

**PRESENTED BY ASSISTANT COMMISSIONER MACINNES TO ABBOTT
RULEMAKING COMMITTEE, APRIL 19, 2004.**

PROPOSED NEW LANGUAGE IS UNDERLINED, DELETIONS ARE BRACKETED

2003-04 N.J.A.C.6A:10A AMENDMENTS

CHAPTER 10A

**Amendments to N.J.A.C. 6A:10A-IMPROVING LEARNING AND LITERACY IN
ABBOTT DISTRICTS: IMPLEMENTING STANDARDS-DRIVEN INSTRUCTION,
REFORMS, PROGRAMS AND SERVICES UNDER ABBOTT v. BURKE**

NOTICE

On, 2003 the Commissioner filed amendments to N.J.A.C. 6A:10A- These amendments have been incorporated into N.J.A.C. 6A:10A. See www.nj.gov/njded/code to view the entire chapter. N.J.A.C. 6A:10A, as amended, supercedes N.J.A.C. 6A:24 to the extent inconsistent with the regulations herein.

Full text of the adopted amendments follows:

SUBCHAPTER 1. GENERAL PROVISIONS

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

These rules are adopted to implement the *Abbott v. Burke* decisions and are promulgated pursuant to the Order of the New Jersey Supreme Court in *Abbott X*, June 24, 2003, the Abbott decisions and P.L. 2003, c. 122 to ensure that public school children from poor urban districts, including students with disabilities and limited English proficiency, 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 Curriculum Content Standards. These rules will also ensure that proposed reforms, programs, services, and staffing that are identified through assessment and evaluation, are cost-effective and efficient, are focused on improving learning, literacy and student mastery of the Core Curriculum Content Standards (CCCS), and are supported by adequate funding. To the maximum extent possible, these rules are consistent with the requirements, reporting, and responsibilities imposed on Abbott schools and districts by No Child Left Behind P.L. 107-110. The rules shall supercede the rules in N.J.A.C.6A:24, where inconsistencies occur. In addition, Abbott 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-1et seq., and rules otherwise promulgated to implement that act; except that where differences in these rules and the CEIFA rules or other rules occur, these rules herein shall take precedence.

6A:10A-1.2 Definitions

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

["*Abbott v. Burke* parity remedy “aid” or “parity aid” is 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 district that equals the average per pupil spending of New Jersey districts in the "I" and "J" categories of the District Factor Groups, and to be used by Abbott districts to implement regular or foundational education and Abbott reforms, programs and services.]

"Abbott district" means each of the following 28 urban 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 districts not included above but designated Abbott districts pursuant to P.L. 1999, c.110, Neptune Township and Plainfield, and such other districts as may qualify in the future. Abbott district shall not include any charter school.

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

"Abbott reforms, programs, and services" means those reforms, programs, and services mandated, noted or authorized by the Supreme Court in *Abbott v. Burke*, as provided herein, that address the demonstrated needs of students in Abbott schools, including students with disabilities and English Language Learners, to assure mastery of the CCCS and early literacy, and other programs and services, not mandated by the Court, but documented as necessary to improve instruction and learning, which are also included in these regulations.

["Accountability" means acceptance of responsibility for effective and efficient organizational performance, regular and clear public reporting of such performance, and expectations of appropriate consequences in response to reported levels of performance.]

"Adequate funding" means sufficient State [aid], local, and Federal funds to fully support the approved budget for foundational education, and reforms, programs, or services approved by the Commissioner as needed.

"Alternative Whole School Reform Design" means a plan approved by the Commissioner [of Education] on the recommendation of the CSA and the SLC or the PAT of an eligible school that documents how student performance can be improved and the nine elements of Whole School Reform (WSR) can be achieved by the implementation of a comprehensive program of instruction, governance, and supports adapted to the documented needs of its students and/or

students district wide by a more effective means [other] than implementation of a national WSR model.

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

"Certified Childcare Professional (CCP)" The CCP means a credential earned by teachers [who demonstrate] 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, [obtained] 180 clock hours of continuing education credit, and [at least] 720 hours of classroom experience [in the classroom,] and has [completed] passed an exam [designed to demonstrate what the candidate has learned].

"Chart of Supplemental Programs" means the Supplemental Programs in Abbott Schools chart from Abbott X, incorporated herein by reference as the chapter appendix. [Some of these are programs which every Abbott school must make available, while others are based on the individual school's needs assessment.] The programs, services, and remedies listed are to be provided when their contribution to improved student achievement is documented to overcome obstacles to achievement by the school or district.

"Chief school administrator" (CSA) means the superintendent or administrative principal of an Abbott district, or the State 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 (CDA)" [means a] is the national credential for early care and education teachers[. The credential means that the candidate has] 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 [in Washington DC] can award a CDA credential.

"Commissioner" means the New Jersey Commissioner of Education or the Commissioner's designee

"Continuously Enrolled Students ("CES") --District" is a statistical subgroup of those students who 1) were enrolled in the district by July 1, 2001 or earlier; 2) took the 2003 New Jersey Assessment of Skills and Knowledge 4 (NJASK4), Grade Eight Performance Assessment (GEPA) or High School Proficiency Assessment (HSPA); and, 3) were enrolled in more than one school in the district after July 1, 2001. Applications for Discretionary Education Opportunity Aid will not be considered until a district has established this subgroup for purposes of reporting the results of state assessments.

"Continuously Enrolled Students--School" is a statistical subgroup of those students who were enrolled in an Abbott school by July 1, 2001 or earlier and who took the 2003 NJASK4, Grade GEPA or the HSPA. Any student enrolled in an Abbott school after July 1, 2001 who transferred directly from another school in the same district will be categorized as one of "Continuously Enrolled Students—District."

