

CHAPTER 10A

IMPROVING LEARNING AND LITERACY IN ABBOTT SCHOOL DISTRICTS: IMPLEMENTING STANDARDS-DRIVEN INSTRUCTION AND EFFECTIVE AND EFFICIENT PRACTICES UNDER ABBOT V. BURKE

Authority

P.L. 2004 c.71 (Fiscal Year 2005 Appropriations Act).

Source and Effective Date

R.2005 d.2, effective November 30, 2004.
See: 37 N.J.R. 104(a).

Chapter Expiration Date

Chapter 10A, Improving Learning and Literacy in Abbott School Districts: Implementing Standards-Driven Instruction and Effective and Efficient Practices Under *Abbott v. Burke*, expires on June 20, 2005.

Chapter Historical Note

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

Chapter 10A, Improving Learning and Literacy in Abbott School Districts: Implementing Standards-Driven Instruction and Effective and Efficient Practices Under *Abbott v. Burke*, was adopted as Special New Rules by R.2005 d.2, effective November 30, 2004. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

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

(a) These rules are adopted to implement the *Abbott v. Burke* decisions and are promulgated pursuant to P.L. 2004 c.71 to ensure that students in poor urban school districts,

including students with disabilities and English language learners receive the educational entitlements guaranteed them by the New Jersey Constitution. The rules apply to “Abbott districts” as defined in *Abbott v. Burke*, 119 N.J. 287 (1990) (*Abbott II*) and N.J.A.C. 6A:10A-1.2, and are adopted to ensure the provision of a thorough and efficient system of education as guaranteed by the New Jersey Constitution (T & E), and defined by the Court in the Abbott decisions and by P.L. 1996, 136, as CCCS. These rules will also ensure that the instructional needs of students are identified through assessment and evaluation, and that proposed actions to clear the obstacles to student learning are cost-effective and efficient, are focused on improving learning, literacy and student mastery of the CCCS, and are supported by adequate funding. Additionally, these rules establish procedures and standards for those Abbott school districts seeking DEOA funding.

(b) These rules, promulgated by the Commissioner of Education under the authority of the Fiscal Year 2005 Appropriations Act, shall be effective through June 30, 2005. To the maximum extent possible, these rules are consistent with the requirements, reporting, and responsibilities imposed on Abbott schools and school districts by No Child Left Behind, P.L. 107-110. The rules shall supercede the rules in N.J.A.C. 6A:24 and where inconsistencies occur in N.J.A.C. 6A:23. In addition, Abbott school districts must comply with all other requirements of State law and regulations as set forth in Title 18A of the laws of the State of New Jersey, the New Jersey Administrative Code and the non-fiscal requirements of the Comprehensive Educational Improvement and Financing Act (CEIFA) in N.J.S.A. 18A:7F-1 et seq., and rules otherwise promulgated to implement that act; except that where differences in these rules and the CEIFA rules or other rules occur, these rules herein shall take precedence.

6A:10A-1.2 Definitions

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

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

“Abbott school district” means each of the following 28 urban school districts identified in the appendix to *Raymond Abbott, et al. v. Fred G. Burke, et al.* decided by the New Jersey Supreme Court on June 5, 1990 (119 N.J. 287, 394) as follows: Asbury Park City, Bridgeton City, Burlington City, Camden City, East Orange City, Elizabeth City, Garfield City, Gloucester City, Harrison Town, Hoboken City, Irvington Township, Jersey City, Keansburg Borough, Long Branch City, Millville City, New Brunswick City, Newark City, City of Orange Township, Passaic City, Paterson City, Pemberton Township, Perth Amboy City, Phillipsburg Town, Pleasantville City, Trenton City, Union City, Vineland City, and West New York Town, and the following school districts not included above but designated Abbott school districts pursuant to statute, Neptune Township and Plainfield, P.L. 1999, c.110, and Salem City, P.L. 2004, c.61, and such other school districts as may qualify in the future. An Abbott school district shall not include any charter school.

“Administrative cost” means total administrative costs as defined by the Comparative Spending Guide and in accordance with the Uniform Minimum Chart of Accounts for New Jersey Public Schools and the National Center for Education Statistics classifications and other reporting directives published and distributed by the Commissioner pursuant to N.J.S.A. 18A:4.14 and N.J.A.C. 6A:23-2.1 et seq.

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

“Advertised Recapitulation of Balances” means the report entitled “Advertised Recapitulation of Balances” generated by the districtwide budget pursuant to N.J.S.A. 18A:22-11 with data entered by the school district to determine the amount of unreserved general fund balance available to be budgeted in the budget year and the projected budget year ending fund balances for the general fund, including the reserve accounts, the debt service fund and the special revenue capital reserve account.

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

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

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

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

“Authorized membership of the school board” means the full membership of the school district board of education pursuant to N.J.S.A. 18A:12.

“Base budget” means the 2004-2005 statutory formula aids, DEOA, Education Opportunity Aid (EOA), general fund tax levy, budgeted general fund balance and miscellaneous unrestricted revenues less an adjustment for capital outlay.

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

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

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

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

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

“Child Development Associate” or “CDA” means the national credential for early care and education teachers who have met the CDA competency standards or 120 clock hours of formal education through an agency or organization with expertise in child development or early childhood teacher preparation. Only the Council for Professional Recognition can award a CDA credential.

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

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

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

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

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

1. Were enrolled in the school district by July 1, 2001 or earlier;
2. Took the 2004 New Jersey Assessment of Skills and Knowledge 4 (NJ ASK4), Grade Eight Performance Assessment (GEPA) or High School Proficiency Assessment (HSPA); and
3. Were enrolled in more than one school in the school district after July 1, 2001. Any student enrolled in an Abbott school after July 1, 2001 who transferred directly from another school in the same school district will be categorized as one of “Continuously Enrolled Students—District.”

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

1. Were enrolled in an Abbott school by July 1, 2001 or earlier and continued to be enrolled through the 2003-2004 school year; and
2. Took the 2004 NJ ASK4, GEPA or the HSPA.

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

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

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

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

“Department” means the New Jersey Department of Education.

“Department Efficiency Study” or “DES” means the cost efficiency study developed by the McKinsey Group to review nine key cost centers based on median spending across the following six groups: Statewide, Abbott school districts, op-

erating type and size, county, region and district factor grouping (DFG). The nine key cost centers are administration and student support salaries, health benefits, facilities, regular transportation, special education transportation, supplies and equipment, utilities, adjusted classroom instruction and purchased professional services.

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

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

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

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

“Early Childhood Program Aid” or “ECPA” means State aid pursuant to N.J.S.A. 18A:7F-16.

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

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

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

“Efficient” means a conclusion that any expenditure, good, service, contracted service or program, or a component thereof, maximizes the use of time, effort, and resources, including funding, as demonstrated through site-specific evaluation and/or comparative data analyses by the Department of spending for the same expenditure categories in other school districts as determined by median spending Statewide and as compared to other Abbott school districts and school districts in the same region, county, district factor grouping (DFG), and of the same size.

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

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

“ESPA” means the Elementary School Proficiency Assessment. The ESPA was the State assessment test for fourth grade students until the test was replaced by the NJ ASK4 in 2002-2003.

“Essential Elements of Intensive Early Literacy” means the following reading elements: phonemic awareness, phonics, fluency, vocabulary, text comprehension, motivation and background knowledge.

“Evaluation” means a determination of the significance, worth or quality of the design and implementation of a school or school district reform, program or service through commonly accepted research practices including, but not limited to, analysis of student outcomes, survey data, and on-site interviews and observations, consistent with evidenced-based research as defined herein.

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

1. Employs systematic, empirical methods that draw on observation and/or experiment;
2. Involves rigorous quantitative and/or qualitative data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn; and
3. Utilizes measurements and/or observational methods that yield reliable and valid information and that can be used systematically by multiple evaluators or observers.

“Face-to-face conversations” means the semi-annual meeting between the Department and each Abbott school district to discuss the evidence of student achievement in order to agree on the instructional priorities and practices that should be given priority in the revision to the school district’s three-year operational plan and in the school district’s annual budget.

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

“Fiscal Year 2005 Discretionary Education Opportunity Aid” or “FY 2005 DEOA” means that portion of fiscal year 2005 education opportunity aid sought by a district and approved by the Commissioner.

“Fiscal Year 2005 Education Opportunity Aid” or “FY 2005 EOA,” means State funding based on the New Jersey Supreme Court order in *Abbott v. Burke* (149 N.J. 145 (1997)), that calls for spending for regular education (as defined in *Abbott v. Burke* 136 N.J. 444 (1994) and 119 N.J. 287 (1990) in each Abbott school district that equals the average per pupil spending of New Jersey school districts in the “I” and “J” categories of the District Factor Groups, and to be used by Abbott school districts to implement regular or foundational education and Abbott reforms, programs and services and FY 2005 DEOA.

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

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

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

“Full-day, full-year” means a 10-hour day, 245 days per year of approved preschool programs. For at least 180 days, this must include a six-hour educational component meeting Department requirements at N.J.A.C. 6A:10A-2.3 and four hours of wraparound services meeting Department of Human Services (DHS) requirements at N.J.A.C. 10:122, Manual of Requirements for Child Care Centers. The remaining 65 days must meet DHS requirements at N.J.A.C. 10:122, Manual of Requirements for Child Care Centers, for a 10-hour day.

“Full-time family worker” means an individual hired by the child care center provider at a ratio of one full-time family worker to every 45 children. The full-time family worker position is a 12-month position, 40 hours per week.

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

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

“High performing school” means, as defined in *Abbott X*, a school that has a percentage pass rate on the 2002 ESPA Language Arts Literacy subtests for general education students above the State average percentage pass rate, as adjusted by the Commissioner based on mean score growth over four years (1999–2002).

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

“Improvement Agreement” means the written summary of the CAPA process that specifies the steps the low performing school(s) and its school district agree to take to improve student achievement, which is approved by the Commissioner and shared with the public and the Education Law Center.

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

“Local Support Team” or “LST” means Department staff assigned by the Commissioner to work with Abbott school districts in implementing Abbott programs and services.

“Low performing school” means an elementary school where 50.0 percent or more of the general education students were not proficient on the 2002 ESPA Language Arts Literacy subtest, adjusted by the Commissioner. Any school so identified will remain in this category for the 2004–2005 school year, even if more than 50 percent of its general education students were proficient or advanced proficient on the 2004 NJ ASK4 Language Arts Literacy subtest.

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

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

“Miscellaneous unrestricted revenues” means the following revenues included in the revenue section of the district-wide budget software: transfers from other funds, unrestricted-

ed revenues from other local governmental units, non-resident tuition fees, unrestricted miscellaneous revenues and unrestricted revenues from intermediate sources.

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

“Needs assessment” means a continuous process of evaluation of the obstacles and deficiencies that prevent students from achieving early literacy, the CCCS in all grades and obtaining a high school diploma. The needs assessment must identify what the school and school district will do to overcome the documented obstacles and the evidence that the proposed practices will improve student achievement. These practices may or may not be identified on the supplemental program chart as attached to the June 24, 2003 New Jersey Supreme Court Order and included in this chapter as the Appendix.

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

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

“Preschool Expansion Aid” means the category of State funding to be used for the increase in the approved preschool costs from 2001-2002 to the current budget year for the projected expansion of preschool programs in Abbott school districts as defined in the annual Appropriations Act.

“Preschool intervention and referral team” means a team of specialists charged by the school district to work with administrators, staff, parents, and other professionals to enhance general education preschool classes, to assist teaching staff in meeting student’s individual needs, and to help decrease the number of referrals for special education.

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

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

“Preschool Teaching and Learning Expectations: Standards of Quality” or “Expectations” means the Department publication issued July, 2004 which describes expectations for preschool children’s learning outcomes and expectations for high quality preschool teaching and programming.

“Reallocation” means the transfer of funds from the school or the school district current or proposed budget items to another budget item(s) with the assurance that such transfer will result in a more effective and efficient instructional program and not impair foundational education or effective supplemental programs which enable students to achieve the CCCS.

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

“Reliable Program Quality Assessment Instrument” means a tool designed to assess and improve preschool learning environments that is approved by the Department.

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

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

“School district three-year operational plan” means the plan for sustained and steady improvement in student achievement by all students submitted by the school district to the Department on or before August 15, 2003 and updated annually thereafter in accordance with these rules.

“School Leadership Council” or “SLC” means a collaborative school-based planning and decision-making body established in N.J.A.C. 6A:10A-6.3 and formerly called the “School Management and Improvement Team.”

“School three-year operational plan” means the plan, based on student and school needs, originally submitted for approval by the school principal and SLC to the school district by July 15, 2003, to be revised in accordance with these rules. The plan shall be updated annually thereafter.

“Standards-based reform” means the process by which schools and school districts work to align school district and/or school curriculum to the CCCS and assure that instructional practice is effective and driven by the curriculum and that the professional development of teachers and the selection of instructional materials, textbooks and instructional software are driven by the aligned curriculum.

“Statutory formula aids” means core curriculum standards aid, supplemental core curriculum standards aid, school choice aid, transportation aid, special education aid, bilingual education aid, stabilization aid, supplemental stabilization, consolidated aid, early childhood program aid and demonstrably effective program aid.

“Supporting Documentation Item 6B.2” means the report entitled “6B.2. Tuition—Special Education Sending” generated by the districtwide budget software from data entered by the school district. This supporting documentation item is used to provide the detail of the appropriations included in the school district budget for special education pupil tuition.

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

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

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

“Uniform Preschool Enrollment Form” means a Department document to be used as the basis for an examination of the child and family background to assess the child’s needs and will serve as a planning tool for the school district’s preschool program so that the preschool program will be responsive to the needs of the child.

“Whole school reform” means the school-based implementation of a coherent design for the school that includes curriculum, instruction, organization and management so that all students attain high standards.

“Whole school reform model” or “WSR model” or “model” means the whole school reform model approved by the Commissioner, also called Comprehensive School Reform (CSR) Models in NCLB, as established in N.J.A.C. 6A:10A-3.4.

Special amendment, R.2005 d.90, effective February 7, 2005, (to expire June 30, 2005).

See: 37 N.J.R. 791(a).

In “Base budget”, substituted “an adjustment for capital outlay” for “adjustments for capital outlay and capital reserve”.

SUBCHAPTER 2. PRESCHOOL PROGRAM

6A:10A-2.1 Preschool program general provisions

(a) On May 21, 1998, New Jersey’s Supreme Court mandated that children in New Jersey’s Abbott school districts receive a high quality preschool education beginning at age three, which is an essential element in achieving the goal of early literacy. The preschool program shall be well articulated with the kindergarten through grade three curriculum. The purpose is to prepare these children to enter kindergarten with skills and abilities more comparable to those of their wealthier suburban peers and thus to prepare them to achieve educational success. The Court’s mandate has a strong scientific basis. Intensive, high-quality preschool pro-

grams can close much of the early achievement gap for lower-income children. This substantially increases their school success and produces a host of life-long benefits including increased school achievement and social and economic success as adults. The Court set out a few basic standards for quality preschool education:

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

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

6A:10A-2.2 Preschool programs

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

1. The school district board of education shall determine age eligibility for enrollment in preschool programs for three-and four-year-olds pursuant to this subchapter using the same date it uses in determining age eligibility for kindergarten programs.
2. The school district board of education shall offer preschool programs and services only to age-eligible residents of the school district.
3. The school district board of education shall establish proof of residency as set forth in N.J.A.C. 6A:22-3.
4. The school district board of education shall provide one teacher and one aide for every 15 children. Contracted class size shall not be greater than nor less than 15 children.
5. The school district board of education shall provide a curriculum supported by evidence-based research and programs that meet the Department’s Preschool Teaching and Learning Expectations: Standards of Quality (Expectations), that are links to the CCCS. The program and curriculum shall include, but not be limited to, the following:

- i. An alignment of the school district’s curriculum and classroom practices with the Expectations, with particular attention paid to the needs of English language learners and children with disabilities;
- ii. A clearly described, systematic, and intensive approach for the acquisition of early literacy and language abilities using appropriate strategies and techniques delineated in the Expectations including, but not limited to: inviting places to look at a wide variety of books;

writing materials and literacy props that are available throughout the room; introduction of new words, concepts and linguistic structures; book reading more than once per day individually and in groups; and promoting children's interest in the sounds they hear in words and the letters that make up words; and

iii. Implementation of the Early Learning Assessment System (ELAS) in all preschool and kindergarten classrooms by September, 2005.

6. As of the 2004-2005 school year, the school district board of education shall ensure that all preschool age children receive systematic support for language acquisition within their regularly assigned preschool classrooms, not through pull-out or push-in programs that do not offer the continuous and comprehensive support preschool children need.

7. Rules for short-term and long-term suspension at N.J.A.C. 6A:16-1.3 and rules for expulsion at N.J.A.C. 6A:16-1.3 shall not apply to preschool students.

i. Preschool students in a general education program or special education program shall not be suspended, long-term or short-term, and shall not be expelled.

ii. Preschool intervention and referral team and other relevant services shall be provided for teachers with preschool students exhibiting challenging behaviors, social difficulties, or learning difficulties.

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

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

ii. A validation visit by a State team at least every three years; and

iii. The development of a plan for improvement in a format to be provided by the Department. The plan shall, at a minimum, include:

(1) Identification of the program area(s) in need of improvement;

(2) A detailed explanation of the steps to be taken by the school district board of education and/or the Department for program improvement to occur;

(3) A schedule for implementation; and

(4) A date for program re-evaluation.

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

i. Modeling, coaching, informally observing, using structured observation instruments, and providing feedback to teachers in preschool programs to assist in implementation of the Expectations;

ii. Providing staff development instruction, based on systematic classroom observation using the Reliable Program Quality Assessment Instrument, as defined in N.J.A.C. 6A:10A-1.2, for all aspects of the preschool program;

iii. Providing support to preschool programs and, when applicable, making recommendations to supervisors or directors of early childhood preschool programs to use the expertise of school district personnel or other early childhood experts to provide additional professional development as the need is identified through data collection;

iv. Coordinating early childhood assessment in preschool programs;

v. Ensuring accurate implementation of the ELAS;

vi. Coordinating parent involvement programs with school district board of education and provider staff;

vii. Providing information on school district board of education programs to the family worker, social workers, and preschool program staff; and

viii. Planning of transition activities, programs and services between preschool programs and kindergarten programs.

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

i. A bachelor's degree and teacher certification;

ii. Three to five years experience teaching in preschool programs;

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

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

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

vi. Experience with performance-based preschool assessments.

