. Administrative Code. The MVC

supports such a change, as future revisions to regulations under the MVC's purview may not always be accompanied by equivalent revisions to the Department's regulations, creating inconsistent procedures and causing confusion. Adding subsection (b) would inform school districts of their obligation to comply with any MVC requirements found outside N.J.A.C. § 6A:27.

**N.J.A.C. § 6A:27-7.2 Capacity**

*"[(a) The number of students assigned to a seat shall not exceed the gross seating length in inches divided by 15. The maximum number of students who may be transported in each vehicle shall be determined by this seat measurement. Application of this formula shall not result in the use of a school vehicle with a seating capacity in excess of 54. (b) There shall be no standees. (c) This section shall not apply to a bus which is being used as a common carrier on a preset franchised route and schedule or is chartered for school-related activities.]"*

The Department and State Board should delete this section as it is duplicative of N.J.A.C. § 13:20-49C.5, a regulation under the purview of the Motor Vehicle Commission.

**N.J.A.C. § 6A:27-7.3 Retirement of school buses**

*"[(a) School buses, Type I and Type II, as defined by N.J.S.A. 39:1-1, which are registered and inspected in this State, manufactured on or after April 1, 1977, other than those of the transit type whose gross vehicle weight (GVW) exceeds 25,000 pounds, shall not be utilized for student transportation purposes beyond the end of the 12th year from the year of manufacture, as noted on the vehicle registration, or at the end of the school year in which that year falls, whichever is later. Such buses, when used beyond the 10th year, shall have an annual in-depth inspection by the New Jersey Motor Vehicle Commission prior to the ensuing school year. (b) School buses of transit type whose GVW exceeds 25,000 pounds shall not be used for student transportation purposes beyond the end of the 20th year from the year of manufacture, as noted on the vehicle registration, or at the end of the school year in which that year falls, whichever is later.] School buses shall be retired in accordance with N.J.S.A. 39:3B-5.1 and 5.2."*

The Department and State Board should replace this section with a reference to the underlying statute, a law concerning the regulation of motor vehicles that contains roughly equivalent language. Any future revisions to the statute would not require an amendment to the regulations.

**N.J.A.C. § 6A:27-9.2(a) Responsibilities of district boards of education**

*"Prior to the opening of school and in sufficient time to publicly advertise for bids, district boards of education shall assess their student transportation needs. If the assessment indicates that student transportation services are anticipated or in the aggregate shall exceed the statutory bid limit, except for contracts qualifying for renewal under N.J.S.A. 18A:39-3, all transportation services shall be bid in accordance with N.J.S.A. 18A:39-3."*

The Department and the State Board should adopt the change to this subsection. The reasoning for this revision is largely equivalent to that of N.J.A.C. § 6A:27-2.1(b)1 above. New language is proposed to clarify that only contracts qualifying for extension under N.J.S.A. § 18A:39-3 would be exempt from the bidding process. The change would ensure that student transportation is contracted in a manner that protects taxpayers.

## Innovation

### *Appendix – Chapter 5: Regulatory Equivalency and Waiver*

#### **N.J.A.C. § 6A:5-1.4 Equivalency process and 6A:5-1.5 Waiver process**

*“1.4(a) ... [4. Demonstrate that the school district’s educational community, including the district board of education, parents, administration and staff, have been informed of the proposed equivalency to the specific rule and have been provided the opportunity for public comment. 1.5(a) The Commissioner[, with authority delegated by the State Board for the purpose of this rule,] may approve a waiver to a specific rule based on an application submitted by a school district. The completed application must be signed by the chief school administrator and approved by the district board of education. The application developed by the Department and completed by the school district shall describe at a minimum: 1. [Describe the] The waiver sought by the school district; 2. [Describe the] The conditions or reasons for the proposed waiver including [the] reference [of] to the specific rule [which] that necessitates the proposal; and 3. [Describe the] The projected measurable results [which] that will demonstrate that the waiver is educationally, organizationally and fiscally sound[; and 4. Demonstrate that the school district's educational community, including the district board of education, parents, administration and staff, have been informed of the proposed waiver to the specific rule and have been provided the opportunity for public comment].”*

The Department and State Board should remove the above requirement in N.J.A.C. § 6A:5-1.4 and modify N.J.A.C. § 6A:5-1.5. Equivalencies and waivers must be signed by the chief school administrator and approved by the district board of education. The normal approval process of district boards provides all constituencies with opportunities for public comment.