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

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

"Demonstrated need" means [a particular need documented by evidence as being necessary for some or all of the students to master the CCCS in a school or district leading to the implementation, retention or modification of a reform, program or service to address such need.] an obstacle to improved student performance by all or some students that can be documented by evidence.

"Department" means the New Jersey Department of Education.

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

"Discretionary Education Opportunity Aid" or "DEOA" means the portion of education opportunity aid awarded for supplemental funding for programs, services and positions that the Commissioner determines are essential to the provision of a thorough and efficient education in Abbott districts. These funds are to support the district's three year operational plan– as modified pursuant to this chapter - that schools and districts demonstrate as needed pursuant to this chapter. These funds are provided pursuant to *Abbott v. Burke*, 153 N.J. 480 (1998, *Abbott V*) and are intended to support demonstrably needed programs that are not otherwise supported by education opportunity aid, categorical, and other State and local funds, and Federal aid. This aid was formerly called "additional *Abbott v. Burke* state aid" or "supplemental funding".

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

"District budget guidelines" means the criteria, format and process established by the district central office to develop and approve school-based budgets, including procedures for resolving disagreements with the schools.

"District three-year operational plan" means the three-year operational plan for sustained and steady improvement in student achievement by all students[, and the Abbott programs and services,] submitted by the district to the Department for approval on or before August 15, 2003 and updated annually thereafter.

"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 districts.

"Drop-off rate" means the percentage of students from a given grade level class that fail to graduate, as calculated by subtracting the number of high school graduates from the original grade level enrollment and dividing the remainder by the original enrollment and then multiplied by 100.

"Dropout prevention program" means an organized effort at the school and district level to provide effective instruction, appropriate services, supports and interventions to ensure that all students master the CCCS and obtain a high school diploma.

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

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

"Early Childhood Program Aid" or "ECPA" means State aid pursuant to N.J.S.A. 18A:7F- 16, which is distributed to all school districts with high concentrations of low-income students for the purpose of providing full-day kindergarten and preschool classes and other early childhood programs and services.

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

"Education Opportunity Aid" or "EOA" is 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 district that equals the average per pupil spending of New Jersey districts in the "I" and "J" categories of the District Factor Groups, and to be used by Abbott districts to implement regular or foundational education and Abbott reforms, programs and services. This aid was formerly called "*Abbott v. Burke* parity remedy aid" or "parity aid".

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

"Effective" means a conclusion that a reform, program, [or] service or a component thereof is achieving its intended result and contributing to improved student achievement as demonstrated through site-specific evaluation employing the standards of evidence-based research and comparative data analysis that takes into account the demographics and economic characteristics fo the student to be compared. Practices that are identified as contributing to better than expected results in Effective Districts shall be used as one measure of comparison.

Effective District is an Abbott district in which the student perform better than would be predicted, given their demographic and economic characteristics as disclosed on state assessment forms, and which is used as a standard for comparing the spending and educational achievement of students in other Abbott districts for purposes of determining effective and efficient expenditures for determining the level of DEOA to be awarded by the Commissioner.

"Efficient" means a conclusion that [a reform, program or service] any expenditure, 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 comparative data analyses against standards for efficiency including those identified in Effective Districts.

"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 test for fourth grade students until the test was replaced by the NJASK 4. [This comprehensive assessment measured students' knowledge and skills at the completion of grade four.]

"Evaluation" means a determination of the significance, worth or quality of the design and implementation of a school or district reform, program or service or a component thereof through commonly accepted research practices including, but not limited to, analysis of student outcomes, survey data, and on-site interviews and observations, consistent with ["scientifically based research"] 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" refers to the Department and district semi-annual meeting that focuses on 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 district's three-year operational plan and in the district's annual budget.

["Five essential elements of scientifically based reading research" means the following five reading elements: phonemic awareness, phonics, fluency, vocabulary, and text comprehension.]

"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(a) and four hours of wraparound services meeting Department of Human Services (DHS) requirements at N.J.A.C. 10:122, Manual of Requirements for Child Care Centers. The remaining 65 days must meet DHS requirements at N.J.A.C. 10:122, Manual of Requirements for Child Care Centers for a 10-hour day.

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

"High performing school" [means the designation of] is an elementary school, with a percentage pass rate among general education students on the 2002 Elementary School Performance Assessment (ESPA) Language Arts Literacy Subtest above the State average percentage pass rate, adjusted by the Commissioner, based on mean score growth or decline from 1999-2002.

["Highly skilled educator" means a person designated by the Commissioner or CSA, who is independent of the school or district under study, such as a senior teacher, building or central office administrator, or independent school improvement specialist, who has successful teaching

or management experience, ability to problem-solve and work collaboratively, and expertise in school improvement research.]

"Highly skilled teacher" means a person external to the school under review with teacher certification, who is a successful teacher, demonstrates the ability to problem-solve and work collaboratively, and is well grounded in school improvement research.

"Intensive Early Literacy Program" means a program for children age three through grade three 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; on-going literacy 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 of at least 300 titles that meets the needs of all students.

Indicators and Standards for Improving Schools" or "ISIS" means the latest DOE publication employed as a self-assessment of school programs, services, processes and student achievement. The ISIS is based on the Kentucky Department of Education's publication, "Standards and Indicators for School Improvement," 2003 edition, which is incorporated herein by reference as amended and supplemented in conformance with the most recent *Abbott* court decisions. The ISIS may be obtained from the New Jersey Department of Education, Division of Abbott Implementation, 100 River View Plaza, P.O. Box 500, Trenton, N.J., 08025-0500 or at www.state.nj.us/education/.