11. In addition to the requirements in (a)10 above, depending on the population served by the school district board of education and identified by the needs assessment conducted in the school district, the master teachers shall demonstrate one or more of the following:

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

12. The school district board of education shall provide a social worker (MSW) for every 250 to 300 in-district preschool students. The responsibilities of the social worker shall, at a minimum, include:

- i. Collaborating with classroom teachers, master teachers, and other school district professionals to support the school district family services program;
- ii. Coordinating with the community and parent involvement specialist to reach out to families, determine individual family needs, provide advocacy services, and obtain available community services;
- iii. Providing follow-up, assessment and appropriate changes to services;
- iv. Helping parents learn about child development, nutrition, providing a safe environment, and how to support the curriculum chosen by the school district; and
- v. Designing and providing parent workshops based on identified needs and parent survey responses.

13. The school district board of education shall establish one preschool intervention and referral team for every 750 preschool students. In school districts with less than 750 preschool children, one team shall be allocated for every 750 children in preschool through grade three.

- i. The preschool intervention and referral team shall work with administrators, staff, parents, and other professionals to enhance general education preschool classes, assist teaching staff in meeting student's individual needs, and help decrease the number of referrals for special education.
- ii. The preschool intervention and referral team may include a combination of psychologists, learning disabilities teacher consultants, school social workers, and speech and language specialists. Alternate professional staff may be approved based upon identified

needs of the school district and/or its preschool students.

- iii. The preschool intervention and referral team shall have a strong background and knowledge in early childhood education and development.
- iv. The early childhood school district administrator shall supervise the team.
- v. The early childhood school district administrator shall ensure collaboration and communication with the school district office of special services.

14. The responsibilities of the preschool intervention and referral team shall, at a minimum, include:

- i. Consulting with and supporting master teachers and preschool classroom teachers in planning strategies, adapting teaching practices, involving and educating families, and making modifications to help preschool children meet the Preschool Teaching and Learning Expectations: Standards of Quality;
- ii. Conducting regular visits to classrooms to observe, model, provide feedback, and make recommendations about appropriate strategies, classroom modifications, and the selection of adaptive materials;
- iii. Planning and implementing professional development for instructional staff and administrators to facilitate preschool inclusion;
- iv. Coordinating meetings for professionals across disciplines and with families, as appropriate, with the goal of consulting, collaborating, and planning as a team; and
- v. Facilitating, when appropriate, written referral to the school district Child Study Team as set forth in N.J.A.C. 6A:14.

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

16. Each school district board of education shall ensure that administrators of preschool programs hold the appropriate New Jersey Supervisor's Certificate or New Jersey Principal's Certificate and have a background and experience in preschool education.

17. The school district board of education shall provide a community and parent involvement specialist. The responsibilities of the community and parent involvement specialist shall, at a minimum, include:

- i. Staffing the advisory council;
- ii. Being responsible for the community needs assessment;
- iii. Organizing and coordinating systematic parent involvement plans and activities; and

iv. Coordinating work with other agencies.

18. In school districts serving more than eight child care center providers, the Department may approve the position of fiscal specialist. The fiscal specialist shall have auditing, budgeting, and accounting experience and shall be directly responsible to the early childhood supervisor or the director of early childhood programs. The fiscal specialist shall also be linked to the school district business administrator's office. The responsibilities of the fiscal specialist shall, at a minimum, include:

- i. Helping community providers develop their preschool program budgets;
- ii. Monitoring compliance with the Abbott Preschool Program Contract;
- iii. Collecting and reporting teacher tracking and certification information;
- iv. Reviewing and expediting adjustments to quarterly expenditure reports in accordance with the approved child care center provider budgets; and
- v. Working with those child care center providers needing assistance.

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

- i. The membership of the council shall consist of community stakeholders, and include child care center providers and parents.
- ii. The council shall be organized by elected co-chairs and meet regularly.
- iii. The council shall advise on the planning and implementation of the preschool program.
- iv. The council, once organized, may add new representation as needed or identified.
- v. The community and parent involvement specialist or other designated school district employee shall staff the council.

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

- i. The school district board of education shall determine the number of children attending first grade using the Application for State School Aid (ASSA) report. The Department will collect the first grade enrollment data from the non-public schools in each Abbott school district board of education and forward this enrollment data to each Abbott school district board of education. The school district board of education shall add the non-public first grade enrollment data to the total first grade ASSA enrollment data to determine the potential universe of first grade children in the school district.

ii. The school district board of education shall use the total of the determinations made under (a)20i above and multiply by two to determine the universe of three-and four-year-old children to be served in the next school year.

21. The school district board of education shall use the following method to calculate the number of preschool children to be served in the next school year:

- i. The school district board of education shall make appropriate adjustments to the universe of three-year-old children and to the universe of four-year-old children as determined using the method prescribed in (a)20i above to determine enrollment projections for each age group based upon the documented history of the actual enrollments in the three-and four-year old programs over the last three years and provide that documentation to the Department in the preschool three-year operational plan;

- ii. The school district board of education shall make appropriate adjustments to the universe of three-year-olds and to the universe of four-year-olds based upon any factors in the community that might affect the growth rate in the three-and four-year-old populations, such as a large employer moving in or out of the school district, or a new housing development and provide this documentation to the Department in the preschool three-year operational plan;

- iii. Using the data identified in (a)21i and ii above, the school district board of education shall determine the projected number of three-year-old and four-year-old children to be served in the next school year in order to reach and maintain a preschool enrollment of 90 percent of the universe by the 2005-2006 school year and beyond; and

- iv. The school district board of education shall also use the number in (a)21iii above as the projected number of three and four-year-old children for planning purposes in the development of the preschool three-year operational plan.

(b) The school district board of education shall contract with a child care center provider or its local Head Start program to implement required preschool programs and shall not duplicate programs or services otherwise available in the community. The school district board of education shall enter into an Abbott Preschool Program Contract with a child care center provider or local Head Start program to provide services to preschool children only when that provider is able and willing to meet the quality standards of Abbott preschool programs including the following:

1. Provide an on-site director who works at the child care center for a minimum of five of the six hours of the educational program day;

2. Provide one P-3 certified teacher and one aide for every 15 children. Contracted class size shall not be greater than nor less than 15 children;

3. Provide programs, in consultation with a master teacher, that meet the Department's Preschool Teaching and Learning Expectations: Standards of Quality that are linked to the Core Curriculum Content Standards;

4. Require teachers hired prior to September 2000 who have not obtained a bachelor's degree and the Preschool through Grade 3 Certificate by September 2004 to submit applications for extension to the school district by July 1, 2004 for the 2004-2005 school year and by May 1, 2005 for the 2005-2006 school year. The application must include verification that the teacher:

- i. Was hired prior to September 2000;
- ii. Needs 30 credits or less to complete the degree;
- iii. Is a student in good standing;
- iv. Has obtained a Grade Point Average of 2.75 when 4.0 equals an A;
- v. Has a detailed and feasible plan for completion of the degree by September 2006; and
- vi. Has submitted letters of support from the child care center director and a school district representative;

5. Require teachers who work for a Head Start agency that began contracting with an Abbott school district for that classroom after September 2000 and who have not obtained a Preschool through Grade 3 Certificate by September 2004 to also submit applications for extension to the school district by July 1, 2004, for the 2004-2005 school year and by May 1 of each subsequent year consistent with i-v below. The application must include verification that the teacher:

- i. Shall complete the degree within four years of the first date of contract for the classroom in which the teacher has continuously taught;
- ii. Is a student in good standing;
- iii. Has obtained a minimum GPA of 2.75 when 4.0 equals an A;
- iv. Has a detailed and feasible plan for completing the bachelor's degree within the time frame described in (b)5i above; and
- v. Has submitted letters of support from the child care center director and a school district representative;

6. The school district shall be responsible for reviewing each application for accuracy and completeness and then shall forward the application and documentation to the Department on or before July 16 of the application year;

7. The Department shall send letters of approval or denial for each individual applicant by August 2 of the

applicable year for every complete and correct application to the school district, the early childhood center provider and the individual teacher;

8. Require all teacher aides, both new hires and existing staff, to have a high school diploma or its equivalent;

9. Encourage all teacher aides, both new hires and existing staff, to:

- i. Obtain the Child Development Associate/Certified Childcare Professional (CDA/CCP) credential if they do not have CDA/CCP credentials; or
- ii. Pursue an associate's degree in early childhood education, if they already have Child Development Associate/Certified Childcare Professional (CDA/CCP) credentials;

10. Provide demonstration of application to the Child and Adult Care Food Program (CACFP) or National Food Program for food and food service related costs;

11. Provide one full-time family worker for every 45 children and their families served by the child care center provider. If the child care center provider does not serve enough children to warrant hiring a full-time family worker, then the center shall employ a family worker to work an amount of time equal in proportion to the number of children served;

12. The family worker shall be counseled and trained by a coordinating social worker employed by a local agency under contract with the Department of Human Services:

- i. The family worker shall attend all meetings and training sessions designated by the coordinating social work agency; and
- ii. The family worker shall be counseled by the coordinating social worker at a ratio of one coordinating social worker for every 20 family workers;

13. The family worker shall work with the children and families with the goal of helping families stay involved with the program and providing information regarding social and health community resources. The responsibilities of the family worker shall, at a minimum, include:

- i. Collaborating with the school district community and parent involvement specialist and school district social workers;
- ii. Coordinating participation in health and social services designated by the school district to serve the needs of the children and their families;
- iii. Providing all requested data to the school district; and

iv. Working the equivalent of a 40-hour work week which shall include evenings and weekends, as necessary, to meet family needs;

14. Implement sound fiscal practices including, but not limited to:

i. Maintaining a financial management system that provides timely, accurate, current and complete disclosure of all financial activities related to the agreement, in accordance with Generally Accepted Accounting Principles;

ii. Making all educational, administrative, and indirect support cost expenditures in accordance with the budget approved by the school district board of education and Department;

iii. Amending the approved budget, as necessary, with approval by the school district board of education and Department;

iv. Submitting to an annual, independent audit to ensure compliance with programmatic and fiscal requirements; and providing copies of the audit to the school district board of education within 30 days of issuance;

v. Making all financial and program information available on request for inspection at any time by school district or Department designee; and

vi. Submitting to the school district board of education a quarterly report of actual expenditures signed and certified by an officer of the corporation;

15. Provide a minimum of 950 square feet of usable space per classroom, excluding storage, equipment or furnishings that are built in or not easily movable, for each newly contracted classroom;

16. Provide that all construction or alteration of playgrounds and playground equipment:

i. Complies with N.J.A.C. 5:23-11, the playground safety subcode of the Unified Construction Code; and

ii. Complies with N.J.A.C. 5:23-7, the barrier free subcode of the Unified Construction Code; and

17. Maintain Department of Human Services license.

(c) The Abbott Preschool Program Contract shall be in a form provided and/or approved by the Department.

1. Each school district board of education using the State-approved Abbott Preschool Program Contract without modifications shall submit a copy of each executed contract to the Department no later than 45 days after informing the provider of its intent to renew the agreement for an additional one year term.

2. The school district board of education shall ensure that its request(s) to modify the State-approved Abbott Preschool Program Contract are submitted for approval no later than 45 days after the Department's annual release of the contract for the following school year.

3. The school district board of education shall submit a copy of each executed contract to the Department within 45 days of receiving approval from the Department to modify the State-approved Abbott Preschool Program Contract.

(d) In addition to (c) above, the Abbott Preschool Program Contract shall include, but not be limited to, the following expectations, supports and accountability measures for the school district board of education and the child care center provider:

1. The school district board of education in consultation with the ECAC shall determine the minimum number and types of professional development opportunities it will offer to all teachers serving preschool children in an Abbott school district;

2. The school district board of education shall develop a preschool teaching staff professional development plan with each child care center director and their teaching staff that describes, but is not limited to, the role and activities of the master teacher for that year;

3. The school district board of education shall establish a procedure for providing fiscal assistance to the child care center provider in the development and monitoring of the child care center provider's annual budget and for verifying the accuracy of costs and ensuring that child care center providers make expenditures in strict accordance with the approved budget;

4. The school district board of education with the ECAC shall establish procedures for recruitment, enrollment and placement of all age-eligible resident three- and four-year-old children in the preschool program;

5. The school district board of education with the ECAC shall establish the procedure by which preschool attendance is submitted to the school district board of education by the child care center provider and verified by the school district board of education;

6. The school district board of education shall verify the credentials and progress toward certification, where applicable, of all preschool teaching staff in a child care center provider;

7. The school district board of education shall verify that all child care center providers comply with Department of Human Services background check procedures for child abuse record information pursuant to the Manual of Requirements for Childcare Centers N.J.A.C. 10:122-4.9; and

8. The school district board of education shall verify that all child care center providers comply with Department of Human Services' criminal history background check procedures pursuant to P.L. 2000, c.77.

(e) A child care center provider that has not previously, as of September 9, 2003, had an Abbott Preschool Program Contract with the school district board of education to serve Abbott preschool children shall meet the following criteria to be eligible for a contract:

1. The child care center provider shall have provided preschool educational services for at least one year prior to entering into a contractual relationship with the school district board of education;

2. The child care center provider shall demonstrate fiscal responsibility;

3. The child care center provider shall be able to accommodate and serve at least 90 Abbott eligible children in a program that meets the needs of preschool children in an effective and efficient manner;

4. The child care center provider shall agree to provide to the school district board of education copies of insurance certificates; an efficient annual budget; copies of criminal history background checks for all staff; credentials for teaching staff; attendance records; and any additional documentation, including all financial records, as requested by the school district board of education and/or Department;

5. The child care center provider shall agree to a minimum number of professional development opportunities offered by the school district board of education for all preschool teaching staff;

6. The child care center provider shall agree to submit certification that expense reports are accurate;

7. The child care center provider shall agree to expend funds only as specified in the approved budget;

8. The child care center provider shall agree to certify that the proposed budget submitted to the school district board of education and the executed Abbott Preschool Program Contract is true and accurate; and

9. The child care center shall agree in writing to meet the quality standards set forth by the New Jersey Supreme Court and the regulations and procedures implementing same as required by the Department.

(f) The school district board of education shall include in each child care center provider's Abbott Preschool Program Contract criteria submitted to and approved by the Department for termination of the executed contract prior to the expiration of the executed contract term, which shall include, but not be limited to:

1. Material breach of the child care center provider's responsibilities;

2. Revocation of its DHS licensure;

3. Failure to comply with all terms of the executed Abbott Preschool Program Contract; and

4. Failure to comply with all applicable requirements established herein this chapter.

(g) The school district board of education shall conduct on-site monitoring at least twice in the contract year to assess compliance and shall ensure that child care center providers and local Head Start programs comply with the Abbott Preschool Program Contract requirements including the requirements of (b) through (f) above.

Special amendment, R.2005 d.90, effective February 7, 2005, (to expire June 30, 2005).

See: 37 N.J.R. 791(a).

In (a)5iii, inserted "and kindergarten".

6A:10A-2.3 Preschool three-year operational plan

(a) The school district board of education shall submit its preschool three-year operational plan and annual revisions for the appropriate school years to the Department by November 15 of each year.

(b) In the preschool three-year operational plan, the school district board of education shall submit its implementation plan for the full inclusion of the local Head Start programs. The plan shall include the procedures for ensuring that the preschool program offered by the local Head Start program meets the requirements at N.J.A.C. 6A:10A-2.2(b) where applicable.

(c) In the preschool three-year operational plan, the school district board of education shall describe its plan for full enrollment. This plan shall include the outreach and recruitment procedures to be implemented by the school district board of education and its child care center providers and shall identify particular strategies to be used to reach out to unserved children in the school district board of education.

(d) The preschool three-year operational plan shall be developed based on a needs assessment conducted by the school district board of education to assure that the preschool programs are responsive to the educational needs of children. The needs assessment shall include, but not be limited to, identification of the following:

1. Demographic information on the children and families using the Uniform Preschool Enrollment Form;

2. Facilities assessment, including contingency plans to accommodate more students than current facilities;

3. Outreach and recruitment of unserved children;

4. Parent education and involvement; and

5. Transportation.

(e) In its preschool three-year operational plan, the school district board of education shall detail the process used with its current and/or future contracting child care center provider(s) to identify the needs of the provider and the children served by the provider.

(f) In its preschool three-year operational plan, the school district board of education shall ensure that all resident three-and four-year-old children are offered full-day, full-year preschool programs. The school district board of education shall provide any necessary information as requested by the Department and:

1. Shall ensure that each child care center provider and local Head Start program submits a proposed budget that adequately supports the needs of the children and the actual program costs for the six-hour educational component of the 10-hour day for at least 180 school calendar days.

i. The proposed budget shall demonstrate that certified teachers receive compensation comparable to that which would be received if the certified teacher were employed by the school district board of education;

ii. The child care center provider shall ensure that the certified teacher receiving the comparable compensation meets 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 school district board of education for its certified teachers. This work schedule shall also include the same amount of preparation time and the amount of lunch time as received by the school district board of education certified teachers;

2. Shall review and verify for accuracy and efficiency all annual budget projections submitted in the preschool operational plan by each child care center provider prior to the November 15 submission of the plan to the Department; and

3. Shall monitor the expenditures of each contracted child care center provider at least quarterly and shall recoup any unexpended funds at the end of the school year.

(g) The school district board of education, child care provider, and Department shall use the following process for non-renewal of a child care center provider's Abbott Preschool Program Contract:

1. The school district shall notify, in writing, the child care center provider and the Department of the decision and reasons for non-renewal of the Abbott Preschool Program Contract.

2. The child care center provider may dispute the non-renewal of the Abbott Preschool Program Contract with written notification and reasons for dispute sent within ten business days to the Department's Office of Early Childhood Education with a copy to the Department of Human Services, Office of Early Care and Education.

3. The Department's Office of Early Childhood may request additional information.

4. The Department's Office of Early Childhood shall make a determination to affirm or deny the appropriateness of the non-renewal decision.

5. The non-renewal decision may be appealed to the Commissioner pursuant to N.J.A.C. 6A:10A-9.2.

6. The school district shall recover from the child care center provider all playground materials, playground equipment both installed and uninstalled, startup classroom materials, and startup classroom technology or the monetary equivalent thereof, based upon funding for said items as originally approved by the Department in the child care center provider's budget(s) in the event of non-renewal of the child care center provider's Abbott Preschool Program Contract.

(h) The school district board of education shall use the following informal process for resolving disputes between themselves and a contracting child care center provider:

1. If a dispute arises between a school district board of education and a child care center provider, they shall at first attempt to resolve it at the local level.

2. If the dispute cannot be resolved locally, either the child care center provider or the school district, or both jointly, shall submit a request in writing, that the Department's Office of Early Childhood Education review the dispute.