#### **N.J.A.C. § 6A:5-1.6 Review and duration of the equivalency or waiver**

*“[(d) The Commissioner shall annually evaluate the equivalencies and waivers granted to Title 6A to determine whether amendments to the Administrative Code should be proposed to the State Board.]”*

The Task Force agrees that the Commissioner should consider whether the equivalencies and waivers granted to Title 6A merit amendments to the underlying administrative code. This consideration,

however, should occur when the equivalences and waivers are being considered and at points afterwards at the discretion of the Commissioner rather than annually.

### *Appendix – Chapter 11: Charter Schools*<sup>32</sup>

#### **N.J.A.C. § 6A:11-1.2 Definitions**

*“Preparedness visit” means the on-site inspection by Department personnel that gauges readiness for school opening. The preparedness visit shall include a review of program, facility and fiscal documentation and interviews with board of trustee members and staff members of the proposed charter school to assess organizational leadership and capacity.”*

The Department and State Board should amend the definition of “preparedness visit” to include “facility” to ensure the review includes all requisite facility issues, and to add language to further clarify the purpose of the visit.

#### **N.J.A.C. § 6A:11-2.1(b)[3]5 Application and approval process**

*“[Submit] For the March 31 application round, submit a hand-delivered or mailed copy of the completed phase one application to the Commissioner, the respective executive county superintendent of schools and the district board(s) of education or State district superintendent(s) of the district of residence of the proposed charter school no later than 4:15 P.M. on March 31. If March 31 falls on a weekend, the phase one application is due no later than 4:15 P.M. on the first subsequent work day. [The Department of Education will review for fast track approval through early action all applications submitted no later than 4:15 P.M. on October 15. If October 15 falls on a weekend, the application is due] For the expedited action round, applications must be submitted no later than 4:15 P.M. on October 15. If October 15 falls on a weekend, the phase one application for expedited action is due no later than 4:15 P.M. on the first subsequent work day. Phase two applications must be submitted no later than 4:15 P.M. on the [first subsequent work day] designated due date.”*

The Department and State Board should amend this regulation to clarify the due dates for the two-phase charter school applications and for the expedited action application. The deadline for the spring phase one application would remain March 31, and the deadline for phase one of the expedited action application would remain October 15. Phase two applications for each cycle would be due on dates to be determined by the Commissioner.

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<sup>32</sup> The Task Force endorsed these recommended revisions to charter school regulations prior to the June 2012 release by the Department of similar regulations. The Task Force affirms its support for the revised regulations proposed by the Department.

**N.J.A.C. § 6A:11-2.1 [(e)](c), [(f)](d) and [(g)](e) Application and approval process**

*“[(e)] (c) The Department [of Education] shall review the [addenda and may seek clarifying information from the applicant] phase one application. Qualified applicants will be asked to complete the phase two application. [(f)] (d) The district boards of education or State district superintendents of the districts of residence of the proposed charter schools shall review both the phase one and phase two applications [and addenda], if submitted. 1. The recommendations of [these] the district boards of education or State district superintendents shall be forwarded to the Commissioner within [60] 30 days of receipt of the phase one applications. However, if a district board of education or State district superintendent is unable to respond to the phase one application in this timeframe, upon good cause shown to the Commissioner, comments may be submitted on the phase one application along with comments provided on the phase two application. 2. The recommendations of [these] the district boards of education or State district superintendents shall be forwarded to the Commissioner within [30] 60 days of receipt of the [addenda] phase two applications. [(g) The] (e) Following review of phase two applications, the Commissioner or designee(s) shall conduct an in-depth interview with [each eligible applicant for a charter school] qualified applicants.”*

The Department and State Board should modify these regulations to further explain the proposed new two-phase written application, which involves a short general phase one application and a longer phase two application for the strongest phase-one applicants. This would replace the current application process, which involves only one written application phase along with an opportunity to provide addenda to clarify questions stemming from the written application. The revised language includes explanation of what application materials would be required upfront in phase one versus what information would be expected of eligible applicants in phase two, as well as clarifications regarding public notice. Additionally, the revisions would ensure that superintendents of districts of residence of proposed charter schools are provided with ample opportunity to review both phase one and phase two applications while remaining consistent with the timelines established by statute and the structure of the proposed two-phase application review process.