"Local Support Team" or "LST" means qualified and trained Department staff assigned by the Commissioner to work with Abbott districts in implementing Abbott programs and services [pursuant to N.J.A.C. 6A:10A-4.2].

"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, as codified herein, based on mean score growth or decline from 1999-2002. Any school so identified will remain in this category for the 2004-05 school year, even if more than 50 percent of its general education students were proficient or advanced proficient on the 2003 NJASK4 Language Arts Literacy subtest.

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

"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 [impediments] 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 the appropriate programs and services students and schools need [in the areas identified on the supplemental programs chart as attached to the June 24, 2003 New Jersey Supreme Court Order.] to overcome the documented obstacles and the evidence that the proposed programs will improve student

achievement. These programs may be identified on the supplemental program chart as attached to the June 24, 2003 New Jersey Supreme Court Order.

"NJASK3" means the New Jersey Assessment of Skills and Knowledge and is the State test for third-grade students that measures achievement of the New Jersey Core Curriculum Content Standards.

"NJASK4" means the New Jersey Assessment of Skills and Knowledge and is the State test for fourth-grade students that measures achievement of the New Jersey Core Curriculum Content Standards. This assessment replaces the ESPA for fourth-grade students.

"NJSMART" means the New Jersey Standards Measurement and Resource for Teaching. NJSMART is a secure Web-based system composed of two systems: the Student Registration System, which manages student identification and enrollment information, and the Education Data Warehouse, which uses advanced analytic technology to store, analyze, and report information that more closely meets the needs of users.

"Performance assessment team" means a team of education practitioners, parents and others assembled, trained, and assigned by the Commissioner and the chief school administrator. The team shall assist in the identification of obstacles to improved student achievement and initiatives to remove said obstacles in low-performing schools.

"Preschool Expansion Aid" means the category of state funding to be used for the purpose of funding the increase in the approved budgeted costs from 2001-2002 to the budget year for the projected expansion of preschool programs in Abbott districts as defined in the annual state of New Jersey Appropriations Act.

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

"Reallocation" means the transfer of funds from school or district current or proposed budget items to another budget item(s) with the assurance that such transfer will [not undermine or weaken existing effective and efficient instructional and supplemental programs] result in a more effective and efficient instructional program.

"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 and is approved by the Department.

"School-based budget" means a budget for an individual school. The school-based budget shall be updated annually.

"School Leadership Council" or "SLC" means a collaborative school-based planning and decision-making body established pursuant to N.J.A.C. 6A:10A-6 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 principal and SLC to the district and the Department by July 15, 2003, to be revised in accordance with these rules. The plan shall be updated annually thereafter, to provide a "thorough and efficient" education to all students enrolled in the school.

["Scientifically based research" or "SBR" 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.

As defined in Title IX of the NCLB Act, "SBR" includes research that, in addition to (a)1 through 3 above:

1. Is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;
2. Ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and
3. Has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.]

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

"Six essential elements of Intensive Early Literacy" means the following six reading elements: phonemic awareness, phonics, fluency, vocabulary, text comprehension, motivation and background knowledge.

["Supplemental funding" means the annual funding awarded by the Commissioner to support the district's approved three year operational plan– as modified pursuant to this chapter - that schools and districts demonstrate [as] is needed pursuant to this chapter. These funds are provided pursuant to *Abbott v. Burke*, 153 N.J. 480 (1998, *Abbott V*) and are intended to support demonstrably needed programs that are not otherwise supported by parity funding, categorical and other State and local funds, and Federal aid.]

"Supplemental programs and services" means those programs and services not already required by State or Federal law, but [mandated or authorized and supported] that are documented by school or district needs assessments as essential for improved student achievement. These programs and services are provided pursuant to Abbott V and are intended to support demonstrably needed programs that may not be supported by [parity] EOA, State categorical and other State and local aid, and Federal aid. This definition is not synonymous with the definition found in NCLB.

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

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

"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-3.2

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 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 succeed in school and life. The Court's mandate has a strong scientific basis. Intensive, high-quality preschool programs can close much of the early achievement gap for lower-income children. This substantially increases their school success and produces a host of life-long benefits including increased school achievement and

social and economic success as adults. The Court set out a few basic standards for quality preschool education:

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

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

6A:10A-2.2. Preschool programs

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

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

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

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

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

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

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

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

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

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

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

ii. A validation visit by a State team;

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

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

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

(3) A [n outline of the timeframe] schedule for implementation; and

(4) A specific date for program re-evaluation.

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

i. Modeling, coaching, observing (informally and 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:10AA-1.2, for all aspects of the preschool program [including district board of education and child care center provider programs];

iii. Providing [resources and] support to preschool programs and when applicable make recommendations to Supervisors or Directors of Early Childhood preschool programs to use the expertise of district personnel or other early childhood experts to provide additional professional development as the need is identified through data collection;

- iv. Coordinating early childhood assessment in preschool programs;
- v. Coordinating parent involvement programs with other district board of education and provider staff;
- vi. Providing information on district board of education programs to the family worker, social workers, and preschool program staff; and
- vii. Planning of transition activities, programs and services between preschool programs and kindergarten programs.

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

- i. A bachelor's degree and teacher certification;
- ii. Three to five years experience teaching in preschool programs;
- iii. Experience facilitating and providing professional development directly to classroom teaching staff;
- iv. Experience facilitating workshops and training sessions for preschool teachers;
- v. Experience in design and implementation of developmentally appropriate preschool curriculum; and
- vi. Experience with on-going performance-based preschool assessments.