3. Upon receipt of a request for review, the Department's Office of Early Childhood Education shall notify the non-requesting entity if the request has not been jointly submitted, and shall request any documents it thinks necessary for review.

4. The Department's Office of Early Childhood Education shall mediate the dispute, in consultation with the Department of Human Services as appropriate, facilitate communications between the child care center provider and the school district board of education, and attempt to bring the parties to agreement on a resolution.

5. If a dispute becomes the subject of a contested case proceeding after the informal resolution process has concluded unsuccessfully, discussions occurring during the process shall be considered confidential, and shall not be used as evidence in the contested case.

6. The school district board of education and child care center provider shall be advised that this process is an optional service offered by the Department. If either is alleging a violation of school law, and the dispute is such that adjudication by the Commissioner shall be sought through contested case proceedings, use of the informal dispute resolution process shall not exempt parties from complying with filing deadlines for appeals to the Commissioner outlined in N.J.A.C. 6A:3.

7. This process described herein shall not apply to the termination or potential termination of an Abbott Preschool Program Contract.

i. The school district board of education, child care center provider, and Department shall use the following process for determining whether to terminate a child care center provider's Abbott Preschool Program Contract:

(1) The school district shall notify the Department regarding a possible breach of contract by a child care center provider.

(2) The Department shall establish a date and time to discuss the possible breach of contract with a Department of Human Services representative and the school district. The child care center provider may be invited to attend to discuss the issues. Meeting outcomes shall include developing a plan of action and time frame for obtaining additional information from the child care center provider, setting a meeting date to review the information, and may include establishing a time to meet with the provider to discuss issues in question.

(3) The school district shall write the plan of action and send copies to the Department, Department of Human Services Office of Early Care and Education, and the child care center provider.

(4) Upon the completion of (h)7i(1) through (3) above, the school district may terminate the Abbott Preschool Program Contract with the provider consistent with the following provisions:

(A) The school district shall have the right to terminate the child care center provider's Abbott Preschool Program Contract in whole immediately upon revocation of the child care center provider's Department of Human Services licensure, the material breach of the provider's responsibilities, failure to comply with all applicable requirements established pursuant to the New Jersey Administrative Code, or any other reasonable cause within the discretion of the school district and written approval from the Department.

(B) The child care center provider shall have the right to appeal the school district's decision to enact termination to the Commissioner pursuant to N.J.A.C. 6A:3. The filing of an appeal shall not prevent the termination from becoming effective on the date specified unless the child care center provider seeks and is granted a stay pending decision by the Commissioner.

(C) The school district and the child care center provider may terminate the Abbott Preschool Program Contract by mutual agreement, in writing, upon notice to the Department, Department of Human Services, and written approval from the Department. In the event of termination under this provision, said termination shall take effect upon the 30th day from the date the parties receive

written approval from the Department to terminate the contract.

(5) In the event of termination of the Abbott Preschool Program Contract pursuant to this section the district shall recover from the child care center provider all playground materials, playground equipment both installed and uninstalled, startup classroom materials, and startup classroom technology or the monetary equivalent thereof, based upon funding for said items as originally approved by the Department in the child care center provider's budget(s).

(j) In the preschool three-year operational plan, the school district board of education shall ensure that the parent education and involvement activities planned by the school district board of education are based on identified needs.

(k) The school district board of education shall annually participate in a self-study and validation of its preschool program as evidenced in its approved preschool three-year operational plan, and amend the plan accordingly, based on its findings.

(l) Following approval of the preschool three-year operational plan, the school district board of education shall submit amendments to it, and shall continue to submit annual school district and child care center provider budgets that adequately support the needs of the children for the school years contained in the preschool three-year operational plan to the Department by November 15.

(m) Through the needs assessment process, the school district board of education shall evaluate and assess the needs of its students, programs and child care center providers so as to formulate plans and applications to meet these needs and shall include, but not be limited to, the following:

1. For every child's preschool application, the school district board of education shall complete an enrollment survey on forms provided by and made available to the Department;

2. The school district board of education shall conduct a preschool early childhood screening assessment at school entry to determine if a child needs comprehensive diagnostic assessment; and

3. The school district board of education shall use a reliable observation method approved by the Department to assess program quality in each preschool classroom, aggregate the data, and develop professional development plans for all teaching staff.

i. The school district board of education in consultation with the ECAC and with approval from the Department shall establish a minimum acceptable score for all preschool classrooms in operation in the school district.

ii. If any classroom falls below the minimum acceptable score, then an improvement plan shall be established. The school district early childhood supervisor or director of early childhood, the master teacher and the school principal or child care center director shall participate in discussions to determine the classroom quality improvements that are necessary based upon the observation and establish a time frame for making the required changes.

iii. The master teacher shall provide technical assistance to the classroom teacher based upon the improvement plan.

iv. If the school district board of education deems that improvements have not been made according to the established schedule, a reliable independent observer approved by the Department will evaluate the classroom or program. If the reliable independent observer verifies that the expectations are not being met, steps shall be taken to remove the teacher from the classroom or terminate the Abbott Preschool Program Contract between the child care center provider and the school district board of education.

(n) In its preschool three-year operational plan, the school district board of education shall describe its plan for articulation of the preschool program with kindergarten. This plan shall, at a minimum, include the following:

1. The process for identifying and communicating the information needed by the kindergarten teachers about the preschool program, and vice-versa;
2. Methods for communicating information about individual children to their new kindergarten teacher, in particular the results of the ELAS;
3. The plan developed by the school district board of education to ensure a seamless transition from preschool to kindergarten for the preschool children; and
4. The process for providing information to parents about the kindergarten program and the transition plan from preschool to kindergarten.

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

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

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

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

1. On-site technical assistance in the development of the preschool three-year operational plan, including the development of program goals and objectives for a high quality preschool program and other technical assistance as requested by the school district board of education;
2. Review and approval of the preschool three-year operational plan;
3. Professional development opportunities to the school district board of education early childhood supervisors or early childhood directors in the form of monthly or bi-monthly meetings to provide information and technical assistance to the school district board of education from the Department;
4. Professional development opportunities to the master teachers;
5. Assistance with the self-study and validation process and the development of a program improvement plan where areas of non-compliance are identified;
6. Providing copies of the complete preschool three-year operational plan including the school district and child care center provider budget forms, a copy of the Uniform Preschool Enrollment Form, a list of State-approved reliable independent observers, a copy of the State-approved Abbott Preschool Program Contract, as well as copies of other information available from the Department and requested or needed by the school district board of education;
7. Opportunities to be involved in State planning and policy development for the preschool program; and
8. Providing funds necessary to implement a high quality preschool program.

SUBCHAPTER 3. IMPROVING STUDENT ACHIEVEMENT

6A:10A-3.1 Revisions of the school district three-year operational plan

(a) The Department shall meet with the CSA to share the results of the school district and Department analyses of student achievement as a part of the semi-annual face-to-face conversation held by the Department with each school district. The Department and CSA will seek to agree on the revisions to be made to the school district three-year operational plan for the 2005-2006 and subsequent years, including benchmarks for assessing progress, and the implications to be reflected in the 2005-2006 school district budget.

1. The Department evaluation shall include a review of the revisions to the school district three-year operational plan based on the following standards:

i. The school district has set instructional priorities based on student performance data and conclusions about student instructional needs including student performance on State and other assessments by school and by the NCLB and CES subgroups for all students for the years 2000–2004 and other data required by the Department, supplemented by statistical analyses provided by the Department;

ii. The school district has a curriculum, instructional materials, and software that are aligned with the CCCS and that provide clear and specific guidance to teachers and students about what is to be taught and learned, and that includes a professional development program that is based on the ability of teachers, individually and collectively, to teach the curriculum and implement strategies that meet the needs of students who are struggling academically;

iii. The school district collaborates with schools in assessing student and faculty needs for improving student performance on the CCCS;

iv. The school district has policies and practices for identifying, mentoring, and training potential leaders within the school district that encourage them to pursue leadership positions, and for recruiting, hiring, and supporting high quality school principals;

v. The school district ensures that each school is led by a highly skilled school principal; that school principals are fairly and effectively evaluated for their students' academic performance; and that the school district sponsors and encourages professional development opportunities for school principals that relate to the instructional needs of their schools;

vi. The school district provides for the recruitment, hiring, and retention of high-quality teachers in every classroom and for opportunities for teachers to work with one another and to benefit from targeted assistance to meet their classroom needs, particularly as it relates to teaching the CCCS and attaining literacy;

vii. The school district provides a high quality pre-school program for all eligible students and the seamless articulation between preschool and kindergarten and kindergarten to grades one through three;

viii. The school district provides assistance to low performing schools, consistent with NCLB and *Abbott v. Burke*, 177 NJ 578 (2003) including, if necessary, reconstitution of schools. Such assistance shall be informed by analysis of the evidence of student performance on the CCCS over time, the school's demographics and mobility;

ix. The school district has facilities that provide safe and healthy learning environments, and employs a certi-

fied educational facilities manager to serve as the buildings and grounds supervisor consistent with N.J.S.A. 18A:17-49;

x. The school district uses technology aligned with the school district's curriculum, including software aligned with the CCCS and there is evidence that it is being used by teachers and students;

xi. The school district monitors school and school district compliance with Abbott standards and practices, special and bilingual education requirements, and NCLB. The school district central office shall promulgate clear procedures for receiving, investigating and resolving complaints from parent(s), grandparent(s) or guardian and the community;

xii. The school district ensures that elementary schools are effectively and efficiently implementing the WSR model or AWSRD, and Intensive Early Literacy as described herein;

xiii. The school district documents the services and programs for, and progress of, ELLs, and has specific remedies with interim progress indicators for student improvement;

xiv. The school district assists SLCs by preparing complete, accurate and timely draft school budgets, providing guidance in reviewing and revising school budgets and training in personnel policies and procedures for SLCs requesting it, and through the dissemination of guidelines for SLC operations and resolution of disagreements; and

xv. The school district evaluates in collaboration with the school, the effectiveness and efficiency of current programs, services, and positions in contributing to improved student achievement and replaces or eliminates ineffective programs and practices.

2. The Department shall require districts to submit, and will review, evidence for (a)1i through xv above.

3. The school district three-year operational plan shall be revised based on the agreements reached by the CSA and the Department pursuant to (a) above and the FY 2006 budget submitted to reflect their instructional priorities.

4. The revisions to the school district three-year operational plan shall be approved by the school district board of education.

6A:10A-3.2 Standards-based reform

(a) Abbott schools and school districts shall implement a coherent and integrated curriculum for all students, including English language learners and students with disabilities, that is content-rich, aligned to the CCCS, engaging for students, and supported by evidence-based educational research. Such curriculum shall:

1. Be continuously reviewed and modified by a cross-section of teachers, school principals, and supervisors for linkage of curriculum to the CCCS, Department curriculum frameworks, student needs, new developments in subject matter, and grade-to-grade alignment;
 2. Be aligned to the preschool Expectations;
 3. Be supported by instructional materials including textbooks, where necessary, and software aligned to the school district curriculum and the CCCS;
 4. Be used to determine the content mastery of teachers to teach the CCCS and district curriculum and guide professional development and technical assistance to teachers; and
 5. Drive improved classroom instruction by setting specific curricular expectations for students and teachers that are measured at least quarterly by district- and school-level assessments, and reviewed by the district and school to identify weaknesses.
- (b) Abbott schools and school districts shall be accountable to the communities they serve and to the public at large. Such accountability shall include:
1. Annual public meeting(s) of each SLC to report and solicit input on student achievement data and adequate yearly progress (AYP) and plans and budgets for the following year;
 2. Annual public meeting(s) of the school district board of education to report and provide opportunities for public comment on:
 - i. Districtwide student achievement, graduation rates and AYP by school, comparisons to other school districts, and progress made toward closing the achievement gap;
 - ii. The quality of supports for teachers, students and parents; and
 - iii. The school district central office three-year operational plan's revisions and annual budget; and
 3. Frequent contact between parents and schools centered on individual student achievement and needs and information on how parents can assist in improving their students' performance.
- (c) Abbott schools and school districts shall provide an intensive early literacy program for preschool to grade three to ensure that each student reads at the appropriate grade level, with the goal of all students reading on grade level by third grade. The intensive early literacy program shall include the following components:
1. Curriculum and instruction and other program components consistent with the CCCS, Reading First, and evidence-based educational research;
 2. Full day kindergarten with a teacher's aide for all students;
 3. Adequate instructional materials including textbooks, if necessary, software, supplies, and equipment that are selected to conform to the district curriculum;
 4. A preschool to grade three emphasis on small group instruction in at least reading and technology in designated areas or learning centers that include:
 - i. A classroom library of 300 titles that reflects the needs of all students including classified students and ELLs, including assistive resources, such as books-on-tape and books in the students' first language; and
 - ii. Appropriate school district-approved supplemental software that supports the essential elements of intensive early literacy including assistive technology resources, which can be documented to be aligned with the district curriculum;
 5. A comprehensive early literacy assessment program that provides assessment in the native language, where appropriate, including:
 - i. Assessment of ELLs to determine levels of native and English literacy, pursuant to N.J.A.C. 6A:15-1.3;
 - ii. Assessment of former ELLs to determine if any lack of academic achievement is due to the lack of sufficient English language proficiency;
 - iii. Screening in reading in grades kindergarten through three with the expectation that 75 percent of all first graders will be reading on grade level by the end of first grade and that 90 percent of all third graders will be reading on grade level by the end of third grade;
 - iv. Diagnostic assessment of those students below reading level as identified by the school district-approved reading program and/or the school-level WSR model in grades kindergarten through three;
 - v. Annual assessment and item analysis with a State-approved norm-referenced and/or criterion-referenced instrument in grades kindergarten through two; and
 - vi. Locally-devised assessment including clear and measurable indicators of progress based on the school district's curriculum and measured periodically with incremental assessments in grades one through three, and implementation of the Early Learning Assessment System (ELAS) in all preschool and kindergarten classrooms by September, 2005;
 6. A clear structure for at least a daily 90-minute, uninterrupted language arts literacy block in grades kindergarten through three with guidance in the use of that time, and the following instructional strategies: small group instruction, direct instruction, assessing each child on the essential elements of Intensive Early Literacy strategies and techniques including, but not limited to, guided reading and shared reading;

7. Special supports for ELLs in addition to the services, programs, and resources identified in this subsection, based on research, such as:

i. Native language instruction when appropriate to facilitate acquisition of English language skills and literacy; and

ii. Creation of a written and spoken language-rich classroom environment in both native language and English;

8. Effective supports for students with disabilities in addition to the services, programs, and resources identified in this subsection;

9. Intensive professional development in the elements of Intensive Early Literacy, consistent with this chapter;

10. Regular opportunities for teachers to discuss and analyze student work, intermediate progress measures, and assessment results and plan any modifications in grouping and/or instruction that may be indicated, consistent with this chapter;

11. Use of an instructional facilitator or literacy coach to coordinate professional development and collaboration if documented as necessary to increase achievement of early literacy; and

12. Contracts with other providers of technical assistance and professional development, as needed.

(d) To assure that all students master the CCCS, Abbott schools and districts shall continue to implement an intensive literacy program for grades four through 12 using the following components as a guide to transitioning from existing literacy programs to the expectations set forth herein by the 2007-08 school year:

1. Measurable progress during the 2004-2005 school year to develop a school district curriculum that is fully aligned with the CCCS and other initiatives including: Reading Next, Intensive Early Literacy, pursuant to N.J.A.C. 6A:10A-3.2(c), and the standards in Improving the Quality of Literacy Education in New Jersey's Middle Grades which is incorporated herein by reference and found in the Department's website at www.nj.gov/njded/genfo/midliteracy. Such a curriculum is a prerequisite for implementation of the remaining components to be fully implemented by the 2007-2008 school year, subject to Department review;

2. A print-rich environment that shall include classroom libraries in self-contained classrooms that are specifically aligned with the CCCS and the school district's curricular standards as an integral part of instruction in grades four through eight, with a minimum of 300 titles such as full-length novels, anthologies and other reference material, to improve student ability to read for content and which reflect the cognitive, academic, and developmental needs of all students, including classified students and English language learners, by providing assistive re-

sources such as books-on-tape, books in the student's first language and books for struggling readers;

3. Use of technology to support reading and writing instruction when the software is appropriately aligned with the district curriculum;

4. The district shall establish a school library-media resource center which shall have the following:

i. A certified media specialist;

ii. Resources to help teachers support instruction;

iii. Computers with school district-approved instructional software to facilitate reading comprehension and writing proficiency; and

iv. Appropriate books including novels, anthologies and other reference materials to improve student ability to read for content and supplies and materials that motivate students to read in and out of school and to conduct research;

5. A rich and diverse instructional experience that shall include frequent writing assignments in courses other than language arts scored using a holistic rubric, research papers, journal writing, oral presentations, and mastery of word processing;

6. A comprehensive literacy assessment program for grades four through 12 shall be implemented to include uniform standards districtwide for measuring individual and group progress indicated below:

i. Achievement data and writing samples that permit teachers and administrators to evaluate students' performance against the CCCS and State assessments;

ii. Professional development to improve teachers' abilities to analyze multiple sources of evidence about student performance such as writing samples, oral presentations, research papers, as well as standardized assessment results;

iii. Assessments for English language learners to determine levels of native and English literacy, pursuant to N.J.A.C. 6A:15-1.3;

iv. Assessments for students reading below grade level to explain their under-performance and determine the assistance required to bring them up to grade level;

v. Annual assessments, item analysis, and cluster analysis reports using a State-approved norm-referenced and/or criterion-referenced test in grades five through seven, nine and 10; and

vi. Use of a school district-devised system for benchmarking student achievement based on the school district's curriculum, measured quarterly or on a semester basis, using grades, writing samples, and records of classroom observations conducted by teachers, reading/language arts specialists, curriculum specialists and supervisors;

7. An uninterrupted language arts literacy block, ranging from 80 to 120 minutes, shall be scheduled for all students in grades four through eight incorporating the following instructional strategies: direct instruction, small group instruction, writing language instruction, cross-disciplinary content such as social studies, guided reading, shared reading, and comprehension instruction as well as other strategies and techniques based on reading research and using appropriate resources;

8. Research-based accommodations for English language learners in addition to the services, programs and resources identified in this subsection such as:

- i. Native language instruction, as needed, to facilitate English literacy;
- ii. Instruction in a language-rich environment to improve student proficiency in both the native language and English: listening, speaking, reading and writing; and
- iii. Cooperative learning and co-teaching to bring English language learners together with advanced learners;

9. Accommodations for students with disabilities in addition to the services, programs and resources identified in this subsection;

10. Professional development opportunities for teachers and administrators shall be based on reading research of effective instructional practices that include:

- i. Annual school district and school-level assessment of teacher mastery of CCCS, and of skills to engage all students, the results of which shall be reflected in Professional Improvement Plans (PIP) and professional development opportunities;
- ii. Scheduled opportunities for teachers and administrators to analyze student work and assessment results together;
- iii. Bi-annual school-level parent/family/community support activities that are conducted by teachers and school administrators for the purpose of increasing home-school communication and family participation in student learning and homework;
- iv. Professional development devoted to language arts literacy including the use of online services and other means to emphasize content, technology literacy, and strategies for literacy instruction with an emphasis on more complex reading content and frequent writing across all content areas with attention to: multicultural perspectives and English language learners, multi-level instruction, reading comprehension and fluency, differentiated instruction, and the use of frequent assessments to guide instruction. Teachers from different content areas should have the opportunity to work together to apply literacy instruction across content areas; and

v. A district curriculum aligned with the CCCS as the basis of instruction with full participation of school principals, vice-principals, subject area supervisors, department chairs, and all school administrators in reviewing lesson plans and providing assistance. Literacy coaches and/or other qualified supervisory staff shall work with teachers to link discrete reading and language arts instruction with activities that require students to synthesize and to use these discrete skills in the content areas beyond language arts, particularly formal writing in social studies, sciences, mathematics and other core courses; and

11. Special supports for students reading below grade level including research-based programs for extended day, extended year, or in-class assistance.