**N.J.A.C. § 6A:11-2.1[(h)](f) Application and approval process**

*“The Commissioner shall notify [eligible] applicants regarding approval or denial of applications no later than [January] February 15 for applicants seeking fast track approval through [early] expedited action and no later than September 30 for all other applications. ...”*

The Department and State Board should add a month to the “expedited action” charter application review timeline. Given the growing number of application submissions through this “expedited action” process, an additional month would afford the Office of Charter Schools time to ensure that its analyses of applications for new charters through this accelerated process is thorough and not rushed.

## *Appendix - Chapter 12: Interdistrict Public School Choice*<sup>33</sup>

### **N.J.A.C. § 6A:12-1.2(a) Scope**

*“(a) Any school district in the State established pursuant to Chapter 8 or Chapter 13 of Title 18A of the New Jersey Statutes will be eligible to apply to become a choice district. A choice district may accept non-resident students into an educational program in the choice district at the expense of the State. [However, there shall be in operation no more than 21 choice districts Statewide and no more than one per county.]”*

The Department and State Board should remove the bracketed sentence to conform to the new statute. School district participation in the Interdistrict Public School Choice program is no longer capped.

### **N.J.A.C. § 6A:12-1.3 Definitions**

*“‘Non-public school student’ means any student who is obtaining academic instruction outside of a public school at the time of his or her application to the choice district.”*

The Department and State Board should add this definition since the new statute allows non-public school students to enroll in choice schools if the district chooses to admit them and there are available seats after all eligible public school students have been admitted.

### **N.J.A.C. § 6A:12-1.3 Definitions**

*“‘Sending district’ means the choice student’s district of residence, charter school or any school the student is required by law to attend.”*

The Department and State Board should amend this definition to clarify the term “sending district.”

### **N.J.A.C. § 6A:12-2.2(a) and (b) Eligibility criteria for students**

*“(a) To be eligible to participate in the program, a student shall be enrolled at the time of application in grades [K] preschool through [nine] 12 in a public school of the sending district and have attended school in the sending district for at least one full year immediately preceding enrollment in a choice district including time spent at any school that a student in a particular district of residence is required by law to attend. 1. If a student attends public school in his or her district of residence and is counted in that district’s October Application for State School Aid and the student’s family moves during the school year and the student attends public school in his or her new district of residence for the remainder of the school year, the student shall have satisfied the one-year eligibility requirement for application to the*

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<sup>33</sup> The Task Force endorsed these recommended revisions to interdistrict public school choice regulations prior to the June 2012 release by the Department of similar regulations. The Task Force affirms its support for the revised regulations proposed by the Department.

school choice program. 2. The one year requirement shall not apply to a student applying to enroll in kindergarten in a choice district if that student already has a sibling enrolled in and attending the choice district and if the district of residence of that student does not offer a public pre-school program. (b) A public school student who does not meet the eligibility requirements found in (a) above or a non-public school student may nonetheless apply to enroll pursuant to N.J.S.A. 18A:36B-20(a). If a choice district allows for non-public school student enrollment, it may not make distinctions between such students on the basis of where they receive this academic instruction."

The Department and State Board should amend this regulation as the new statute extends the eligibility of choice to kindergarten through grade 12. The change necessitates a clarification of the one-year requirement to make eligible kindergarten students who could not fulfill the requirement of one year's attendance in a public school. The addition of (b) mirrors the inclusion of non-public school students and home school students.

**N.J.A.C. § 6A:12-3.1 Choice program application procedures for a district board of education**

"[(a) An eligible district board of education which chooses to participate in the choice program shall submit a completed application on a form provided by the Department no later than April 30 in the year prior to the school year in which the choice program will be implemented in the school district. The application shall include, but not be limited to, the following information...] An eligible applicant for a choice district shall complete an Interdistrict Public School Choice Program application, which shall be made available by the Department and which shall be submitted pursuant to N.J.S.A. 18A:36B-17."