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

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

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

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

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

- ii. The council shall be organized by elected co-chairs and meet regularly.
- iii. The council shall advise on the planning and implementation of the preschool program.
- iv. The council, once organized, may add new representation as needed or identified.
- v. The Community and Parent Involvement Specialist or other designated district employee shall staff the council.

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

- i. The 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 district board of education shall add the non-public first grade enrollment data to the total first grade ASSA enrollment data and multiply by two to determine the potential universe of first grade children in the district.
- ii. The district board of education shall use the total of the determinations made under (a)12i above to determine the universe of the three-year-old children and the universe of four-year-old children to be served in the next school year.

13. The 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 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 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 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 district, or a new housing development and provide this documentation to the Department;
- iii. Using the data identified in (a)13i. and ii above, the 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 district board of education shall also use the number in (a)13iii 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 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 district board of education shall enter into a 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 one P-3 certified teacher and one aide for every 15 children. Class size shall not exceed 15 children;
2. In consultation with a master teacher, provide programs that meet the Department's Preschool Teaching and Learning Expectations: Standards of Quality, 2002, that are linked to the Core Curriculum Content Standards;
3. Require teachers hired before September 1999 who lack academic credentials to make annual progress toward obtaining a bachelor's degree and a teacher of Preschool through Grade 3 certificate and to obtain that certificate by September 2004;
4. Require any newly hired teachers to have a teacher of Preschool through Grade 3 certificate;
5. Require all teacher aides, both new hires and existing staff, to have a high school diploma or its equivalent; and
6. 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;
8. 7. Provide demonstration of application to the Child and Adult Care Food Program (CACFP) or National Food Program for food and food service related costs if eligible;

Provide one full-time family worker for every 45 children being served by the center. The family worker shall provide information, referral services and follow-up to families on obtaining necessary health and social services or arrange for emergency assistance or crisis intervention services based on request and individual need.

- i. The full-time family worker shall work the equivalent of a 40-hour work week and shall be willing to work evenings and weekends to meet family needs.
 - ii. If a child care center provider does not serve enough preschool children to warrant hiring a full-time family worker, then the child care center provider shall hire the family worker to be employed for an amount of time equal in proportion to the number of children and families being served; and
9. 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 expenditures in strict accordance with the budget approved by the district board of education and Department;
- iii. Amending the approved budget, as necessary, with approval by the district board of education and Department;
- iv. Submitting to an annual, independent audit to ensure compliance with programmatic and fiscal requirements; and meeting all other requirements to maintain DHS licensure and provide copies of the audit to the district board of education within 30 days of issuance and to the Department upon request;
- v. Making all financial and program information available on request; and
- vi. Submitting to the district board of education a quarterly report of actual expenditures signed and certified by an officer of the corporation.

(c) The contract shall be in a form provided [by] and/or approved by the Department.

1. Each district board of education using the State Approved Abbott Preschool 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 district board of education shall ensure that its request(s) to modify the State Approved Abbott Preschool 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 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 Contract.

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

1. The district board of education in consultation with the ECAC shall determine the minimum number and types of professional development opportunities they will annually offer to all teachers serving preschool children in an Abbott district board of education;
2. The district board of education with the center director and the teaching staff shall develop a professional development plan for preschool teaching staff that describes, but is not limited to, the role and activities of the master teacher for that year;
3. The 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 private providers make expenditures in strict accordance with the approved budget;

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

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

6. The 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.

(e) A child care center provider that has not previously, as of September 9, 2003, had a contract with the 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 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 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 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 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 a periodic means of ascertaining how the approved budget is spent;]

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

[9.] 8 The child care center provider shall agree to certify that the proposed budget submitted to the district board of education and the executed contract is true and accurate.

(f) The district board of education shall include in each child care center provider's 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 contract; and
4. Failure to comply with all applicable requirements established pursuant to N.J.A.C. 6A:10A.

(g) The 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 contract requirements including the requirements of (b) through (f) above.

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

(a) The 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 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 of N.J.A.C. 6A:10A-2.1 where applicable.

(c) In the preschool three-year operational plan, the 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 district board of education and its child care center providers and shall identify particular strategies to be used to reach out to the unserved children in the district board of education.

(d) The preschool three-year operational plan shall be developed based on a needs assessment conducted by the 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, the 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 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 district board of education shall ensure that all resident three- and four-year-old children are offered full-day, full-year preschool programs. The

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 submit 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 district board of education.

ii. The child care center provider shall ensure that the certified teacher receiving the comparable compensation meets the work schedule requirements, including the equivalent number of hours per day and the equivalent number of days per contract year established by the district board of education for its certified teachers. This work schedule shall also include the same amount of preparation time and the amount of lunch time as received by the district board of education certified teachers;

2. 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; and

3. Shall review and verify for accuracy 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.

(g) The district board of education shall use the following informal process for resolving disputes between themselves and a contracting private provider:

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

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

3. Upon receipt of a request for review, the 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 Office of Early Childhood Education shall mediate the dispute, in consultation with the Department of Human Services as appropriate, facilitate communications between the provider and the 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 district board of education and private 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:2.

7. This process shall not apply to the termination or potential termination of an Abbott preschool contract.

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

(i) The 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.

(j) Following approval of the preschool three-year operational plan, the district board of education shall submit amendments to it, and shall continue to submit annual district and private 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.