Special amendment, R.2005 d.90, effective February 7, 2005, (to expire June 30, 2005).

See: 37 N.J.R. 791(a).

Rewrote (c)5vi.

6A:10A-3.3 Secondary Education Initiatives

(a) Beginning in 2004-2005, the Department shall provide professional development and other assistance to school districts and schools to design a plan to implement the secondary education program specified below.

(b) For the school year 2004-2005, the Division will select at least three and no more than four school districts to participate in the first-phase planning process with the Division and its consultants to move all their secondary students into small schools or small learning communities by September 2007. The lessons learned from the first phase may be used to modify the standards for secondary education included herein before their application to all Abbott school districts. The first phase school districts will be selected by January 2005 to test the application of the following standards:

1. Smaller organizational structures that facilitate a greater personalization and improved instruction for all secondary students in the school district, which may include small learning communities and/or small schools in free-standing facilities or within larger facilities, with three hundred or fewer students recommended for small learning communities within existing high schools and two hundred-fifty or fewer students recommended for small learning communities within schools with grades six through eight.
2. To the maximum extent possible, small learning communities and small schools shall be organized around academic and/or career themes (for example, performing arts, math and science, world languages, law and government, aeronautics, health sciences).

3. Middle and high school students' and teachers' preferences shall guide the formation of small learning communities and small schools and their placement in them. Placement of teachers and students shall result in an equitable distribution of student academic achievement profiles, demographic characteristics and teacher experi-

ence, qualifications and racial/ethnic diversity. Voluntary placement of teachers and students in schools with grades six through eight is an option of the school district based on its goals for middle grades instruction, supervisory capacity, facilities, and school organization.

4. School districts shall provide appropriate space to accommodate small learning communities and small schools.

5. Teams of teachers qualified to teach the entire core curriculum and thematic course of study that are appropriate to the small learning community shall stay with the same group of students for all three years for grades six through eight of middle schools; and either all four years of high school, grades 10 through 12 or grades nine and 10 and then grades 11 and 12 to achieve greater personalization of instruction and teacher knowledge of students.

6. Faculty and other staff shall be included in the preparation of grade-level, academic department and school budgets through representation on the school leadership council.

7. Each small learning community or small school shall implement student and family advocacy in the following manner:

i. Each student and his or her family shall be the official responsibility of one teacher or other professional staff member who shall have groups of 20 students and families per staff member;

ii. Advocates shall work with the student and family over all years they are in the smaller organizational structure;

iii. Advocates shall meet with assigned students weekly by schedule and informally as well;

iv. Advocates shall meet face-to-face and individually with each family and student at least twice during the school year;

v. Advocates shall receive professional development to support this role, including training in multicultural perspectives, use of student academic and behavioral profiles, communication skills, student and family referral processes, and use of family activity guides; and

vi. Advocates shall assist in the preparation of an academic plan for each student that incorporates mastery of college-preparatory academics with the goal of graduation and notes any non-instructional needs. This plan shall be a part of each student's permanent academic record.

8. Information about school district and school policies and programs shall be provided regularly to parents and guardians to acquaint them with the academic expectations for their children, and how they can assist students at home. Special attention shall be given to the transition from the middle grades to high school, from grade nine to grade 10, and for preparing students for college or other post-graduation opportunities.

9. Teachers sharing students within the school/small learning community and within subjects shall be provided with at least three hours or three class periods weekly,

whichever is less, of common planning time and early release/late start for coaching within the smaller organizational structure to facilitate collective responsibility for student success and to:

i. Ensure that the requirements in N.J.A.C. 6A:10A-3.6 are addressed;

ii. Assign students to appropriately rigorous classes;

iii. Provide or refer students to all services needed to support achievement on all CCCS;

iv. Track school and class attendance;

v. Monitor expected progress toward graduation;

vi. Strengthen all teachers' delivery of rigorous instruction pursuant to the New Jersey Professional Standards for Teachers, N.J.A.C. 6A:9-3.3; and

vii. Evaluate student achievement data and best practices to include N.J.A.C. 6A:10A-3.6(b), to identify the assistance required of school and school district leadership and to strengthen collegial responsibility.

(c) During 2004-2005, all Abbott school district central offices shall lead their secondary schools to assess student achievement in all core curricular content areas as evidenced by local, State and national assessments; to quantify cohort graduation and student attendance rates, noting days lost due to suspensions and expulsions; teacher absenteeism rates; and other measures of instructional effectiveness. The essential components of the secondary education program shall be called Abbott Secondary Education Regulations, which include:

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

2. Greater personalization for all secondary students so that by September 2008, schools begin to be organized with teams of professional educators working with students in small structures and over sufficient periods to ensure they can track and support each student's well-being and academic progress, and that at least one professional educator assumes personal responsibility for working with a student and his or her family as part of this personalized learning environment.

i. By September 2008, all Abbott schools that have students in grades six through 12, shall begin to reorganized into smaller structures or demonstrate that they have achieved personalization by alternative means and can thereby meet the requirements of this chapter.

ii. By September 2005, all school districts should create a planning team to address issues of greater academic rigor, personalization, and professional development, as well as implications on budget and facility needs. The planning team should be comprised of the district superintendent, the person responsible for curriculum and instruction, business administrator and representative secondary school principals, language arts

and math content supervisors, school counseling staff, teachers, a parent/community individual, and a member of the school district board of education;

3. A P-12 curriculum that is fully aligned to the CCCS to prepare all students in grades six through 12 for college preparatory coursework in high school and collegiate instruction after graduation. The courses prescribed by the curriculum shall be in place by January 2008. All students who enter secondary schools after this date shall take a course of study that, while it may be organized in a variety of ways, prepares students for college-level work. All courses required for graduation shall:

i. Be developed, reviewed, evaluated and revised, if necessary, by a broad cross-section of teachers, curriculum supervisors and school principals;

ii. Satisfy the CCCS and core proficiency indicators and standards in each content area;

iii. State clearly the purpose of instruction including essential content to be mastered in each course and include interim and final assessments;

iv. Align the instructional purposes with suggested learning activities;

v. Organize instruction by themes, career interests, inter-or single-disciplinary considerations; and

vi. Offer all courses, including honors and advanced level courses and Advanced Placement (AP) courses to all students who satisfy the pre-requisites. Independent individual or group study courses may be offered with the approval of the school principal and superintendent of schools. A variety of electives shall be available;

4. Instruction that engages students to produce both high quality work and increased student satisfaction. School districts shall survey student engagement and learning, and assess teachers' abilities to align instruction to the CCCS and demonstrate mastery of the CCCS content as follows:

i. Apply teaching strategies to accommodate individual learning styles and interests;

ii. Assign student work that requires grade-level or higher performance from all students;

iii. Provide students with independent and group learning experiences that engage all students;

iv. Assist students who are struggling and challenge students who have attained proficiency to deepen and broaden their learning;

v. Integrate technology into instruction as appropriate;

vi. Participate in collaborative professional development to permit teachers and administrators to learn "best practices" from one another. Professional development shall support school district goals and meet the goals of professional improvement plans; and

vii. Assess school district administrators' ability to:

(1) Articulate a vision for, and focus on, learning;

(2) Lead collaborative efforts to improve personalization, rigorous instruction and student learning;

(3) Use systematically the evidence of student performance to adjust and strengthen teaching and learning; and

(4) Evaluate school principals on how well students perform academically;

5. Indicators that are measured and reported at multiple levels (small learning community, family advocate group, school, and school district), of improved performance in secondary schools and grades that include:

i. Student and teacher attendance rates before and after initial implementation of these regulations;

ii. The number of students enrolled in "general," "fundamentals of," "basic" and "consumer" courses in the first year of implementation of these regulations, with a goal of zero enrollment by the third year;

iii. The number of ninth graders completing Algebra I in the first year with universal completion by the second year;

iv. Instructional time/days missed due to in-school and out-of-school suspensions and other disciplinary infractions;

v. Course failures for required classes;

vi. Percentage of students who are proficient and advanced proficient and the distribution and trend in scale scores;

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

viii. Enrollment in, persistence with, and completion of post-secondary education;

6. A professional development plan created by the school district and school leaders, with the assistance of Department staff and consultants if helpful, that provides three phases of capacity building for school district and school-based personnel to prepare to implement Abbott Secondary Education Regulations. The plan shall permit school districts to begin capacity-building and professional development on a staggered timeline that incorporates the following three phases to be completed 18 months from the start of each cluster group's participation:

i. Phase I (Year 1): Getting Ready;

ii. Phase II (Year 2): Planning and Leadership Development; and

iii. Phase III (Year 3): Full Implementation;

7. The plan shall be implemented by the school district to permit staff to acquire the knowledge to contribute to the newly-revised curriculum and instruction, and the personalization of student support. The school district shall prepare annual progress reports showing accomplishments and challenges met and report to the public.

i. Professional development shall be available to teachers to master the content of the CCCS in their disciplines, such as mathematics or French.

ii. All professional development hours will be incorporated in the teacher's and administrator's Professional Improvement Plans (PIP).

iii. The teacher, curriculum supervisor and/or school principal shall develop the PIP and evaluate the quality of the professional development to meet the PIP's goals in improved teaching and learning; and

8. A secondary advisory group shall be established, built on the membership of the Secondary Education Work Group established pursuant to *Abbott X*.

6A:10A-3.4 Whole school reform

(a) Adoption and implementation of a Department-approved national WSR model is the presumed foundation for whole school reform. In the instance that the elementary school and school district find that no Department-approved WSR model addresses their school needs, a school and school district may implement a school-or school district-developed alternative whole school reform design (AWSRD), through the processes described herein.

(b) Each Abbott elementary school shall implement the following nine elements of whole school reform utilizing recognized expertise for technical assistance and professional development:

1. Improved student achievement and mastery of CCCS through standards-based reform at the school level, as set forth in N.J.A.C. 6A:10A-3.2;

2. Assessment, planning, budgeting and implementation of reforms, programs, and services driven by data, including student outcomes, student and school needs, best practices, national research, and evidence of effectiveness in a similar school context, set forth in this chapter;

3. School-based leadership and decision-making, as set forth in N.J.A.C. 6A:10A-6;

4. Integration and alignment of school-level reforms, programs, and services, as set forth in this chapter;

5. Educational technology, set forth in N.J.A.C. 6A:10A-3.6(f);

6. Teacher supports, set forth in N.J.A.C. 6A:10A-3.5;

7. A safe school environment, set forth in N.J.A.C. 6A:10A-3.6(h);

8. Student and family supports, set forth in N.J.A.C. 6A:10A-3.6 and 3.7; and

9. Accountability set forth in N.J.A.C. 6A:10A-3.2(b).

(c) Each Abbott elementary school shall continue implementing a WSR model or previously approved AWSRD in 2004-2005 and thereafter, unless the school is authorized by the Commissioner to implement an AWSRD under the procedures established in (d) through (h) below, or is in a school district with an approved districtwide AWSRD. The SLC and school district central office shall assure that such implementation is adequately planned and supported in the school's three-year operational plan and budget as described in N.J.A.C. 6A:10A-6.2(a), which shall be authorized by the SLC and a vote of the school's certificated staff.

(d) The Commissioner shall designate high performing elementary schools pursuant to *Abbott X*.

1. For the 2004-2005 school year, the Commissioner shall designate as a high performing school, each Abbott elementary school in which the percentage of general education students testing proficient or advanced proficient on the 2002 ESPA Language Arts Literacy subtest exceeds the State average for proficiency. The designation of high performing schools shall be adjusted by the Commissioner, as appropriate, based on mean score growth over the years 1999 through 2004.

2. For school year 2004-2005 and thereafter, the Commissioner shall refine the definition of high performing schools to incorporate the results of the NJ ASK4, but with all schools identified as high performing in 2003-2004 remaining high performing.

3. In reviewing the revisions to the school three-year operational plan of high-performing schools, the Department shall defer to the shared judgment of the school, SLC, and school district as to the selection of another WSR model or the development of an AWSRD.

i. If a school chooses to discontinue implementation of the model or AWSRD, a letter shall indicate whether the 2004-2005 school year will be utilized as a planning year or to implement a new model or AWSRD as expeditiously as possible during 2004-2005 and shall be sent to the CSA and, if approved, to the Commissioner.

ii. If implementation of a new model or AWSRD is to occur in 2005-2006, the school principal, in consultation with the SLC, shall revise the 2004-2005 school three-year operational plan and annual budget to reflect their decision.

4. The Commissioner shall review and approve the school's decision to retain or discontinue the adopted

WSR model and the modifications to the school's 2004-2005 or 2005-2006 three-year operational plans and budgets, as appropriate. Upon approval, the school district and the school shall present the decisions and modifications to the school community and to the Education Law Center.

(e) The Commissioner shall designate low performing elementary schools pursuant to *Abbott X*.

1. For the 2004-2005 school year, the Commissioner shall maintain those schools designated low performing during the 2003-2004 school year as low performing and shall incorporate the results of the 2004 NJ ASK4 Language Arts Literacy to designate additional low performing schools.

2. For schools designated as low performing, the Commissioner shall establish, in consultation with the CSA, a CAPA team and shall designate a CAPA team leader. A CSA may request that the Commissioner assign a CAPA team to a school deemed to be in need of improvement pursuant to NCLB but not otherwise designated as a low performing school by the Commissioner as provided herein. The Commissioner, with approval of the CSA, shall establish a schedule for the member selection and orientation, operation, and conclusion of the CAPA process.

i. The CAPA team shall include, but not be limited to, the following members:

- (1) A highly skilled teacher;
- (2) A highly skilled school principal;
- (3) A parent; and
- (4) A literacy and a math specialist, who are qualified to observe classroom instruction.

ii. CAPA team members shall attend Department and/or CSA sponsored training sessions, as necessary.

iii. The CAPA team's primary function is to identify obstacles to improved teaching and learning for all students by reviewing student achievement data and intermediate progress measures, visiting classrooms, and interviewing teachers, parents, the school principal and developer field staff, among others and as appropriate and agree on how to lower those obstacles which shall be summarized in the Improvement Agreement.

iv. Based on this review, the CAPA team shall develop its findings with the SLC and the school district central office and issue a written report on findings and recommendations that will address the following areas:

- (1) Quality of instruction;
- (2) Quality of school leadership including the SLC;
- (3) Effectiveness of parental engagement in the education of their children;

(4) Implementation and effectiveness of whole school reform models;

(5) The effectiveness of the school district central office personnel and the Department in their support of the school and its specific role in improving student achievement;

(6) Adequacy of resources to meet documented instructional needs; and

(7) Any other areas of inquiry as the Commissioner shall deem appropriate.

v. All persons interviewed or observed by the CAPA team shall be guaranteed confidentiality to the greatest extent possible.

vi. The CAPA team, SLC and CSA will develop a written Improvement Agreement based on the findings and recommendations of the CAPA team as to the strategies and objectives for improving teaching and learning, how to implement those strategies and objectives and the responsibilities of the various stakeholders. The CAPA team report shall be a public document.

vii. The SLC shall modify the school's three-year operational plan and annual budget to be consistent with the Improvement Agreement.

viii. The Commissioner shall approve the Improvement Agreement based on a determination that it is an effective and efficient means of improving teaching and learning. Upon approval, the school district and school shall present the agreement to the school, SLC, the Education Law Center, and community.

(f) Any school, other than those designated low or high performing, that terminated their WSR developer contract prior to 2002-2003 were to reinstate the contract for 2003-2004 or contract with another WSR developer. The Commissioner and CSA shall assess schools without a WSR contract to determine, with the SLC, whether the schools will adopt another WSR model or, where the Commissioner determines that no appropriate model is available to meet the current needs of the school, implement an AWSRD.

(g) Schools, other than those designated low or high performing, or model developers that assert failure of the other party to comply with the WSR contract may file a complaint with the Commissioner with a copy to the CSA. After a review of the issues raised by the complaint, the Commissioner shall take such action as may be required to ensure satisfactory performance under the WSR contract and shall determine if the contract should be continued or modified. If the Commissioner determines that satisfactory performance under the WSR contract is not feasible, he or she may authorize the school to adopt another approved WSR model or an AWSRD. Throughout this process, the Commissioner will defer to the school district as the preferred source of mediation and implementation of any resolution.

(h) Schools that file a complaint with the Commissioner under (g) above shall demonstrate that the requirements of the WSR model have been fully implemented, or that the model has not led to sufficient improvement in student proficiency of the CCCS, or that the philosophy and practices of the WSR model have been integrated fully into the school. Upon authorization by the Commissioner, the school shall:

i. Select a Department-approved WSR model or submit an application for an AWSRD or be included in school districtwide AWSRD approved by the Department;

ii. Demonstrate that the new WSR model or AWSRD shall be consistent with the criteria in (a) above;

iii. Submit a transition plan to the new model or design;

iv. Describe the selection process, unless a school district AWSRD is adopted in the school three-year operational plan, and maintain documentation for review by the Department. A copy of the contract with the new WSR developer shall be attached;

v. Cooperate with the school district to ensure alignment of model/design requirements with school district professional development activities, curriculum, CCCS, goals of early literacy and other school district priorities; and

vi. Use funds to implement the new WSR model or AWSRD for purposes designated by the school district. School districts shall budget or reallocate the funds required to implement the new WSR model or AWSRD.