The Department and State Board should remove this chapter and replace it with the above statement since the existing chapter simply restates statute and is a duplication.

**N.J.A.C. § 6A:12-4.1(e) to (g) Sending district procedures**

"(e) Prior to any lottery that may be held according to this section, the sending district shall verify that the student is enrolled in the sending district and was reported on the Application for State School Aid in October of the current school year. (f) Prior to any lottery that may be held according to this section, the sending district shall notify the applicants of the date and time of such lottery. (g) Any lottery held according to this section must be held prior to the deadline set by the Commissioner for written notification to the parent that the student is eligible to participate in the school choice program."

The Department and State Board should add the above sections to make clear the Department's requirements for lottery procedures, notification and deadlines.

**N.J.A.C. § 6A:12-4.2(a) Choice district procedures for students meeting the eligibility requirements**

"1. [A choice district may limit admissions to a particular grade level or to areas of concentration in the schools of the choice district, such as mathematics, science, or the arts. 2.] A district board of education

*shall not prevent [or discourage] students from participating in the school choice program. [However, a choice district may establish reasonable criteria to evaluate prospective choice students, including the student's interest in the program offered by the choice district. These criteria shall be outlined in the district board of education's application for choice program participation. 3] 2. A choice district may not impose admission criteria upon prospective choice program students other than those [used by the choice district to determine admission of its resident students to the program for which the prospective choice students are applying] permitted by statute. [4] 3. A choice district may give preference for enrollment to siblings of enrolled students. [5. Any student enrolled on a tuition basis in a district at the time of approval by the Commissioner of the district as a choice district shall be entitled to remain enrolled in the choice district as a choice program student. Once the district is approved by the Commissioner as a choice district, no additional students may be admitted on a parent-paid tuition basis.] ... ”*

The Department and State Board should amend this subsection to eliminate items that already exist in statute. The revised code and the underlying statute would serve to distinguish the admission of eligible public school students from that of eligible non-public school students.

**N.J.A.C. § 6A:12-4.3(a) Choice student application procedures**

*“The Commissioner shall establish [two] a student application [cycles to ensure that parents have adequate opportunities to participate in the choice program. The first cycle shall be held in the fall. The second cycle shall be held in the spring when there are open seats in the choice district not filled during the first cycle] timeline each year no later than September 1.”*

The Department and State Board should eliminate the onerous two-cycle timeline, which includes specific dates, and replace it with the simple requirement that each year the Commissioner would produce a new timeline with dates for the application cycle.

**N.J.A.C. § 6A:12-4.3(b) Choice student application procedures**

*“Within five business days of the due date set by the Commissioner pursuant to the timeline in (a) above, the choice district shall provide to the Department electronic notification of the number of students who enroll.”*

The Department and State Board should require districts to notify the Department of their enrollments in a timely manner so enrollment figures can be used for State budgetary purposes.

**N.J.A.C. § 6A:12-4.3(d) Choice student application procedures**

*“A choice student applicant may seek from the Commissioner by a showing of good cause a waiver of the student application deadlines established in the timeline in (a) above.”*

The Department and State Board should add this section to allow the Commissioner to permit a student to be admitted without adherence to the timeline if there is evidence that it is in the student's best interest.