(k) Through the needs assessment process, the 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 district board of education will complete an enrollment survey on forms provided by and made available to the Department;
2. The 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 district board of education shall assess program quality and develop professional development plans for all teaching staff using a reliable observation method approved by the Department.
 - i. The 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 district.
 - ii. If any classroom falls below the minimum acceptable score, then an improvement plan shall be established. The district early childhood supervisor or director, the master teacher and the principal or center director shall participate in discussions to determine the classroom quality improvements that are necessary based upon the observation and establish a timeframe 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 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 contract between the child care center provider and the district board of education.

(l) In its preschool three-year operational plan, the 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 the information needed by the kindergarten teachers about the preschool program, and vice-versa;
2. Methods for communicating information about individual children to their new kindergarten teacher, in particular the results of the on-going performance based assessment system;
3. The process for providing this information to the kindergarten and preschool teachers;
4. The plan developed by the district board of education to ensure a seamless transition from preschool to kindergarten for the preschool children; and
5. The process for providing information to parents about the kindergarten program and the transition plan from preschool to kindergarten.

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

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

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

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

1. On-site technical assistance in the development of the 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 district board of education;
2. Review and approval of the preschool three-year operational plan;
3. Professional development opportunities to the district board of education early childhood supervisors or early childhood directors in the form of monthly or bi-monthly meetings to provide information and technical assistance to the district board of education from the Department;
4. Professional development opportunities to the master teachers;
5. Assistance with the self-study and validation process and the development of a program improvement plan where areas of non-compliance are identified;

6. Providing copies of the complete preschool three-year operational plan including the district and child care center provider budget forms, a copy of the Uniform Preschool Enrollment Form, a list of State-approved reliable independent observers, a copy of the State-approved Abbott preschool contract, as well as copies of other information available from the Department and requested or needed by the district board of education;
7. Opportunities to be involved in State planning and policy development for the preschool program; and
8. Providing funds necessary to implement a high quality preschool program.

SUBCHAPTER 3. SCHOOL IMPROVEMENT

6A:10A-3.1 Formation, review and implementation of school[,] and district [and Abbott Division] 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, including longitudinal and subgroup analysis of student performance on state assessments, that identify the [reforms, programs, and services that will operate in the school or be phased in] obstacles to improved achievement and the specific actions to be taken to lower or eliminate those obstacles during the three year period. The initial school three-year operational plan, submitted to the Commissioner on July 15, 2003, for implementation during the 2003-2004 through 2005-2006 school years, shall be modified, as appropriate, for second year implementation and submitted to the district and Commissioner no later than February 2, 2004. The school three-year operational plan shall be based on a demonstration of need [for any reform, program or service] in a format provided by the Commissioner that shall include district and school continuously enrolled student data and student subgroups required by NCLB, [data and] an analysis of the evidence of student academic performance on state assessments [and from the ISIS] and other [sources and a clear connection to improved student data] analyses of longitudinal student subgroups data, together with a diagnosis of the obstacles to improved performance and the strategies and solutions the school will take in the next year to address those obstacles. No plan shall be deemed acceptable for review in the absence of this analysis.

1. The school three-year operational plan shall include, but not necessarily be limited to:
 - i. Regular assessment and implementation of curriculum as provided in N.J.A.C. 6A:10A-3.2(a);
 - ii. Public accountability as provided in N.J.A.C. 6A:10A-3.2(b);
 - iii. Intensive early literacy programs in each elementary school as provided in N.J.A.C. 6A:10A-3.2(c);
 - iv. Intensive early math programs in each elementary school as provided in N.J.A.C. 6A:10A-3.2(d);
 - v. High quality programs in each subject area covered by the CCCS including music and art;
 - vi. [Exemplary p]Programs that address the particular and documented needs of special education students and English language learners. [in special education and English language acquisition];

- vii. The nine elements of whole school reform as provided in N.J.A.C. 6A:10A-3.3(b);
- viii. Model or alternative WSR design implementation, as provided for in this chapter;
- ix. Implementation of the recommendations of the performance assessment teams in low performing schools, as provided in N.J.A.C. 6A:10A-3.3(e)3;
- x. A plan to address the declining performance in high performing schools, as provided in N.J.A.C. 6A:10A-3.3(d);
- xi. Supports for teachers, as provided in N.J.A.C. 6A:10A-3.4;
- xii. Supports for students, as provided in N.J.A.C. 6A:10A-3.5; and
- xiii. Supports for parents and families, as provided in N.J.A.C. 6A:10A-3.6.

2. Each SLC shall adopt an annual school-based budget sufficient to support implementation of the school three-year operational plan, pursuant to the demonstration of needs. The budget shall:

i. Be prepared by the district central office as a maintenance budget in draft form [by the district central office,] containing current year line items adjusted to reflect the estimated cost of living increase for the subsequent budget year, and distributed to the SLC no later than November 3, 2003 for the 2004-2005 budget year; and

ii. Be revised, if necessary, by the central office to assure support for standards-based reform, whole school reform, and supports for teachers, students, and parents, as provided in this chapter; to ensure alignment with district curricular and professional development standards; and be incorporated as revised with the district three-year operational plan.

3. The district central office shall assist the principal and SLC in analyzing student and school needs, developing needed improvements, as provided in (a)1 above, and in preparing the final document.

4. The SLC shall provide multiple opportunities for parents and teachers to review the school three-year operational plan and budget and offer recommendations, modifications or objections.

5. The school three-year operational plan and budget shall be adopted by a majority vote of the SLC.

6. The school three-year operational plan and annual budget shall be submitted to the CSA no later than December 12, 2003.