(i) Schools eligible to develop a school or school district AWSRD pursuant to (d) and (e) above may, with the approval of the CSA, apply to the Commissioner to implement an AWSRD. Such applications shall take the form of a letter and shall include:

1. Evidence that the school has completed a thorough needs assessment, including the most recent school district and school CES, and school district or school three-year operational plan and annual budget;

2. A modified three-year operational plan and annual budget that fully illustrates how standards-based reform, whole school reform, and supports for teachers, students, and parents, as described herein are to be addressed in an AWSRD, which shall be authorized by the SLC; and

3. A letter of support from the CSA that details how the school will be supported in its implementation by the school district central office and external providers of technical assistance and professional development.

6A:10A-3.5 Supports for teachers

(a) Abbott schools and school districts shall provide effective, high-quality instruction consistent with the CCCS, this chapter, NCLB, and educational research. Such instruction shall be guided by best practices, such as those outlined in the Generally Accepted Principles of Teaching and Learning, developed by the Annenberg Institute for School Reform, 2003. The Generally Accepted Principles of Teaching and Learning shall be incorporated herein by reference and may be obtained from the New Jersey Department of Education, Division of Abbott Implementation, 100 River View Plaza, PO Box 500, Trenton, N.J., 08625-0500 or found on the Abbott Division's website at www.schoolcommunities.org/portfolio/gap.html.

(b) Abbott schools and school districts shall support a culture of professional inquiry and improvement through enhancements and modification in school and school district central office policies, organization and structures. Such enhancements and modification shall include, but not be limited to:

1. Policies that reduce the isolation of teachers; promote continuous teacher learning; encourage mutual respect and high staff morale; provide intensive, ongoing, research-based professional development on content, pedagogy, and school improvement; and establish multiple school-based collaborative structures;

2. School organization that provides adequate and consistent time during the school day and year for teachers to work together in content areas, in grade or department-level meetings, and school wide to review student work and achievement, to develop a common understanding about quality work, to help each other create improvement strategies, to visit each other's classrooms, to solve instructional problems, and to identify the need for additional expertise; and

3. School and school district leadership that model inquiry and professional learning; that provide personal support and professional assistance; that facilitate teacher collaboration; and that provide the human, fiscal, and capital resources needed to increase individual classroom, teacher, and school capacity to continually improve policy and practice.

(c) Abbott schools and school districts shall provide multiple opportunities for professional development driven by curriculum and consistent with this chapter, NCLB, education research, and standards of the New Jersey Professional Teaching Standards Board. Such professional development shall:

1. Be based on assessment of individual and collective teacher needs for content, strategies, skills, concepts, and expectations associated with the curriculum;

2. Reflect student achievement data, and school and school district goals;

3. Use a variety of approaches including intensive seminars, classroom coaching and modeling, review and follow-up, and teacher collaboration;

4. Encourage and support teacher grade-level and subject matter networks;

5. Be led by colleagues, school principals, and school district central office personnel with appropriate expertise, and, when necessary, external experts;

6. Be continuously assessed and refined to ensure teacher learning, improved practice, and advancement of student achievement; and

7. Be adequately supported by school district policies and funding.

6A:10A-3.6 Support for students

(a) Each CSA shall prepare a needs assessment at least annually to assess the needs particular to the school and its student population to enable each student to attain literacy, improve his or her mastery of the CCCS and attain high school graduation. The needs assessment shall identify obstacles to student achievement, the evidence of those obstacles, and the actions to be taken to remove them, which may include the implementation of remedies from the Chart of Supplemental Services in the chapter Appendix. Where any of the programs, services or positions in (c) through (j) below are in place, the assessment shall include evidence of their relationship to improved student achievement. The needs assessment shall be infused into the school district's three-year operational plan and annual budget.

(b) Each Abbott school shall operate a series of programs and services, appropriate for its grade levels in the specific areas identified in *Abbott V* and reinforced in *Abbott X* that have been demonstrated to be effective in improving student achievement. Such programs and services, depending on need and documented effectiveness, shall be adjusted to provide none, less, or more than any Court-identified baseline in the Chart of Supplemental Programs in *Abbott X* found in the chapter Appendix.

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

(d) Each elementary school shall coordinate adequate social and health services and referrals to improve student readiness, performance, and attendance; to identify student needs; to assure that all students receive health care and social services that are demonstrated to be essential for improved achievement; and to reduce teacher time devoted to resolving non-academic matters.

1. The school shall provide a Family Support Team that may include the school nurse, social worker, guidance counselor, teacher, and parent liaison, as appropriate. All student data and records shall remain confidential. The Family Support Team shall identify student needs, consult regularly with parents or guardians and a student's classroom teachers, provide direct services where appropriate, refer students to community social and health providers or to the child study team for services not available in the school, and follow-up to assure the student needs were satisfied.

2. The school shall operate an on-site clinic to provide social and health services if the SLC can successfully demonstrate that such services are not sufficiently available in the community, that on-site services would be more effective and efficient and that they would result in improved student achievement.

(e) Each school serving secondary students shall provide adequate social and health services and referrals to improve student readiness, performance, and attendance to identify student needs as they relate to mastering the CCCS, to assure that all students receive needed health care and social services that are documented to be necessary for improved achievement, and to reduce teacher time devoted to resolving non-academic matters. Each school district shall determine the availability of community services and shall ensure that there is no duplication of effort. Based on demonstrated need, the school shall provide a health and social services coordinator to coordinate existing staff including the school nurse, guidance counselors, and others to identify student need, provide direct service where appropriate, refer students to community health and social service providers, and follow-up to assure student need was satisfied. Each secondary school shall meet the standards and practices set forth in N.J.A.C. 6A:10A-3.3(b).

(f) Each school shall provide an adequate technology program to help students master the CCCS; to ensure that school libraries have sufficient equipment to supplement books and the regular curriculum; and to assure that students become literate in the use and potential of computers and other technology. Based on demonstrated need and effectiveness, each school shall provide:

1. A library media specialist;

2. A technology coordinator to instruct staff and students in the use and care of computers, to keep all technology in good repair, and to recommend needed software and hardware enhancements;

3. Sufficient computers, software and peripherals to assure a ratio of one computer for every five students in the school, as supported by space and electrical limitations of the school facility;

4. Adequate assistive technology and resources to address the needs of students with disabilities; and

5. A successful demonstration of need clearly related to student performance and of the efficiency and effectiveness in the use of current resources with evidence that instructional software is aligned to the school district curriculum and is regularly used in classroom instruction.

(g) Each school serving secondary students shall provide a coherent program that ensures that each high school student is prepared to master college preparatory academic work in a program that meets the standards set forth in N.J.A.C. 6A:10A-3.3(b), master university academics upon graduation, as described below, to assure universal high school graduation.

(h) Each school shall operate a comprehensive, violence prevention and school security program based on demonstrated need and issue a student code of conduct.

(i) Each school shall provide an adequate extended day and/or extended year program, if documented as needed, to provide continual learning opportunities for students.

(j) Each school shall provide an enriched, balanced, nutritional food program based on standards of the Department of Agriculture set forth in N.J.A.C. 2:36.

Special amendment, R.2005 d.90, effective February 7, 2005, (to expire June 30, 2005).

See: 37 N.J.R. 791(a).

In (d)1, inserted "and parent liaison" following "guidance counselor, teacher,".

6A:10A-3.7 Supports for parents and families

(a) Abbott schools shall facilitate opportunities for families, teachers and other school staff to work together with the school principal purpose of connecting parents and guardians to the academic work of their children. Each school shall:

1. Provide collaboratively developed procedures for parents and other family members to meet with teachers, the school principal, and others working directly with students;

2. Consider a volunteer program for parents, guardians, grandparents, and other family members to work in classrooms and on schoolwide projects; and

3. Establish and maintain an active schoolwide organization to promote parent participation. Such organization shall:

i. Meet regularly;

ii. Seek membership from all parents;

iii. Elect its officers;

iv. Provide regular opportunities for parents to learn about schoolwide issues and needs, school and school district achievement, and to express their concerns and opinions;

v. Assure that information is available in native languages; and

vi. Operate under standards and procedures adopted by the school district board of education.

(b) Abbott schools shall assure family participation on SLCs and, where practicable, on schoolwide committees as set forth in this chapter.

(c) Abbott schools shall provide parent education programs, as needed, with particular emphasis on instructional expectations, the content of instruction and homework completion.

(d) Abbott schools shall provide multiple forms of regular communication with every family, including notes sent home with students, telephone calls, e-mail, mailed letters, teacher conferences, and home visits. Such communication shall take into account native languages and shall be used to inform families about individual student progress and needs and schoolwide events, including family education programs and elections to the SLC; and to solicit family opinions and reaction to school, classroom, and individual student needs, problems and events.

(e) Abbott schools shall provide, as needed, one or more full-or part-time parent liaison(s). The parent liaison shall be responsible for coordinating family education and participation programs in the school as provided for in this section.

(f) Abbott schools shall annually review the level and extent of parent participation in the instruction of their children, their knowledge of the curriculum and expected levels of achievement, as well as participation in parent or parent/teacher organization, the SLC, and other schoolwide events to determine the effectiveness of school efforts to engage parents in the academic life of their children. Such review shall inform the school three-year operational plan to terminate, reduce, maintain, or upgrade components of the school's family engagement program.

SUBCHAPTER 4. THE DEPARTMENT OF EDUCATION'S ROLE IN SCHOOL IMPROVEMENT

6A:10A-4.1 Improving the Division of Abbott Implementation's organizational capacity to support Abbott school improvement

(a) The Division will operate to the same standards it expects of Abbott school districts and schools in respect to the recruitment, retention, professional development, evaluation and effective deployment of its professional staff. The Division shall:

1. Clearly define the roles and responsibilities of staff members;
2. Assess staff expertise and professional development, central to the Department's mission of improved teaching and student learning;
3. Align the experience of staff with the needs of school districts for assistance; and
4. Assure that all staff members are informed about, and fluent with, these rules.

(b) The Division shall prepare a three-year plan for the transformation of the Division to enable it to successfully lead the State's efforts to improve teaching and learning in the Abbott school districts. The plan will address the recruitment, retention, professional development, and effective deployment of Division staff and consultants, as well as the organizational issues to be addressed. The plan will solicit the advice of Abbott stakeholders and those knowledgeable about other State divisions of education or ministries of education in other nations going through the same process. The plan shall include annual goals and objectives with benchmarks to permit assessment of progress. The plan shall be approved by the Commissioner and disseminated by the Department to interested parties.

1. The plan shall estimate the funds that will be required to implement the instructional support and capacity-building goals of the Division as well as those other fiscal, organizational, and monitoring responsibilities.

6A:10A-4.2 Providing leadership for improved teaching and learning in the Abbott school districts

(a) The Division shall collect, analyze, and disseminate research and data about students and their schools. The Division shall:

1. Serve as a clearinghouse for reliable research findings on improving student achievement, and the implications of such research on school and school district central office improvement, budgeting, curriculum and professional development, parent engagement, data collection and analysis, collaborative planning and decision-making processes, and the special needs of Abbott students and their schools; and
2. Prepare an annual report that aggregates and disaggregates school and school district-level achievement data for all students and coordinate with reports required by NCLB.

(b) The Division shall ensure full, effective and efficient local implementation of the Abbott reforms, programs and services. The Division shall:

1. Provide collaborative assistance to school districts;
 - i. The Commissioner shall designate Department staff to serve on LSTs to be assigned to Abbott school districts.

ii. The primary role of the LST shall be to help improve school district central office capacity to support improved student achievement.

iii. LSTs shall attend Abbott Advisory Council or SLC meetings at the request of either the school district central office or the SLC to provide assistance or guidance.

iv. LSTs shall be available to respond to public inquiries and other requests for information and/or their participation at the school, school district or community levels.

v. Upon request of the CSA, LSTs shall offer training and assistance to the school district central office and schools in the collection and analysis of student and school needs assessment data.

vi. LSTs shall participate in the formation and revisions of the school district three-year operational plans and budgets to assure that need has been properly documented, as provided in these rules; that the plans reflect demonstrated need and sound research; and that school and school district central office budgets fully support such plans. Upon request, LSTs shall assist school principals and their SLCs in the preparation of plans;

2. Issue a decision on Abbott school district budgets in accordance with the Supreme Court's May 21, 2003 order, but in no case later than the last business day of May, 2005;

3. Assign a CAPA team, with the approval of the CSA, to each low performing school as set forth in N.J.A.C. 6A:10A-3.4(e);

4. Develop with the cooperation of the New Jersey School Boards Association and the Urban Superintendent's Association a program for training Abbott school board members about Abbott programs, budgeting, and instructional goals and their relation to NCLB requirements, and special education and ELL requirements established in N.J.A.C. 6A:14 and 6A:15;

5. Assist school district central office in the development of regular and continuous training of SLC members; and

6. Provide forms and guidance to permit school districts to apply for waivers in accordance with N.J.A.C. 6A:5.

(d) The Division shall establish partnerships with practitioners, researchers, providers of technical assistance and professional development, and recognized experts. The Division shall:

1. Collaborate with institutions of higher education, schools and school districts to develop integrated and improved pre-service and in-service professional develop-

ment programs to improve the supply of high quality teachers and administrators;

2. Contract with providers of technical assistance and/or professional development to schools and/or school district central offices, including model developers, universities, consultants and others;

3. Identify sources of expertise for school district central office improvement and facilitate collaborations between school districts and such sources of expertise; and

4. Encourage the evaluation and study of Abbott student achievement, reforms, programs, and services by scholars and researchers.

6A:10A-4.3 Dispute resolution

(a) The Department shall set forth standards and procedures to facilitate agreements or mediate disagreements between SLCs and school management, SLCs and the school district central office, or complaints from SLC members that bear on the implementation of this chapter. Primary responsibility for resolving disagreements will remain with the school district.

(b) Once the standards and procedures are set forth, the Department shall prepare its LSTs and other staff persons as appropriate to act in helping to settle such disagreements.

(c) The LST shall report its finding, recommendation, or settlement if any, to the Commissioner and to the interested parties.

6A:10A-4.4 The Statewide Council on Abbott Achievement

(a) The Commissioner shall continue the Statewide Council on Abbott Achievement to provide regular advice and counsel on achieving Abbott's goals. The Commissioner shall appoint the members of the Council in collaboration with the New Jersey Education Association, New Jersey American Federation of Teachers, New Jersey Principals and Supervisors Association, the Urban Superintendents Association, New Jersey School Boards Association, New Jersey Association of School Business Officials, the members of the facilitated regulations group established in *Abbott X*, and the Education Law Center. The Council shall:

1. Review and make recommendations about State policies, procedures, and three-year Divisional plans and annual budgets;

2. Review and make recommendations concerning this chapter as needed; and

3. Be chaired by the Commissioner.

SUBCHAPTER 5. THE ABBOTT SCHOOL DISTRICT'S ROLE IN STUDENT ACHIEVEMENT

6A:10A-5.1 Role of Abbott school district board of education

(a) The school district board of education is responsible for the education of all its students and the effective and efficient operation of all schools and the school district.

(b) Each Abbott school district board of education shall prepare revisions to its three-year operational plan and annual budget for 2005-2006, based on the standards and procedures set forth in N.J.A.C. 6A:10A-3.1.

1. The initial school district three-year operational plan, submitted on August 15, 2003, for implementation during the 2003-2004 through 2005-2006 school-years, shall be revised, for third year implementation and submitted to the Commissioner on the same date the school district's budget is submitted. The revisions shall indicate the actions the school district shall take to address obstacles to student achievement, the schedule and sequence for taking these actions, the benchmarks and interim measurements that shall be used to determine progress, and the results that shall be realized if successfully implemented.

2. Each Abbott school district shall adopt an annual school district budget that incorporates the SLC-approved school-based budgets as adopted by the school district and a school district central office budget sufficient to implement the next year of the three-year operational plan.

3. The revisions to the school district three-year operational plan and budget for 2005-2006 school year shall be submitted in a form prescribed by the Commissioner.

4. Prior to submission to the Department, the school district board of education shall approve the revisions to the school district three-year operational plan and budget for the 2005-2006 school year following public discussion of the plan at an advertised meeting of the school board.

(c) The school district board of education assures the appointment and regular performance review of a highly qualified superintendent, consistent with N.J.A.C. 6A:9, and be guided by the Professional Standards for the Superintendency, developed by the American Association of School Administrators, 1993, in appointing a new superintendent and in assessing superintendent effectiveness. The Professional Standards shall be incorporated herein by reference and may be obtained from the New Jersey Department of Education, Division of Abbott Implementation, 100 River View Plaza, PO Box 500, Trenton, N.J., 08025-0500 or found on the Department's website at www.state.nj.us/education.

(d) The school district board of education, administration, teaching staff and support staff of each school district shall cooperate fully with the Department and its assigned LST in the implementation of Abbott programs and services; school-based decision-making and budgeting; the effective and efficient expenditure of funds; and the identification of reallocations necessary for the effective and efficient implementation of required or Department approved new programs and services.

(e) The school district board of education shall submit board secretary's reports, treasurer of school monies reports,

minutes and reports of all transfers to the Department monthly.

(f) The school district board of education shall adopt policies on the duties and responsibilities of SLCs, established in N.J.A.C. 6A:10A-6.2.

6A:10A-5.2 Role of chief school administrator and central office

(a) The chief school administrator (CSA) shall lead the school districtwide improvement of teaching and learning by:

1. Encouraging among school district central office staff a focus on professional inquiry and growth;
2. Ensuring that each school is led by a qualified and effective school principal. The CSA shall:

- i. Be guided by the 1996 Standards for School Leaders, developed by the Interstate School Leaders Licensure Consortium (ISLLC) under the guidance of the Council of Chief School Administrators in assessing school principal effectiveness. The Interstate Standards for School Leaders shall be incorporated herein by reference as amended and supplemented and which may be obtained from the New Jersey Department of Education, Division of Abbott Implementation, 100 River View Plaza, PO Box 500, Trenton, N.J., 08625-0500 or found on the Department's web site at www.state.nj.us/education; and

- ii. Regularly assess and provide for the needs of all school principals to achieve the objectives of this chapter and to evaluate them on the improvements in student achievement;

3. Establishing a comprehensive and effective human resource program that includes the following elements:

- i. Identification and successful recruitment of highly qualified applicants to fill staff vacancies;

- ii. Efficient compliance with State and Federal personnel requirements;

- iii. Specific attention to the needs of first-time or returning professionals for coaching and mentoring; and

- iv. Assurance of a fair, regular, and honest personnel evaluation system aligned with the school district's instructional objectives; and

4. Developing and aligning curricula to CCCS. The CSA shall:

- i. Assure and document in the three-year operational plan that collaboration, articulation and continuity occur between preschool and kindergarten, as required by N.J.A.C. 6A:10A-3.1(a)1vi; between elementary and middle school(s); and the high school(s) to ensure a smooth transition for students between grades and between schools. The CSA shall document that there is an unbroken curricular and instructional connection between preschool and kindergarten;

- ii. Establish collaborative groups, which may include school district central office and school-specific teams comprised of teachers, school principals, subject-area specialists and/or external experts, and parents, to develop, refine, and align curricula, based upon developments in the subject area and the CCCS;

- iii. Assure any school-specific curriculum is aligned to the CCCS and to the school district curriculum;

- iv. Assure that all staff are fully prepared through professional development to teach the curricula; and

- v. Ensure that the school district purchases only textbooks, supplemental instructional materials, and instructional software that are aligned with the CCCS and school district curriculum.