**N.J.A.C. § 6A:12-4.4 Choice district procedures for students not meeting eligibility requirements**

*“(a) If seats remain available in a choice district after exhausting the list of applicants who meet the requirements of N.J.A.C. 6A:12-2.2(a), including those on any waiting list that has been established through the application process, then the choice district may elect to fill the seats with public school students who do not meet the requirements of N.J.A.C. 6A:12-2.2(a), and with non-public school students. (b) Choice districts may accept applications from public school students who do not meet the requirements of N.J.A.C. 6A:12-2.2(a) and/or non-public school students up until the deadline set by the Commissioner. (c) Upon the receipt of an application from a public school student who does not meet the requirements of N.J.A.C. 6A:12-2.2(a) or a non-public school student, the choice district shall send a letter to the parent of the student including the following information: 1. Whether the choice district will consider public school students who do not meet the requirements of N.J.A.C. 6A:12-2.2(a) and non-public school students for admission to the district. If the choice district has not yet decided, inform the parents of when the decision is expected to be made; 2. That public school students who do not meet the requirements of N.J.A.C. 6A:12-2.2(a) and non-public school students will not be considered for admission until the choice district has conducted the application cycle and has exhausted its waiting list of students who meet the requirements of N.J.A.C. 6A:12-2.2(a) for the grade level to which they have applied; 3. That the choice district may need to conduct a lottery to select the students to be offered admission to the choice district depending on the seats available and the number of applications received from public school students who do not meet the requirements of N.J.A.C. 6A:12-2.2(a) and/or non-public school students; and 4. That the parents of those public school students who do not meet the requirements of N.J.A.C. 6A:12-2.2(a) and non-public school students will be fully informed of the lottery process in the event that a lottery is required, the date it will be held, and what number has been assigned to the applicant.”*

The Department and State Board should add this new subsection to reflect the statute's allowance of the admission of non-public school students to fill any seats remaining after the enrollment of eligible public school students.

**N.J.A.C. § 6A:12-5.1(e) Choice student enrollment**

*“A resident student of a choice district who moves during the school year may be allowed to remain in the choice district until the end of the school year. The student may apply to the choice program as a funded student for the next school year. If the student moves after the application deadline or otherwise is unable to receive funding as a choice student in the school district for the subsequent school year, the choice school district may enroll the student as an unfunded choice student in that year, and automatically convert the student's enrollment to a funded choice student if he or she remains in the choice program.”*

The Department and State Board should add the above language to clarify issues relating to student mobility within the choice program. A student who attends school in his or her resident school district but moves during the school year from the district would be able to apply to remain in the district as a choice student if that district participates in the Interdistrict School Choice program. That district would have the authority to allow the student to remain in the school until the end of the school year. Additionally, if the timing of the student's move prevents him or her from meeting the application deadline for the choice program, the district could choose to allow the student to enroll as an unfunded choice student in the upcoming year, in which case the student's enrollment would automatically convert to a funded choice student if he or she remains in the choice program. This revision would provide greater flexibility for districts and greater options for students and families.

**N.J.A.C. § 6A:12-5.2 Choice student transfer**

*"[(a) A choice student may transfer back to the sending district except as limited by N.J.A.C. 6A:12-4.3(f)1. (b) A choice student may apply to attend a different choice district by following the choice student application procedures set forth in N.J.A.C. 6A:12-4.3.]"*

The Department and State Board should eliminate the sections as the provisions are already permitted by law.

**N.J.A.C. § 6A:12-7.1[(c)](b)1 General provisions**

*"The center shall collect and disseminate information about participating programs and schools, and shall assist parents and legal guardians in submitting applications for enrollment of students in an appropriate program and school."*

The Department and State Board should amend this section, clarifying the responsibilities of choice districts regarding parent information centers.

**N.J.A.C. § 6A:12-7.1[(c)](b)2 General provisions**

*"[All materials available through the regionwide public information program established pursuant to (b) above shall be made available to parents and legal guardians at the parent information center.] The information about participating programs and schools shall be posted on the choice district's website."*

The Department and State Board should amend this section to require choice districts to include information on their websites as part of parent information centers.

**N.J.A.C. § 6A:12-8.1 Student transportation**

*“Each [choice] sending district shall have the responsibility for the transportation of enrolled choice students who are eligible for transportation services both to and from the choice school in which that student is accepted. Each [choice] sending district shall provide transportation or aid in lieu of transportation in accordance with N.J.S.A. 18A:36A-13 and N.J.A.C. 6A:27-4.”*

The Department and State Board should revise this section, reflecting the new statute that transfers responsibility for student transportation from choice districts to sending districts.