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

(b) Each Abbott district central office shall develop a three-year operational plan and annual budget, based on [district and school needs, that identify the priorities and specific services and programs to be implemented in the central office or to be phased in during the three-year period.] an analysis of the evidence of student academic performance as demonstrated on state assessments and other measures to include the NCLB subgroups, CES-District and CES-School over a four-year period. The analysis should diagnose the obstacles to student achievement at

the district and school levels and include ELLs and SPED students. The priorities for school and district programs and services shall be connected directly to this analysis of student achievement and shall include the specific goals for the 2004-2005 school year with the interim measurements to determine if progress is being made.

1. The initial district three-year operational plan, submitted on August 15, 2003, for implementation during the 2003-04 through 2005-06 school-years, shall be modified, as appropriate, for second year implementation and submitted to the Commissioner no later than [February 2, 2004] **March 11, 2004**. These revisions to the district three-year operational plan for the 2004-2005 school year shall incorporate as priorities the results of “face-to-face” conversations with the Division pursuant to (c) below. The revisions shall indicate the actions the district will take to address obstacles to student achievement, the schedule and sequence for taking these actions, the benchmarks and interim measurements that will be used to determine progress, and the results that shall be realized if successfully implemented. The district three-year operational plan shall include, but not be limited to:

- i. Board of education responsibilities, as provided in N.J.A.C. 6A:10A-5.1;
- ii. A central office staff focus on professional inquiry and growth, as provided in N.J.A.C. 6A:10A-5.2(a)1;
- iii. Assurances that each school is led by an effective principal, as provided in N.J.A.C. N.J.A.C. 6A:10A-5.2(a)2;
- iv. A comprehensive and effective human resources program, as provided in N.J.A.C. 6A:10A-5.2(a)3;
- v. Curricula aligned to the CCCS, as provided in 6A:10A-5.2(a)4;
- vi. Central office research, assessment, and planning, as provided in N.J.A.C. 6A:10A-5.2(b) and (c);
- vii. Adequate services and expertise to facilitate school improvement of operations, programs, and services, as provided in N.J.A.C. 6A:10A-5.2(d);
- viii. Intervention in schools consistently failing to demonstrate mastery of the CCCS, as provided in N.J.A.C. 6A:10A-5.2(b);
- ix. SLCs in every school, as provided in N.J.A.C. 6A:10A-~~5~~ **6.2(d)**~~1~~; and
- x. Surveys of educators and parents to permit school-level evaluations of central office performance.

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

3. The district three-year operational plan and **[modification or]** revisions to that plan and budget for 2004-2005 school year shall be submitted in a format provided by the Commissioner and

shall reference the results of school-based needs assessments and include the three-year operational plans and annual budgets for each of the schools in the district.

4. Prior to submission to the Department, the district board of education shall vote on the district three-year operational plan and any modification or revisions to that plan or budget for the 2004-2005 school year following public discussion of the plan at an advertised meeting of the board.

(c) The Department shall evaluate each district's three-year operational plan and meet with the CSA to share the results before [November 15, 2003] December 20, 2003. The Department and CSA will seek to agree on the revisions to be made to the district three-year operational plan for the 2004-2005 and subsequent years, including benchmarks for assessing progress, and the implications to be reflected in the 2004-2005 district budget .

1. The Department evaluation shall include a review of the [2003-2004] district three-year operational plan based on the following criteria:

i. The district [provides assistance to] collaborates with schools in assessing student and faculty needs for improving student performance on the CCCS as measured by local and State assessments;

ii. A district [C]urriculum, [and instruction], instructional materials, and software are aligned with the CCCS and [the systematic] a professional development [needs for teachers individually and collectively] program that is based on the ability of teachers, individually and collectively, to teach the curriculum;

[iii. High quality professional development that assists teachers to deliver high quality instruction;]

[iv]iii. The establishment of a system for identifying, mentoring, and training potential leaders within the district to make them eligible for leadership positions, and recruiting, hiring, and supporting high quality principals;

[v]iv. The recruitment, hiring, and retention of high quality teachers in every classroom and providing the necessary opportunities for teachers to work with one another and to benefit from targeted assistance to meet their classroom needs, particularly as to teaching the CCCS and attaining early literacy;

[vi]v. The provision of a high quality preschool program for all eligible students and the seamless articulation between preschool and kindergarten and kindergarten to grades s one through three;

[vii]vi. Assistance to low-performing schools, consistent with NCLB, Abbott X and including, if necessary, reconstitution of schools. Such assistance shall be informed by analysis of the evidence of student performance, the school's demographics, mobility, and performance over time, as compared to similarly constituted schools;

[viii]vii. Facilities that provide safe and healthy learning environments, free of violence, vandalism and substance abuse and that meet NCLB requirements;

[ix]viii. The use of technology as a part of a coherent plan connected to instruction and the district's information needs;

[x]ix. A process for monitoring school and district compliance with Abbott programs and services, special and bilingual education requirements, and NCLB. The central office shall promulgate clear procedures for receiving, investigating and resolving complaints from parent(s), grandparent(s) or guardian and the community; and

[xi]x. A process for ensuring that elementary schools are faithfully implementing the WSR model or alternative WSR design [and/or are addressing the program requirements].