(b) The CSA shall establish a central research, assessment, and data management capacity in collaboration with schools and the Department as part of an evidence-driven culture of continuous examination and refinement. Each school district shall collect and analyze student, teacher and school data including achievement, attendance, professional development and documented needs. The school district shall:

1. Assist schools with data collection and analysis for assessing student instructional needs, prepare the statistical subgroup for Continuously Enrolled Students-District and Continuously Enrolled Students-School, to be used to prepare three-year operational plans, review school budgets, and report student results as required by NCLB; and

2. Intervene in schools where students consistently fail to master the CCCS that are not otherwise designated as low performing schools by the Commissioner. Such schools include those in which 20 percent or more of the students continuously enrolled for three or more years are not proficient on State assessments. The CSA, SLC and school principal shall assess the reasons for underperformance and agree on the steps to be taken to improve student achievement with interim benchmarks to gauge progress.

(c) The CSA shall lead the school and school district improvement planning and budgeting process. The CSA shall:

1. Provide direct assistance to schools in planning and budgeting to assure the implementation of the school three-year operational plan by:

- i. Drafting preliminary budgets for the 2005-2006 school budget that continue current year expenditures, adjusted for the estimated cost of living increases for the following year;

ii. Revising the preliminary budgets to accommodate any reallocation, increase, restoration, modification, reduction or elimination and/or reforms, programs, and services as identified by the SLC and any revisions required to conform to school district policies; and

iii. Approving SLC plans and budgets for timely submission to the school district board of education; and

2. Produce a school district three-year operational plan as established in N.J.A.C. 6A:10A-3.1.

(d) The CSA shall create school and school district-level groups comprised of representative stakeholders to collaborate on school improvement. The CSA shall:

1. Ensure that each school establishes an SLC, pursuant to this chapter; adopt guidelines for its membership, selection, training and operation consistent with this chapter and school district board of education policies;

2. Assist schools in ensuring high participation of parents and community members on SLCs by soliciting candidates and promoting election participation in local media outlets; and

3. Continue the operation of the Abbott Advisory Council. The Council shall:

i. Be comprised of representative stakeholders, including representatives from the same stakeholder groups that comprise the SLCs, and other advocates;

ii. Be chaired by the CSA or designee;

iii. Meet no less than bi-monthly during the school year;

iv. Revise its by-laws governing its operation, based upon a draft supplied by the CSA that reflects changes to this chapter, no later than December 8, 2005;

v. Review the school district three-year operational plan and budget and its annual modifications, prior to submission to the school district board of education;

vi. Review school district policies and procedures to implement Abbott reforms, programs, and services prior to submission to the school district board of education; and

vii. Receive status reports on school districtwide efforts to improve teaching and learning, celebrate examples of success, and assist in the identification and removal of widespread obstacles to improved teaching and learning.

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

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

3. Growth of parent and family engagement in the instructional life of their children and support for the school;

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

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

6A:10A-6.2 Formation, review and implementation of school three-year operational plans and budgets

(a) Each Abbott school shall develop a three-year operational plan and annual budget, based on student and school needs, that identify the obstacles to improved achievement and the specific actions to be taken to reduce or eliminate those obstacles during the three year period. The initial school three-year operational plan, submitted on July 15, 2003, for implementation during the 2003-2004 through 2005-2006 school years, shall be modified, as appropriate, for third year implementation and submitted to the school district by February 1, 2005 for implementation in 2005-2006. The revisions to the school three-year operational plan shall be submitted in a format provided by the Commissioner.

1. The revisions to the school three-year operational plan for 2005-06 shall include, but are not limited to:

i. A detailed assessment of student performance that includes analysis of State assessments reported by NCLB subgroups and by CES, other assessments required by the Abbott Division (ELAS and K-3 norm or criterion-referenced) and an analysis of obstacles to improved student achievement;

ii. In elementary schools, a report on the extent to which the elements of Intensive Early Literacy are being implemented and certification that all elements will be in place no later than September 2005. In schools with middle grades, a report on the extent to which required and recommended practices for literacy in the middle grades are implemented and the schedule for implementing practices not yet in place;

SUBCHAPTER 6. THE ABBOTT SCHOOL'S ROLE IN SCHOOL IMPROVEMENT

6A:10A-6.1 Role of the school principal in leading and supporting school improvement

(a) The Abbott school principal's role is to create the conditions so that all students master the CCCS and to be the instructional and organizational leader. An Abbott school principal shall ensure:

iii. An assessment of the instruction and curricular materials available and assurances that they are aligned to the CCCS;

iv. Evidence that the documented needs of special education students and English language learners are being met and specific proposals for lowering any obstacles identified;

v. If an elementary school, a description of the WSR model or AWSRD being implemented with documentation of the extent of implementation and the specific plans for completing implementation;

vi. Implementation of the recommendations of the CAPA team, if appropriate, as provided in N.J.A.C. 6A:10A-3.4(e)2;

vii. Documentation of the instructional and non-instructional needs of students that impair improved achievement, with specific proposals for meeting those needs in 2005-06;

viii. Evaluation of the efficiency and effectiveness of any current Family Support Team and its relation to improved student performance; and

ix. A list of programs, services, positions or contracts that are proposed to be added, increased, eliminated or reduced in 2005-2006.

2. Each SLC shall adopt an annual school-based budget sufficient to support implementation of the revisions to the school three-year operational plan based on a demonstration of need. The budget shall:

i. Be prepared by the school district central office in draft form beginning with 2003-04 actual expenditures, 2004-05 budgeted appropriations, and current year line items adjusted to reflect the estimated cost of living increase for the subsequent budget year, and distributed to the SLC for the 2005-2006 budget year; and

ii. Be revised, if necessary, by the school district central office to ensure adequate support for instructionally effective practices based on the evidence of student performance; to ensure alignment with school district curricular and professional development standards and practices; to eliminate expenditures for ineffective practices and programs, and be incorporated as revised with the school district three-year operational plan.

3. The school district central office shall assist the school principal and SLC in documenting and analyzing student and school needs, developing effective practices to address those needs, as provided in (a)1 above, and in preparing the final document.

4. The SLC shall provide opportunities for parents and teachers to review and comment on the revisions to school three-year operational plan and budget before its adoption by a majority vote of the SLC.

5. The revisions to the school three-year operational plan and annual budget shall be submitted to the CSA no later than February 1, 2005.

6. The CSA shall not alter the revisions to the school three-year operational plan and/or budget without prior consultation with the SLC.

6A:10A-6.3 Establishment of School Leadership Councils

(a) Each school shall have an SLC to facilitate the participation of the school principal, teachers, staff, parents, grandparents or guardians, and the community to develop a culture of cooperation, accountability and commitment, all with a focus on improving student achievement.

1. The SLC shall assist in the development of the school three-year operational plan and the annual school budget.

2. The SLC shall concentrate on the objective of universal mastery of the CCCS and helping to create a climate of cooperation and focus on student achievement. In this role, the school principal and instructional staff are responsible for implementation; no SLC shall manage the day-to-day implementation of school policies.

(b) SLC membership shall include the building school principal, representatives of teachers, the non-instructional support staff, parents, and the community. The SLC may include students. School district board of education members shall not serve on the SLC. Parents employed by the school district, but not employed at the school, are eligible to serve on an SLC as a parent representative. No group identified above shall constitute more than 50 percent of the SLC membership.

(c) Election of representatives to the SLC shall be as follows:

1. Certificated staff members shall elect representatives of certificated staff. The election process shall be agreed upon and conducted jointly by the school principal and the building representative of the bargaining unit, or his or her designee if the building representative is a candidate.

2. Non-certificated staff members shall elect non-certificated staff representatives. The election process shall be agreed upon and conducted jointly by the school principal and the building representative of the bargaining unit, or his or her designee if the building representative is a candidate.

3. Parents and guardians shall elect parent representatives. The election process shall be agreed upon and conducted jointly by the school principal and the president or chairperson of the school's parent organization/association or his or her designee if the parent leader is a candidate in the election. Such election shall only occur after notifications have been sent home with the students and other effective means have been employed to attract a broad and diverse candidate pool and to assure maximum participation in the election. A parent who is an employee may not be a parent representative at the school where he or she is employed.

4. The community representative(s) shall be nominated by the school principal and approved by the SLC.

(d) An SLC shall operate as follows:

1. The minimum term for each representative is two years. Terms shall be staggered to ensure continuity. A representative who has served his or her term may be eligible for re-election if nominated and elected in accordance with N.J.A.C. 6A:10A-6.2(c). A parent with children in more than one school may be elected to serve on more than one SLC, except as noted in (c)3 above, and if permitted by the school district guidelines.

2. The school district shall issue guidelines for SLC election and removal of SLC members after review by the Abbott Advisory Council in accordance with this chapter. The guidelines shall include means of effective outreach to assure broad participation by parents, guardians and the community.

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

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

ii. A member of the SLC may be reimbursed for reasonable expenses at the discretion of the school district.

4. The SLC shall meet at least monthly. The times, place and dates of meetings shall be agreed to by a majority of the SLC membership with variations in time and place to accommodate all members, with particular attention to parents and community representatives.

5. The SLC may establish subcommittees and working groups as needed. Membership on subcommittees and working groups shall be open to members of the school community not serving on the SLC.

6. The SLC shall adopt by-laws that are consistent with school district guidelines and requirements and the provisions of this chapter.

7. The SLC may report difficulties that threaten the orderly discharge of its responsibilities to the CSA, who shall assist in resolving such difficulties by providing mediation, additional training or technical support.

8. SLC members who were elected prior to the special adoption of this chapter shall serve out their terms, not to exceed two years. When vacancies occur, or if new members are added, this chapter applies.

9. Any SLC not in compliance with this chapter or which has been characterized as ineffective by a CAPA team, shall, with the LST and the CSA, produce a transition plan that identifies actions to make the SLC more effective, which may include requests for appropriate waivers or equivalencies of the requirements established in this chapter.

6A:10A-6.4 Roles and responsibilities of School Leadership Councils

(a) The SLC shall be the collaborative, decision-making body to improve teaching and learning in the school. The SLC shall, under the leadership of the school principal:

1. Continuously analyze student needs assessment data; and work with the school principal and faculty to identify obstacles to improved performance;

2. Review the school-based budget prepared by the school district central office for accuracy and to ensure that the needs of students, faculty and the school are addressed. The SLC may propose modifications, consistent with the school district budgeting procedures and criteria. The SLC must document its recommendations;

3. Participate in required training provided by the school district or Department;

4. If the SLC has voted to participate in personnel matters and has completed all school district training to prepare it, the SLC will recommend three candidates for school principal to the CSA. If the SLC is eligible to participate in school principal interviews, the school principal vacancy shall not be filled without its recommendation;

5. Collaborate with the CAPA team if the school has been designated a low performing school;

6. Review implementation of the school three-year operational plan and amend the plan and/or goals of the plan in light of performance data and circumstances, and make the revised school three-year operational plan available to the school community and the school district; and

7. Maintain minutes and an agenda for all SLC meetings and make them available to the school community. Copies of the minutes shall be transmitted on a timely basis to the CSA.

6A:10A-6.5 Training of School Leadership Council members

(a) The school district shall provide training to SLC members, for which it may request the assistance of the LST. The training shall include, but not be limited to:

1. Roles, relationships and responsibilities of the SLC;

2. Development, implementation and evaluation of the school three-year operational plan and the school's annual budget;

3. Assessment of the instructional needs of students and the identification of the obstacles to improving student achievement, and the most effective means of reducing such obstacles;

4. Curriculum and instruction including the scope and content of the CCCS; as well as the school's obligations to, and programs for, ELL students and special education students;

5. Teamwork and consensus building;

6. Personnel, including certification requirements, NCLB standards for highly qualified teachers and the classroom observation and evaluation process; and

7. The requirements of NCLB and other laws or regulations that govern school operations and the delivery of instruction.

(b) The CSA shall remove a SLC member who has not fulfilled the training requirement. Any member so removed may appeal to the Commissioner, pursuant to N.J.A.C. 6A:3.

(c) The LST shall make available to the school district all Department training materials and information. Upon request, the Department shall assist the school district in providing training.

SUBCHAPTER 7. COST EFFICIENCY, EDUCATION OPPORTUNITY AID AND DISCRETIONARY EDUCATION OPPORTUNITY AID

6A:10A-7.1 Discretionary education opportunity aid governance and mid-year awards

(a) The Department shall withhold the disbursement of DEOA to school districts that fail to meet minimal, customary, and statutory standards of efficient financial management and business operations and that do not follow customary, basic and required instructional standards, policies and practices. School districts were advised in an attachment to the Department's May 28, 2004 decision of the areas from the following list of minimal, customary, required and statutory standards and practices in which the Department deemed the school district to be then deficient and the accompanying dates for compliance. Failure to have addressed the deficiencies identified in that attachment by the regulatory date shall be a basis for withholding of DEOA until the Department has determined that the school district has fully complied with all of the following directives.

1. The school district's CAFR for 2002-2003 did not include any material qualifications or an adverse opinion by the auditor to the school district's adherence to generally accepted accounting principles and financial management. School districts that received a qualified or adverse audit opinion were directed to certify by July 1, 2004 that the reasons for the qualified or adverse audit opinion have been corrected and to have that correction confirmed by the Fiscal Year 2003 auditor;

2. The school district did not incur a deficit in Fiscal Year 2003 as documented by its CAFR. School districts that incurred a deficit in that year were directed to demonstrate in a plan filed by July 1, 2004 that the conditions producing the deficit have been corrected and that sufficient financial controls are in place to prevent a recurrence as confirmed by the Fiscal Year 2003 auditor and approved by the Department;

3. The school district participates in available cost-savings programs that include at least the Alliance for Competitive Energy Services (ACES), the Alliance for Competitive Telecommunications (ACT), the New Jersey School Boards Association Insurance Group (NJSBAIG), the New Jersey State Health Benefits Plan, and is current in submitting all claims for reimbursable costs under the Federal E-rate program for encouraging the use of the Internet. School districts that were not members of these cost-saving programs were directed to document their membership by September 1, 2004 or demonstrate savings equal to or greater than members;

4. The school district operated its Enterprise Fund in Fiscal Year 2003 without a deficit as certified by the CAFR. School districts that operated at a deficit in Fiscal Year 2003 were directed to submit a plan by July 1, 2004 for reducing the deficit to zero by Fiscal Year 2006, and to demonstrate that the deficit certified for Fiscal Year 2003 can be reduced by at least fifty percent by the end of Fiscal Year 2005. The school district was further directed to include targets for measuring interim progress during the school year;

5. The school district maintained an accurate, complete, and timely roster of position control to certify the actual number of professional employees who are being paid for work performed. School districts without a roster of position control were directed to implement and produce such a roster no later than October 1, 2004;

6. The school district produces timely and accurate monthly Board Secretary and School Treasurer reports within 45 days of the month's end, and pursuant to N.J.S.A. 18A:17-10, the Annual Report by August 1. All school districts shall demonstrate full and timely compliance during Fiscal Year 2005;

7. The school district applies for, and implements, Federal grant programs in a timely and appropriate manner;

8. The school district does not incur penalties and interest payments for late payments and that it takes full advantage of discounts for prompt payment. A school district that had incurred penalty and interest payments for late payment shall demonstrate the improvements made to its financial operations to avoid such payments by March 1, 2005;

9. The school district has a curriculum that meets the standards set forth in N.J.A.C. 6A:10A-3.2(a). School districts that were determined by the Department to be without such a curriculum shall document by February 1, 2005 substantial progress in creating such a curriculum;

10. The school district reported the results and analysis on State assessments for the 2003-2004 school year in statistical subgroups for Continuously Enrolled Student-District, Continuously Enrolled Student-School, and for at least three years' results by the subgroups required by NCLB. School districts that had not produced the CES subgroup results, and the NCLB subgroup results and/or analyses, were directed to do so by September 1, 2004;

11. The school district documented in its revisions to the school district three-year operational plan that it has taken all necessary steps to implement during the 2003-2004 school year Intensive Early Literacy (IEL) standards as defined by N.J.A.C. 6A:10A-3.2(c). A school district that did not implement IEL in the previous school year was directed to document by September 1, 2004 the steps it will take in the 2004-2005 school year to incorporate all the elements of IEL in all schools serving the K-3 grades, with indicators of progress and a timetable that must be met;

12. The school district in which one or more schools was designated a low performing school by *Abbott X* shall support and implement in 2004-2005 any written agreement with the Department; and

13. The school district had in force a plan for the recruitment, retention, and professional development of highly qualified teachers and school principals for each classroom and school respectively as required by N.J.A.C. 6A:10A-5.2(b). A school district that does not have an acceptable plan was directed to file one by September 1, 2004.

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

1. Provide evidence that it has maximized enrollment of eligible students in the Special Education Medicaid Initiative (SEMI) program; and

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

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

(d) School districts shall file a timely audit of their 2003-2004 accounts and financial transactions pursuant to N.J.S.A. 18A:23-1 et seq. The Department shall review the audit to calculate available resources and reallocations, including, but not limited to, a reallocation of the school district's undesignated general fund balance in excess of two percent and DEPA and ECPA carryover, and adjust the school district's FY 2005 DEOA award to reflect the June 30, 2004 revenues, carryovers and excess surplus available for the 2004-2005 budget.

(e) If, during the school year, the school district board of education determines that, due to unanticipated expenditures or unforeseen circumstances, additional funds are required to implement the Department-approved programs in the school district three-year operational plan, a separate request shall be filed consistent with the provisions of this subchapter.

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

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

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

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

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

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

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

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

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

5. Upon review of the status of the school district's approved budget, the needs of the school district as presented in the request and the proximity of the request submission to the end of the school year, the Department may direct the reallocation of general fund balances below two percent prior to approving additional resources or order the reallocation of funds from accounts that are projected to be under spent.

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

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

8. The initial appropriation equal to the revenue recorded in 6 above shall be recorded in an account designated by the Department and shall be available only for the purposes identified in the award letter from the Department. All transfers out of that account into the individual appropriation accounts the funds were awarded to fund require the Department's prior approval.