**N.J.A.C. § 6A:12-9.1(a) General provisions**

*“Choice students participating in this program shall qualify for State aid pursuant to N.J.S.A. 18A:36B-14 et seq. The sending district will receive transportation aid pursuant to N.J.A.C. 6A:12-8.1.”*

The Department and State Board should add this language to the subsection to further clarify the change in transportation responsibility from that of choice districts to sending districts, and also the change in transportation funding.

**N.J.A.C. § 6A:12-10.1 Annual report**

*“[The Commissioner shall annually report to the State Board of Education and the Legislature on the effectiveness of the choice program.]”*

The Department and the State Board should remove this subsection, as its content is already stated in statute.

## Task Force Membership

Dave Hespe (Chair)	Chief of Staff, New Jersey Department of Education <sup>34</sup> . Prior positions include Co-Executive Director and VP of STEM Education at Liberty Science Center; Interim Superintendent, Willingboro School District; Chair and Associate Professor, Educational Leadership Department, Rowan University; Commissioner, New Jersey Department of Education.
Angel Cordero	Co-Founder and Director, Community Education Resource Network; Co-Founder, East Side Preparatory High School.
Angela Davis	Principal, Thomas Jefferson Middle School, Teaneck <sup>35</sup> . Prior positions include Principal, Teaneck High School; Teacher, Clifford J Scott High School, East Orange.
Frank Digesere	Retired Superintendent, Kearny School District <sup>36</sup> . Prior positions include Superintendent, Bloomfield School District; Supervisor, Principal, and Teacher, Kearny School District.
Linda DuBois	Mayor, Pittsgrove Township, and Teacher, Pittsgrove Middle School. Prior positions include Member, Pittsgrove Township Committee.
Don Goncalves	Assistant Board Secretary, Elizabeth Public Schools. Prior positions include Freeholder, Union County; Director of Projects and Community Relations, Elizabeth Development Company.
Bruce Litinger	Executive Director, ECLC of New Jersey (nonprofit provider of services to the children and adults with special needs). Prior positions include Director of Special Services, School Social Worker, and Special Education Teacher, Woodbridge Township School System.
Mike Osnato	Chair, Seton Hall University Department of Education Leadership, Management and Policy. Prior positions include Superintendent, Montclair Public Schools (2003 NJ Superintendent of the Year); Superintendent, Pearl River School District (NY); Superintendent, Cohoes City School District (NY); Superintendent and Principal, Livingston Manor Central School District (NY); Teacher, New York City Department of Education.

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<sup>34</sup> Mr. Hespe's position at the Department commenced after his appointment to the Task Force.

<sup>35</sup> Ms. Davis' position at Thomas Jefferson Middle School commenced after her appointment to the Task Force.

<sup>36</sup> Mr. Digesere's retirement occurred after his appointment to the Task Force.

## Acknowledgements

We are grateful to the hundreds of educators, parents, other family members, and citizens who met with us, submitted thoughtful written commentary, or attended a public meeting and shared their perspective on how to improve our education rules and accountability systems. Without their cooperation and ideas, our work would not have been possible.

We thank the Foundation for Education Advancement/New Jersey Principals and Supervisors Association, Bergen Community College, Camden County College, Pittsgrove Township, and Seton Hall University for providing welcoming places to hold some of our meetings.

We appreciate the generosity of many educators in sharing their expertise, including dozens of superintendents and principals from across the State. Special recognition is due to Jay Doolan and Ellen Schechter, both retired assistant commissioners of the Department, for imparting guidance and wisdom.

We extend our thanks to the many professionals in the Department who assisted with the work of the Task Force. Department staff and leaders, whose participation was too broad to name individually, were essential to the success of this project. Beth Auerswald, Orlando Castro, Christopher Emigholz, Tom McMahon, Diana Pasculli, and Eric Taylor, in particular, contributed substantially to the efforts leading to this Final Report. The work of our team of lawyers and legal interns, under the leadership of Kevin Mitchell, was central in our analysis: Maksim Feofanov, Alex Fineberg, Matt Franson, Chris Leavell, David Morin, Justin Nelson, Mac Robertson, Chris Skufca, and Justin Yost. Melissa Langsam Braunstein and Matt Van Itallie provided valuable assistance with drafting this Final Report. A final note of thanks is reserved for Michael Blaustein for his leadership throughout our work.