2. The Department's review of the criteria in (c)1 above shall be based on the following evidence:

i. The evidence cited in the district three-year operational plan for [determining] evaluating student achievement by school and district wide. The district's evidence shall include the performance on State and other assessments of students by school and by the NCLB and CES subcategories for [general, special education, and **ELL**] all students for the years 1999-2003 and other data required by the Department;

ii. Evidence of the district's capacity to collect and analyze student achievement data by school so that the district can assist each school with those factors deemed most important in students' failure to master the CCCS and to enable the district to produce assessments to guide preparation of school three-year operational plans and annual school budgets;

iii. Evidence that the district is organized, staffed, and funded in an efficient and effective manner to provide the assistance most frequently required by schools to improve student achievement;

iv. Evidence that the district has policies, procedures, and programs to ensure that each school is led by a highly skilled principal; that principals are fairly and effectively evaluated for the quality of teaching and learning; and that the district sponsors and encourages professional development opportunities for principals that are directly related to the instructional needs of their schools;

v. Evidence that the district three-year operational plan ensures the recruitment, employment, and support for high quality teachers in every school, including the specific programs and policies at the district level to ensure appropriate support for first-time teachers and a coherent program of professional development for all teachers that meets their individual and collective needs. The district shall document as a part of the review its teacher retention rate for the four years beginning 2000-2001.

vi. Evidence that an intensive early literacy program is in place in all preschool and Kindergarten through grade three classrooms and that it is driven by a coherent curriculum for children ages three through nine, professional development opportunities for teachers to master the curriculum and skills required, and that there is a seamless connection between preschool and kindergarten programs whether in district or provider-operated preschool programs;

vii. Evidence that the district has [the central office] the leadership and capacity to ensure that all ELLs are given effective instruction based on individualized diagnoses so that such students are able to demonstrate English proficiency by the end of the third year of continuous enrollment. The district shall determine the number of students from non-English learning backgrounds, the number requiring bilingual, sheltered English, ESL or other approaches to English acquisition, and the proficiency on state and other assessments of ELLs that have been continuously enrolled in the district for three or more years;

viii. Evidence that the district has the capacity to assist schools in which students persistently fail to master the CCCS. Where schools have been identified as low performing, pursuant to N.J.A.C. 6A:10A-3.3(e), the early results of performance assessment team activity shall be shared with the SLC, district, and Department;

ix. Evidence that the district central office 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

x. Evidence that the district is able, [to assist schools in] in collaboration with the school, to judg[ing]e the effectiveness and efficiency of current programs, services, and positions in contributing to improved student achievement.

3. The district three-year operational plan shall be revised based on the agreements reached by the CSA and the Department pursuant to (c) above.

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

[(d) The Abbott Division shall prepare a three-year plan for the transformation of the Abbott division to enable it to successfully lead the state's efforts to improve teaching and learning in the Abbott 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 by June 1, 2004 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. It will also account for the use of the current budget funds provided by designation of two percent parity aid.]

6A:10A-3.2 Standards-based reform

(a) Abbott schools and 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 consistent with educational research. Such curriculum shall:

1. Be periodically reviewed and modified for linkage of curriculum to the CCCS, Department curriculum frameworks, student interests and needs, new developments in subject matter, grade-to-grade alignment, and to students' cultural heritages and native languages;
2. Be aligned to the Early Childhood Program Expectations (ECPE);
3. Be supported by textbooks, [and] software and other supplemental instructional materials aligned to the district curriculum;
4. Be developed, reviewed and evaluated by a broad cross-section of teachers, principals, and supervisors and be continuously evaluated and revised thereafter;
5. Drive professional development and technical assistance to teachers; and
6. Drive improved classroom instruction.

(b) Abbott schools and 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), the ISIS and other pertinent instruments, and operational plans and budgets for the following year;
2. Annual public meeting(s) of the district board of education to report and provide opportunities for public comment on:
 - i. District-wide student achievement, graduation rates and AYP by school, comparisons to other districts, and progress made toward closing the achievement gap;
 - ii. The provision of supports for teachers, students and parents; and
 - iii. The district central office three-year operational plan 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 districts shall provide an intensive early literacy program to assure that each student reads at the appropriate grade level, with the goal of all students reading on grade level by third grade. Such a program shall be adjusted, depending on need, to provide none of, less than, or more than the Court-identified baseline in the Chart of Supplemental Programs in Abbott X and 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 and class sizes of not more than 21 in the Kindergarten through third grades;
3. Adequate textbooks, materials, supplies, and equipment to support instruction;

4. A preschool to grade three classroom emphasis on small group instruction in at least reading, writing and technology in designated areas or learning centers and including:

i. A classroom library that reflects the needs of classified students and ELLs, including assistive resources, such as books-on-tape and books in the students' first language; and

ii. Appropriate district-approved supplemental computer software that support [scientifically based reading] evidence-based research and the six essential [components] elements of [scientifically based-reading research] Intensive Early Literacy including Assistive Technology resources for grades kindergarten through grade three.; and]

[iii. Materials to support reader and writer workshops embedded in the curriculum;]

5. A comprehensive early literacy assessment program that provides assessment in the native language, where appropriate, including:

i. For ELLs, assessment to determine levels of native and English literacy, pursuant to N.J.A.C. 6A:15-1.3;

ii. The assessment of former ELLs, if learning deficits are identified, to determine if the lack of academic achievement is not due to the lack of sufficient English language proficiency;

iii. Screening in reading in grades kindergarten through three;

iv. Diagnostic assessment of those students below reading level as identified by the 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 [one through three] kindergarten through two; and

vi. A locally devised system of assessment including clear and measurable indicators of progress based on the district's curriculum and measured periodically with incremental assessments such as running reading record, observational survey or other appropriate instrument[;].