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

6A:10A-7.2 Cost efficiency in 2005-2006 budgets

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

(b) Each school district board of education shall ensure economies and efficiencies are being attained in the delivery of programs and services through the use of, but not limited to, the Department Efficiency Study and a review of administrative cost limits. The review of administrative cost limits to ensure that per pupil administrative costs do not increase by more than 2.5 percent or the cost of living, whichever is greater, will be performed by the Division pursuant to (d) through (f) below.

(c) Each school district shall review its proposed spending using the Department's Efficiency Study to assist in developing its fiscal year 2006 budget.

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

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

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

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

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

5. School districts are encouraged to maximize the efficiency information presented in the Department Efficiency Study such that they may submit a presumptive budget and be deemed efficient for 2005-2006 pursuant to (i) below.

(d) Pursuant to N.J.S.A. 18A:7F-5, per pupil administrative cost limits for 2005-2006 shall be calculated as follows:

1. Per pupil administrative cost limits are calculated individually for each of the three regions, North, Central and South, using audited expenditure data from the 2003-2004 school year. Each district board of education will receive a statement of its regional administrative cost limit with the annual State aid notices. The district board of education shall prepare and submit to the Department a proposed budget consistent with N.J.S.A. 18A:7F-5, N.J.S.A. 18A:22-1 et seq. and N.J.A.C. 6A:23, in which the advertised per pupil administrative costs do not exceed the lower of the following:

- i. The school district's advertised per pupil administrative costs for the 2004-2005 school year adjusted in (b)2 below if applicable, inflated by the cost of living or 2.5 percent, whichever is greater; or
- ii. The per pupil administrative cost limits for the school district's region as defined in (b) above.

2. A district board of education may submit to the Department a revision to the school districts 2004-2005 advertised per pupil administrative cost if upon review and recommendation by the school district's auditor, the district board of education determines the costs were not budgeted in the 2004-2005 budget consistent with the Uniform Minimum Chart of Accounts for New Jersey Public Schools and the definition of administrative cost.

- i. The district board of education shall include in such submission documentation of the existing and revised per pupil cost calculations based on auditor recommendation.
- ii. The district board of education shall submit to the Division all such revisions for review and approval as part of the 2005-2006 budget approval process.

(e) Each school district shall submit to the Division no later than February 10, 2005, the calculation of the school district's status within the administrative cost limits and the projected enrollment report generated by the district-wide budget software. School districts that exceed the administrative cost limit shall document for the Division why the excessive administrative costs are required to provide a thorough and efficient education to their students. The supporting documentation shall address all detailed appropriation lines in the per pupil administrative cost calculation in the district-wide budget software including, but not limited to, legal fees, audit fees, district board of education memberships and dues, and miscellaneous expenditures.

(f) The Division shall review the school district's administrative cost limits calculated in (d) above and the documentation supporting its need to have administrative costs in excess of the administrative cost limit to provide a thorough and efficient education to its students, to assist the school district to submit a presumptive budget, and to calculate the school district's approved excess per pupil administrative costs.

(g) School districts' per pupil administrative costs in excess of the administrative cost limit in 2005-2006 as approved by the Division will not be automatically considered necessary costs for the 2006-2007 fiscal year and beyond. A demonstration of constitutional need for the excess per pupil administrative costs must be demonstrated each budget year.

(h) EOA in an Abbott school district in 2005-2006 shall be calculated as the greater of EOA formula funding (which includes spending for regular education as defined in *Abbott v. Burke* 136 N.J. 444 (1994) and 119 N.J. 287 (1990) in each Abbott school district that equals the average per pupil spending of New Jersey school districts in the "I" and "J" categories of the District Factor Groups) as reported by the Department in the State aid printouts following the Governor's Budget message or EOA using the presumptive budget formula pursuant to (i) below.

(i) The 2005-2006 presumptive budget shall be calculated as the 2004-2005 base budget increased by 2.5 percent or cost of living, whichever is greater, plus approved incremental new school facility costs.

(j) Each school district that expects to open a new school facility during 2005-2006 shall submit to the Department, no later than November 30, 2004, a request for incremental new school facility costs, on a form provided by the Department. The Department shall review the request and make a determination of the amount necessary to meet the incremental new facility costs. This approved amount will be part of the presumptive budget calculation.

(k) EOA using the presumptive budget formula shall be calculated as the 2005-2006 presumptive budget less 2004-2005 general fund tax levy, 2005-2006 statutory aids,

2005-2006 budgeted DEPA and ECPA carryovers, 2005-2006 budgeted general fund balance and 2005-2006 miscellaneous unrestricted revenues.

(l) School districts may increase their presumptive budget by increasing general fund local tax levy over fiscal year 2005 general fund local tax levy, SEMI reimbursements, Impact Aid and any other general fund revenues not included in the base budget included in (i) above. If DEOA is not requested by the school district, any increase in these additional revenues, including local tax levy, shall be available for purposes approved by the school district board of education.

(m) School district budgets that can support all 2005-2006 expenditures at or below the presumptive budget calculated in (i) above, and are within the administrative cost limits shall be considered efficient for 2005-2006 and not require further fiscal or efficiency review beyond a review to ensure all supporting documents are complete and revenues are accurately budgeted and that all required educational programs are funded. School districts considered efficient in 2005-2006 pursuant to this subsection shall continue to work toward reducing individual inefficient costs identified in N.J.A.C. 6A:10A-7.1 and subsection (c) above. Individual inefficient costs identified in N.J.A.C. 6A:10A-7.1 and subsection (c) above shall not be automatically considered allowable costs in 2006-2007 and beyond.

(n) School district budgets at or below the presumptive budget calculated in (i) above, but are above the administrative cost limits, shall submit to the Division documentation why the excessive administrative costs are necessary for a thorough and efficient education as set forth in (e) and (f) above. If approved for 2005-2006, the excessive administrative costs shall not preclude the Division's acceptance of the presumptive budget.

(o) School district budgets that exceed the presumptive budget calculated in (i) above, request discretionary education opportunity aid and are above the administrative cost limits shall submit to the Division documentation why the excessive administrative costs are necessary for a thorough and efficient education as set forth in (e) and (f) above. The Division shall review all documentation as a part of its budget approval.

Special amendment, R.2005 d.90, effective February 7, 2005, (to expire June 30, 2005).

See: 37 N.J.R. 791(a).

Rewrote the section.

6A:10A-7.3 School district board of education application for discretionary education opportunity aid for 2005-2006

(a) Fiscal Year 2006 Discretionary Education Opportunity Aid (FY 2006 DEOA) is provided to support effective and efficient foundational education and supplemental programs to enable students to achieve the CCCS, and ap-

proved by the Commissioner as essential to improved student achievement that cannot be otherwise funded within the district's budget or from the reallocation of funds from ineffective programs.

(b) The school district board of education shall submit to the Department pursuant to N.J.S.A. 18A:7F-5(c) and 6(c), a balanced budget for the 2005-2006 school year consistent with the provisions of N.J.S.A. 18A:4-14 and 18A:22-8 and this chapter. This budget shall be consistent with the school district's revisions to its three-year operational plan, which shall reflect the instructional priorities specified in the face-to-face conversation and subsequent correspondence between the school district and Department.

(c) Any request for FY 2006 DEOA requires the requesting school district to complete the budget and supporting documents provided by the Department in accordance with N.J.S.A. 18A:7F-6.

(d) To be eligible for DEOA in FY06, the school district must have met all the conditions for disbursement of DEOA in FY05 and must continue to maintain minimal, customary and statutory standards of efficient financial management and business operations and continue to follow customary, basic and required instructional standards, policies and practices as more fully set forth in N.J.A.C. 6A:10A-7.1.

(e) To be eligible for DEOA, the school district shall meet the standards for a foundational education program. Failure to meet the standards set forth below shall cause the school district to be ineligible to receive DEOA for the 2005-2006 school year.

1. The school district shall have a preschool-12 curriculum that is aligned with the CCCS as every grade level and with the preschool Expectations and meets these additional standards:

i. The curriculum shall be clear and specific enough that any teacher, student, or parent may consult it at any point during the grade year or by secondary subject area and learn what level of achievement is expected by content area and skill level and what instructional materials can be used to achieve same;

ii. The curriculum shall indicate how interim instructional goals will be assessed and what performance will indicate satisfactory progress;

iii. The curriculum shall provide guidance to teachers on how to work with students failing to achieve the instructional goals;

iv. Instructional materials, including software and textbooks shall be consistent with the curriculum;

v. The curriculum shall be used as one standard to review teachers' content mastery and instructional skills to determine what professional development is required; and

vi. The school district shall demonstrate substantial progress by first completing the development of the preschool to third grade curriculum for literacy during this school year.

2. The school district shall document its use of a student-level database to evaluate student performance and to adjust its instructional programs, practices and curriculum from the evidence thereby produced.

i. The school district shall assist all schools in analyzing the results of State assessments longitudinally, by NCLB subgroup, and CES and using the analysis to adjust instructional practices; and

ii. The school district shall produce comparative student achievement data across schools, over time, NCLB subgroups, CES and other useful measures to assist in analyses of the school district curriculum and instructional priorities and practices.

3. The school district shall have a system of evaluation and assistance that is tied to the school district's instructional priorities and curriculum and that are reflected in the professional improvement plans of its professional employees.

4. The school district shall provide a safe and clean physical environment in its schools and ensure timely service and delivery to schools of instructional supplies and materials and other goods and services required to operate an efficient school system.

(f) The school district board of education shall consider all available resources, reallocations and potential efficiencies before submitting a request for DEOA as follows:

1. Costs in excess of the efficiency measures established by the Department Efficiency Study;

2. All expenditure categories that were not evaluated in the Department Efficiency Study shall be reviewed for efficiency by comparing historical spending patterns to determine whether increases are reasonable to maintain existing services; or in the case of new programs or services whether there is evidence of effectiveness, and that the new program or service can be implemented during the fiscal year 2006;

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

4. Under-budgeted miscellaneous unrestricted revenues;

5. Early childhood program aid and demonstrably effective program aid projected carryover balances;

6. Tuition reserves, capital reserves and all other reserves that are not required by the Department;

7. Salary appropriations for vacant positions in excess of step one of the school district's salary scale for the position/title except for positions that are difficult to fill;

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

9. Positions, programs and services or other appropriations that are not effective;

10. Appropriations in excess of the needs documented in the school district and school three-year operational plans;

11. Proper allocation of all costs eligible for funding under the Educational Facilities Construction and Financing Act, P.L. 2000, c.72, and reallocation of budget appropriations or transfers from the general fund to a capital reserve fund for any facility or project not eligible for full funding under the Educational Facilities Construction and Financing Act, P.L. 2000, c.72;

12. Aides that are not mandated for preschool, kindergarten and special education;

13. Non-recurring costs;

14. Equipment; and

15. Full integration of State, local, and Federal funds at the classroom level and school staffing levels that meet Department standards for the effective and efficient delivery of instructional and supplemental services.

(g) The school district's request for DEOA shall include and the Department shall review the following:

1. Evidence of student instructional needs, including, but not limited to, three years or more of comparative statistical analysis of student achievement using the NCLB subgroups and CES as measured by performance on State assessments and local and national performance indicators used by the school district;

2. Evidence that any proposed intervention to address documented student needs can be reasonably expected to be effective in improving instruction;

3. Evidence that current programs, services, practices, materials, or positions in the area for which funds for new programs, services, practices, materials, or positions are requested are essential to student achievement or that they will be eliminated and the funds thereby generated will be available to support the new or expanded programs, services, or positions;

4. Evidence that continued implementation of any or all current programs or services in the same area can be justified as efficient and effective. For any program, service, practice, materials, or positions that are to be expanded with DEOA, the school district shall provide evidence that they have been effective and efficient in their current form;

5. Documentation that the findings of the Department Efficiency Study have been applied by specifying the dollar reduction or reallocation in all expenditure categories

in which the school district exceeds comparable school districts;

6. A demonstration that costs that exceed the midpoint average median identified in the Department Efficiency Study are necessary and justifiable.

i. Through its request for FY 2006 DEOA, the school district shall be provided with a reasonable opportunity to demonstrate that any costs in excess of the midpoint average median are necessary and justifiable, based on individual school district circumstances, including, but not limited to, particular needs of the school district's students, facilities, or other relevant factors.

ii. If the school district's explanation is accepted by the Department, the higher-than-midpoint average median expenditure shall be accepted as a part of the approved school district's budget for fiscal year 2005-2006 only;

7. A demonstration that educationally effective practice and programs cannot be funded through further reductions or reallocations, and that without DEOA, the effective and efficient foundational education and supplemental programs to enable students to achieve the CCCS in 2005-2006 will be negatively affected. The request for DEOA shall include documentation of student instructional needs to be addressed by any proposed instructional practices, program, service, or contract, with evidence that the proposed activities can be reasonably expected to improve student performance;

8. A listing of all new or expanded programs, services, contracts and positions that are included in the 2005-2006 budget that were not a part of the approved budget for 2004-2005, as well as the program or service it is designed to replace. This listing shall include the following:

i. The account number, name of the program, a detailed description of the program and its costs and the Board resolution certifying these "new" services or programs are agreed upon by the school district board of education and will be implemented by the school district or school during the 2005-2006 school year;

ii. For expanded programs, the length of the implementation of the original program and the evidence that the program is effective;

iii. Documentation of student instructional needs, including analysis of State and local assessment results;

iv. How the new and expanded programs are linked to improving student performance and mastery of the CCCS, and have been documented to be effective by evidence-based research in school districts with similar demographics;

v. Whether the new and expanded programs address the instructional priorities agreed to in the face-to-face meeting between the school district and the

Department and follow-up meetings and correspondence; and

vi. How the proposed new and expanded programs will enable the school district to remain within the standards of efficiencies established by the Department;

9. A listing by program and associated cost of all ineffective or inefficient programs, services and contracts and positions that were included in the 2004-2005 budget that are not part of the proposed budget for 2005-2006 to demonstrate the elimination of all ineffective and inefficient programs;

10. The school district's certified payroll records submitted electronically, which shall include first and last name of each employee, along with that employee's position, account code, school location, percentage of contracted salary charged to the account code, contracted salary amount in fiscal year 2004, fiscal year 2005 and anticipated in fiscal year 2006. Any salary appropriations line in the districtwide budget that is over the contracted salary amount included in the certified payroll records must be supported by detailed information as to whether the costs are for substitutes, overtime or stipends. The stipend detail shall be by staff member; and

11. All 2005-2006 school-based budgets for the school district.

(h) If awarded DEOA, the DEOA funds will be held in reserve for those practices, programs, services or contracts approved by the Commissioner and may be released for other purposes only with the prior approval of the Department.

Special amendment, R.2005 d.90, effective February 7, 2005, (to expire June 30, 2005).

See: 37 N.J.R. 791(a).

In (e), added vi; in (f), deleted "instructionally" preceding "effective" in 9; in (g), inserted reference to school in 6i.

6A:10A-7.4 Department review of school district board of education application for discretionary education opportunity aid (DEOA) for 2005-2006

(a) The Department shall review the school district budgets and DEOA requests in a uniform and consistent fashion to ensure the requirements of N.J.A.C. 6A:10A-7.3 have been met. The Department shall notify any school district of required information that is missing. School districts supplying complete and timely information as requested will receive a decision on its DEOA request by May 31, 2005. School districts not supplying complete and timely information may receive a conditional award and/or a delay of disbursement of DEOA subject to full compliance with the request for information.

(b) The Department shall review the school district's budget to ensure that the school district properly complied with the administrative cost limits and reallocated inefficient spending from school district central office administrative accounts.

(c) The Department shall review the districtwide budget to ensure appropriations are efficient as compared to the Department Efficiency Study and shall identify inefficient costs and areas for reallocation. If the school district's costs exceed the midpoint average median identified in the Department Efficiency Study and the explanation of the school district, pursuant to N.J.A.C. 6A:10A-7.3(g)6, and that such costs in excess of the midpoint average median are necessary and justifiable based on individual school district circumstances, is not accepted by the Department, then the Department shall identify, provide the reasons for and quantify the reductions in that category that can be reasonably expected to be achieved during the 2005-2006 school year and provide an explanation on how the reductions will be applied. Any funds so identified shall be used to address priorities in the following order: more effective instruction, spending for greater efficiency, funding for inflation, and to reduce the school district's request for DEOA. Expenditures to be reviewed shall include, but not be limited to, administration and student support salaries, health benefits, facilities, regular transportation, special education transportation, supplies and equipment, utilities, adjusted classroom instruction costs and total educational purchased services.

(d) All expenditure categories that were not evaluated in the Department Efficiency Study shall be reviewed for efficiency by comparing historical spending patterns to determine if costs are necessary; if increases are reasonable to maintain existing services; or in the case of new programs or services, if there is evidence of success that the Department can be reasonably assured that the new program or service can be implemented during the fiscal year 2006. Such reviews may include, but not be limited to, other tuition costs, in-district special education costs and other benefit costs.

(e) The Department shall review salary appropriations for vacant positions to ensure the vacancies are budgeted at step one of the school district's salary scale for the position/title, except for positions that are difficult to fill.

(f) The Department shall review salary breakage for replacement of retiring staff during the upcoming budget year.

(g) The Department shall review the districtwide budget to ensure all efficiencies identified in (b) through (f) above have been incorporated into the budget.

(h) The Department shall review whether the school district board of education considered all available resources, reallocations, and reductions before submitting a request for FY 2006 DEOA, which shall be certified by the school district board of education through a board resolution. The Department shall at a minimum perform the following procedures to ensure all available reallocations, and reductions have been incorporated into the districtwide budget:

1. The Department shall review the districtwide budget to ensure that all CEIFA revenues budgeted for fiscal year 2006 agree with the State aid printouts generated by the Department and all other revenues anticipated in the budget agree to the applicable award letter;

2. The Department shall review the districtwide budget to ensure that all projected carryovers budgeted to support fiscal year 2006 activities are reasonable considering fiscal year 2005 spending;

3. The Department shall review the districtwide budget to ensure that budgeted general fund balance is reasonable considering the school district's current spending in comparison to amounts budgeted, current estimates of miscellaneous revenues, revised State aid amounts and open purchase orders that may be cancelled;

4. The Department shall review the budgeted revenues to ensure that all potential revenues, including miscellaneous revenues, for fiscal year 2006 have been included;

5. The Department shall review the districtwide budget to ensure the transfer to charter schools lines reflected in the budget do not exceed the transfers to charter schools issued in the Department's payment schedules;

6. The Department shall review the districtwide budget to ensure the school district has not included capital reserves, tuition reserves and any other reserve not required by the Department; and

7. The Department shall direct reductions, reallocations and revisions to under-budgeted revenues for all items identified through the review of items (h)1 through 6 above.

(i) The Department shall analyze the past five years of out-of-district special education enrollment to predict the school district's special education enrollment increase for Fiscal Year 2006. The Department shall then compare this projection to the school district's projection in Supporting Documentation Item 6B.2 for the Fiscal Year 2006 budget. If the school district's projection is higher, the Department shall multiply the average cost given in Supporting Documentation Item 6B.2, by the enrollment differential, and deduct the product from the DEOA request.

(j) In determining whether an existing program, service or expenditure should be exempt from reallocation, in whole or in part, the Department shall consider whether:

1. Elimination of the existing program, service or other expenditure would undermine or weaken the foundational education program; and

2. The existing program, service or other expenditure is being delivered efficiently and integrates State, local and Federal programs and funds.

(k) The Department shall issue a DEOA award letter on or before May 31, 2005. Therein, the Department shall direct reductions and/or reallocations of spending, reduction or elimination of specified inefficiencies/conditions of the award and shall establish the conditions for the distribution of DEOA. The Department shall also provide reasons for these determinations when the DEOA request is tied to a specific proposed program.

1. The Department shall direct reductions including, but not limited to, the reduction of all capital reserves to one dollar and all tuition reserves, and any other reserves established by the school district that are not required by the Department to zero.

2. The Department shall direct reallocation from categories including, but not limited to, the requirements in N.J.A.C. 6A:10A-7.3(f).

3. The Department shall make appropriate reductions from the school district's request for all proposed expenditures found to be inefficient in this section that are not adjusted in the submitted budget.

Special amendment, R.2005 d.90, effective February 7, 2005, (to expire June 30, 2005).

See: 37 N.J.R. 791(a).

In (c), inserted "school" following "Department Efficiency Study and the explanation of the", "provide the reasons for" following "Department shall identify,"; in (j)1, inserted "or weaken" following "expenditure would undermine"; in (k) added the last sentence in the introductory paragraph.

SUBCHAPTER 8. ABBOTT FINANCIAL REPORTING AND SCHOOL LEVEL BUDGETS

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

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

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

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

3. The school district board of education shall record appropriations and expenditures by school for classroom instruction, school-level technology, student support services (family support team), educational media and library, professional development, security and school-level administration.

4. Any appropriation balances remaining at the end of the year shall lapse and be commingled with the general fund balance of the school district after reserving for year-end encumbrances at the school level, except where prohibited by any Federal law.

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

6. Early Childhood Program Aid (ECPA) and Demonstrably Effective Program Aid (DEPA) are non-lapsing sources of funds. A school district board of education shall classify ECPA and DEPA program aid that is not expended or encumbered by June 30 of the budget year as deferred revenue. The Commissioner shall direct the appropriation of the deferred revenue in the subsequent year for school districts receiving discretionary education opportunity aid. School districts not receiving discretionary education opportunity aid, shall either:

- i. Add the carryover to the revenue for the subsequent year;
- ii. Appropriate such revenue during the subsequent year with the approval of the Commissioner; or
- iii. Retain such revenue as deferred revenue until the second subsequent year budget.

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

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

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

10. Any school district board of education receiving DEOA in the current year or requesting DEOA in the subsequent budget year shall not establish a tuition reserve at June 30 of the current year as provided for in N.J.A.C. 6A:23-3.1(f)8.

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

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

1. Documentation of approval of the transfer by a two-thirds affirmative vote of the authorized membership of the school board;
2. Certification by that same membership that the transfer is necessary to achieve the efficiency and effectiveness standards for the current year. Requests to appropriate surplus for textbooks, computers, equipment or other needs for use in the subsequent school year shall not be approved; and
3. The latest board secretary's report to document that appropriation balances are or will be expended or encumbered.

(b) Prior to April 1, a school district board of education may petition the Commissioner, by two-thirds affirmative vote of the authorized membership of the school board, for approval of a transfer of surplus or other unbudgeted or under-budgeted revenue only for an emergent circumstance. Such school district board of education may be subject to an on-site inspection for verification of the emergent condition and other supporting documentation. The school district board of education shall submit such board-approved petition to the Assistant Commissioner for Abbott Implementation for review for recommendation to the Commissioner. At a minimum the school district board of education shall include in such submission:

1. Certification that the transfer is necessary for an emergent circumstance, that no other line item balances are or will be available and that the remaining surplus will enable the school district board of education to operate in a fiscally solvent position for the remainder of the budget year;
2. Documentation that the emergent circumstance if not addressed through an appropriation of additional revenue, would render peril to the health and safety of students or staff, and/or force the school district into an operating deficit as a result of the implementation of the requirements of this chapter and the CCCS;
3. The latest school board secretary's report as documentation that no other line item balances are or will be available as set forth in (b)3i below:

- i. Any unexpended, unencumbered balances shall be for non-discretionary fixed costs and supported by

historical expenditures or other documentation ensuring that the balances will be expended by June 30; and

4. Evidence of approval of the petition and supporting documentation by a two-thirds affirmative vote of the authorized membership of the board of education.

(c) A school district board of education may, at any time and without Commissioner approval:

1. Appropriate unbudgeted or under-budgeted State aid for which the approval was granted by the Department in the written notification to the school district of the additional aid;

2. Appropriate unbudgeted and under-budgeted tuition revenue generated from a school district-specific program, which is not part of a formal sending-receiving relationship pursuant to N.J.S.A. 18A:38-19 and 18A:46-21;

3. Appropriate unbudgeted or under-budgeted Federal revenue; and

4. Appropriate surplus generated from any Federal and/or State revenue excluded from the excess surplus calculation in the pre-budget year in accordance with the annual audit program.

(d) As used in this section, general fund appropriation account means the required advertised appropriation accounts pursuant to N.J.S.A. 18A:22, except where consolidated as follows:

1. Basic skills, bilingual and special education instruction, including other related and extraordinary services;

2. Student activities, student athletics and other student instructional services;

3. Student support services, including, attendance, health, guidance, child study team, and media;

4. Improvement of instruction and staff training; and

5. Special programs (fund 13).

(e) For all transfers from any general fund appropriation account as defined in (d) above, and as amended to include prior year encumbrances carried forward to the current year, the school district board of education shall obtain the approval for such transfers by two-thirds affirmative vote of the authorized membership of the school board, pursuant to N.J.S.A. 18A:22-8.1.

1. When the total amount of such transfers, on a cumulative basis, exceeds 10 percent of the amount of the account that was included in the school district's budget as certified for taxes, the school district board of education shall request approval from the Assistant Commissioner for Abbott Implementation, as the Commissioner's designee, by submitting the request and purpose for the transfer using the reporting requirements established in (h) below.

i. The school district board of education may request approval from the Assistant Commissioner for Abbott Implementation prior to obtaining the two-thirds affirmative vote of the authorized membership of the school board for such approval.

ii. A school district board of education written transfer request shall be deemed approved after 10 working days of receipt of such request by the Assistant Commissioner for Abbott Implementation if no Assistant Commissioner for Abbott Implementation approval or denial is provided within that time frame. A school district board of education shall maintain documentation of the Assistant Commissioner for Abbott Implementation receipt of all transfer requests deemed approved under this subsection.

2. Prior to any transfers from capital outlay accounts to current expense, except for equipment, a school district board of education shall submit a written request for approval to the Assistant Commissioner for Abbott Implementation pursuant to N.J.A.C. 6A:23-8.4(e).

(f) For all transfers to the advertised appropriation accounts identified as general administration, school administration, central services and administrative information technology or other support services that, on a cumulative basis, exceed 10 percent of the amount of the account included in the school district's budget as certified for taxes, a school district board of education shall, prior to such transfer, submit to the Assistant Commissioner for Abbott Implementation, in a format prescribed by the Commissioner, a request for such approval.

1. Such approval will not be granted if:

i. The school district's budget currently exceeds the administrative cost limits; or

ii. The transfer would place the school district's budget in excess of the administrative cost limits in the applicable budget year.

(g) For all transfers to the advertised appropriation accounts identified as capital outlay, excluding equipment, a school district board of education shall, prior to such transfer, submit to the Assistant Commissioner for Abbott Implementation in a format prescribed by the Commissioner a request for such approval. The school district board of education shall include in the request:

1. Documentation that the funds to be transferred will supplement a capital project previously approved pursuant to N.J.A.C. 6A:23-8.4; or

2. Documentation that the funds to be transferred are necessary to support an emergent circumstance as required in (b)2 above. Such school district shall be subject to an on-site inspection by the Assistant Commissioner for Abbott Implementation for verification of the emergent circumstance.

(h) Each school district board of education shall maintain a report of current month and year-to-date transfers between general fund appropriation accounts as defined in (d) above, in a format prescribed by the Commissioner, or in a format developed locally and approved by the Assistant Commissioner for Abbott Implementation, and submit such report to the Assistant Commissioner for Abbott Implementation with any transfer requests in accordance with the submission requirements of the board secretary's and treasurer's financial reports under N.J.A.C. 6A:23-2.11.

(i) All transfers into or out of charter school appropriation lines shall require prior Department approval on forms prescribed by the Commissioner.

(j) The school district board of education shall transfer the full amount included on the lines entitled "Local Contribution—Transfer to Special Revenue" in the 2004-2005 approved budget to the special revenue fund to fully fund preschool programs. Any amount included in the approved 2004-05 districtwide budget on the lines entitled "Local Contribution—Transfer to Special Revenue" that is not transferred to the special revenue fund to fully fund preschool as of December 31, 2004 shall result in a direct reduction of the 2004-2005 discretionary education opportunity aid award and shall not be transferred without prior Department approval.

(k) School-level appropriation transfers necessary during the year to implement the school's three-year operational plan as revised require board approval. The school business administrator and chief school administrator shall certify availability of funds prior to submitting the request to the school district board of education for approval.

1. Notwithstanding (k) above, each school district board of education shall ensure that each school has the necessary resources to implement its three-year operational plan as revised, and shall transfer amounts between schools during the year in accordance with N.J.S.A. 18A:22-8.1, 18A:22-8.2, 18A:7F-6(c) and 18A:7G-31, except where prohibited by Federal law. A school district board of education may apply for additional State aid when necessary pursuant to N.J.A.C. 6A:10A-7.

SUBCHAPTER 9. APPEALS

6A:10A-9.1 Applicability of subchapter

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

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

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

6A:10A-9.2 Filing, service and documentation of petition

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

1. Except as provided in N.J.A.C. 6A:10A-9.7 and 9.8, any appeal filed pursuant to this subchapter shall be filed within 30 days of the date of the decision which is the subject of the requested contested case hearing.

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

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

6A:10A-9.3 Filing, service and documentation of answer

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

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

6A:10A-9.4 Review of pleadings

Upon review of the petition, answer and supporting documentation, the Commissioner may use the procedure set forth in N.J.A.C. 6A:10A-9.5 to decide the matter. If so, he or she shall notify the parties and they shall be provided the opportunity to submit any additional documents submitted to the Department or considered by the Department in rendering the decision.

6A:10A-9.5 Submission of position statements and replies

If the Commissioner requires the submission of position statements and replies, within 20 days after receipt of the notice from the Commissioner pursuant to N.J.A.C. 6A:10A-9.4, the petitioner shall file a letter memorandum setting forth the basis for its position, referencing the criteria established for the application process and the materials submitted in conjunction with it. Within 10 days of receipt of petitioner's memorandum, each respondent shall file such reply as it may wish to make. Within five days of receipt of any reply, petitioner may file a final response thereto. All submissions shall be filed in triplicate (original and two copies) and served upon all other parties to the appeal at the same time they are filed with the Commissioner.

6A:10A-9.6 Commissioner review and decision

(a) If the Commissioner retains the matter pursuant to N.J.A.C. 6A:10A-9.5, upon receipt of the filings set forth above, or expiration of the time for their submission, the Commissioner shall review the total record before him or her and render a written decision. If the Commissioner transmits the matter to the Office of Administrative Law, such transmission shall be done on an expedited basis to resolve factual disputes.

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

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

6A:10A-9.7 Early childhood program appeals

(a) In accordance with the June 24, 2003 order of the New Jersey Supreme Court as set forth at 177 *N.J.* 578 (2003), appeals of Department decisions on Early Childhood Program and budget applications shall proceed as follows:

1. The Department shall issue program and budget decisions to school districts on or before the 15th of January, which decisions shall include, at a minimum, the approved amount of the early childhood budget, and a list of each proposed program and expenditure not approved by the Department, with specific reasons for denying the program or expenditure;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

APPENDIX

Supplemental Programs in Abbott Schools

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

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

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

	Required Program Areas With Baseline	Objectives	Baseline	Options
1	Full-day kindergarten	(1) to help children at risk become effective learners in first grade (2) to increase the benefits deriving from the half day program (502)	provide full day kindergarten by September '99	none
2.	Early reading literacy	(1) to assure that each student reads "at the appropriate level" (495) (2) to prevent children from falling behind and needing remediation. (3) to intervene early and intensively if a student is experiencing difficulty in achievement (554)	(1) 90 minute reading block each day (all schools) (2) regular progress assessment of each student (all schools) (3) instructional facilitator (all schools) (4) reduce 1-3 reading class size to 15 (SFA schools) (5) 20 minutes of daily one-to-one tutoring by a certified teacher for each student in grades 1-3 not reading on grade level (SFA schools) (6) 20 minutes of daily small group tutoring by a certified teacher for students in higher elementary grades not reading on grade (SFA schools)	yes
3	Elementary Parent Involvement	(1) to recruit parents to join parent participation programs and become involved with the schools and their schoolchildren (II, 373) (2) to involve parents in school decision-making (S,14) (3) to foster parenting skills and career development (S, 14) (4) increased parental education to support students' learning at home (556)	(1) parent liaison (2) parent representation in school management	yes
4	Class size Limits	(1) to increase the frequency of student-teacher interactions (2) to reduce distractions (3) to provide more opportunity for assessment, feedback, and reinforcement (560)	(1) preschool: 15 (2) K-3: 21 (3) 4 and 5: 23 (4) 6 and above: 24	none, except if early class size of 15 is needed
5	Elementary Social and Health Referral and Coordination	(1) to use school and community resources to ensure that children come to school every day prepared to learn (2) to provide health, counseling, nutritional, tutorial and other needed services (496) (3) to focus on attendance, coordination of outside services, parent involvement and behavior (556)	family support team comprised of nurse, social worker, counselor, and includes the parent liaison and instructional facilitator	yes
6	Middle and High School Social and Health Referral and Coordination	(1) to provide for significant health and social service needs, including those stemming from poverty, substance abuse, teenage pregnancy and parenthood, inadequate housing, violence and crime (2) to improve student performance, attendance, and dropout rates (3) to reduce teacher time taken out to deal with such problems (509) (4) to ensure that services are actually available and provided quickly	community services coordinator	Yes

		(5) to ensure that uninsured students receive needed services. (510) (6) to identify student needs (7) to arrange for community-based providers to furnish essential health and social services (512)		
7	Access to technology	(1) to help students master the basic and advanced skills necessary to reach the CCCS (2) to improve student motivation and learning (514) (3) to ensure that school and classroom libraries have appropriate materials to supplement the curriculum (4) to facilitate the implementation and use of educational technology throughout the school (515) (5) to increase effective use of technology in Abbott classrooms (564)	(1) media specialist (2) technology coordinator (3) a ratio of 1 computer for every 5 students, including peripherals and software	yes
8.	Dropout prevention and alternative education	(1) to prevent dropouts (2) to provide more individualized instruction (3) to provide additional supports, such as job counseling (4) to decrease disruption in the regular school (5) to increase achievement (6) to foster positive lifestyles (7) to reduce aggressive behavior (515)	(1) alternative middle and alternative high school program, both high quality (2) dropout prevention specialist	yes

	Required Program Areas With No Baseline	Objectives	Baseline	Options
1	Early math literacy and mastery of other core subjects	(1) to develop student skills in higher-order thinking, problem solving, and discovery (2) to make the entire elementary curriculum relevant and useful (556, 557)	none	yes
2	Professional Development	(1) to provide ongoing, continuous opportunities for practitioners to improve practice (496) (2) to focus on all the core curriculum content standards (496) (3) to provide teachers and administrators with a variety of rich and meaningful learning experiences, based on student need (S,16) (4) to provide regular support and feedback for classroom teachers (S,16)	none	yes
3	Violence prevention and school security	(1) to assure adequate school security (2) to improve the education process (3) to remove a great barrier to learning (514) (4) to address problems of student disruptions and violence (5) to define acceptable student behavior and consequence for unacceptable behavior (564)	none	yes
4	School to work and college transition	(1) to increase the basic skills of students to support themselves responsibly (2) to provide access to information about college and employment opportunities (3) to match students with prospective employers (4) to help students become aware of their interests and strengths (570)	none	yes

	If Needed Program Areas	Objectives	Baseline	Options
1	On-site social and health services	(1) to provide an effective and realistic opportunity for these schools to provide on-site services that go beyond mere referral and coordination (2) to provide onsite services if it can be shown that they "either are not available within the surrounding community or cannot effectively and efficiently be provided off site." 512-513	none	yes
2	Supplemental literacy supports for non-SFA schools	(1) to reduce 1-3 reading class size to 15 (2) to provide 20 minutes of daily one-to-one tutoring by a certified teacher for each student in grades 1 -3 not reading on grade level (3) to provide 20 minutes of daily small group tutoring by a certified teacher for students in higher elementary grades not reading on grade	none	yes
3	Instructionally-based after school programs	(1) to increase instructional time (2) to provide homework and tutorial assistance (3) to provide computer training (4) to provide recreation opportunities (516) (5) to provide a structured alternative to unsupervised after school hours (6) to provide after school social and health services (587)	none	yes
4	Instructionally-based summer programs	(1) to prevent the summer learning loss of disadvantaged students (2) to provide structure during unsupervised months (3) to provide a summer program of instruction (4) to provide summer recreation (5) to provide summer employment (516)	none	yes
5	Enriched nutrition programs	(1) to provide high quality breakfast and lunch (516-17) (2) to provide high quality snack (3) to fill any gap left by current programs	none	yes
6	"Exemplary" music, art, and special education	to provide exemplary music, art and special education programs beyond those recommended by the Commissioner (518)	none	yes
7	School-based management and budgeting	(1) to fundamentally alter the way decisions are made (2) to establish a team of parents, administrators, and teachers (494) (3) to develop a school based budget (605) (4) to actively involve all stakeholders in planning, budgeting, and governance (5) to increase effectiveness and tenure of school reform (S,14)	none	yes