6. A clear structure for at least a 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['s the individual child's motivation and background knowledge, and other scientifically based-reading research] on the six 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, prior to English literacy;

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

- iii. A "buddy system" to link early ELLs with advanced learners[;].
 - 8. Special supports for students with disabilities in addition to the services, programs, and resources identified in this subsection, grounded in research;
 - 9. Ongoing, supported, relevant and intensive professional development in the six [components] elements of [scientifically based research on reading instruction] 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. The use of an instructional facilitator/coach to coordinate professional development and collaboration if documented as necessary to increase achievement of early literacy;
 - 12. Contracts with WSR developers and/or other providers of [scientifically- based reading research] evidence-based research technical assistance and professional development, as needed; and
 - 13. Student, teacher, and parent/family supports consistent with this chapter.
- (d) Abbott elementary schools and districts shall provide an intensive early math program to assure that each student is math[-] proficient [at the appropriate] and on grade level; high quality programs in science, social studies, physical education, and world languages, as provided in Title 18A and in music art, special education; and programs for ELLs, if and as needed. Such programs shall include:
- 1. Curriculum and instruction based on student need and consistent with the CCCS and educational research;
 - 2. Adequate textbooks, instructional materials [, supplies, and equipment] and software aligned to the CCCS and, supplies, and equipment to support instruction;
 - 3. Regular assessment of each student's progress;
 - 4. [Ongoing, supported, relevant and **i**] Intensive professional development in curriculum, content and instructional practice, as needed, and consistent with this chapter;
 - 5. Regular opportunities for teachers to discuss 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;
 - 6. Contracts with WSR developers and/or other providers of research-based technical assistance and professional development, as needed; and
 - 7. Student, teacher, and parent/family supports consistent with this chapter.

6A:10A-3.3 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 school and district find that no Department-approved WSR model addresses their school needs, a school and district may implement a school- or district-developed alternative whole school reform design, 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, pursuant to 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, pursuant to this chapter;

3. School-based leadership and decision-making, pursuant to N.J.A.C. 6A:10A-6;

4. Integration and alignment of school-level reforms, programs, and services, pursuant to this chapter;

5. Educational technology, pursuant to N.J.A.C. 6A:10A-3.5(h);

6. Teacher supports, pursuant to N.J.A.C. 6A:10A-3.4;

7. A safe school environment, pursuant to N.J.A.C. 6A:10A-3.5(i);

8. Student and family supports, pursuant to N.J.A.C. 6A:10A-3.5 and 3.6; and

9. Accountability, pursuant to N.J.A.C. 6A:10A-3.2(b).

(c) Each Abbott elementary school shall continue implementing a WSR model or previously approved alternative whole school reform design in 2003-2004 and thereafter, unless the school is authorized by the Commissioner to develop or implement an alternative whole school reform design in 2003-2004 or thereafter under the procedures established in (d) through (h) below. The SLC and 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-3.1(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 [the 2003 mediation agreement between the parties as ordered in] Abbott X.

1. For the 2003-2004 school year, the Commissioner shall, by September 15, 2003:

i. 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 2002; and

ii. Review the school's general education student mean score gain from 1999 through 2002 to determine if the school's gain is less than the average general education student mean score gain of all Abbott elementary school despite performing above state average proficiency levels among general education students. In such cases, after consultation with the district CSA to determine possible explanations for the below average growth in mean scores, the Commissioner may remove the school from the list of high performing schools.

2. For school year 2004-2005 and thereafter, the Commissioner shall:

i. Assess and refine the definition of high performing schools to incorporate the results of the NJASK4.

ii. Review the latest published school achievement data and mean scores of all Abbott elementary schools for the five years 1999-2003 to:

(1) Determine if a school that was not previously classified as a high performing school has attained a higher proficiency score among general education students than the statewide proficiency average for general education students. Such schools shall then be designated as high performing schools;

(2) Determine if the performance of ELLs and students with disabilities on state assessments is less than 50% greater than the Abbott average for such students. After consultation with the district CSA, the Commissioner may remove such a school from the high performing category despite having satisfied the test in (d)2ii(1) above;

(3) Review the designation of a high performing school in which the percentage of general education students proficient on NJASK4 is below the Statewide proficiency average or in which the five-year mean score gain falls below the average mean score gain of all general education Abbott students. After consultation with the district CSA, the Commissioner may remove the school from the high performing category; and

(4) Review the trend of mean scores over a five-year period, and after consulting with the CSA about other factors such as school leadership, the Commissioner may add or remove schools from the category of high-performing;

iii. High performing schools that demonstrate a steady decline over three years may be removed; schools that are approaching the standard of exceeding the state average at a steady and sustained rate may be added to the list; and

iv. The Commissioner shall adopt other criteria that may be used prospectively to determine high-performance including consideration of the school's poverty levels, the performance of students continuously enrolled for three or more years in the school, the rate and depth of improvement in student achievement, the performance on the 2003 NJASK4 Language Arts Literacy assessment, and the quality of curricular alignment and professional development.

3. If a school is removed from the high performing category, the SLC, in collaboration with the CSA, shall review the explanations for the decline to assure that they are fully addressed in the school's three-year operational plan and annual budget.

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

i. If a school chooses to discontinue implementation of the model or alternative WSR design, a letter to the CSA and then the Commissioner shall indicate whether the 2003-2004 school year will be utilized as a planning year or to implement a new model or alternative WSR design as expeditiously as possible during 2003-2004.

ii. If implementation of a new model or alternative WSR design is to occur in 2003-2004, the principal, in consultation with the SLC, shall submit to the CSA, for approval and submission to the Department, a modified 2003-2004 school three-year operational plan and annual budget that provides for the transition from current to future model or alternative WSR design with a schedule for the introduction of new materials and practices, training for the school community in the new model or alternative WSR design and a description of how the newly chosen WSR model or design will contribute to deeper and broader student achievement.

iii. If new implementation is to occur in 2004-2005, the principal in consultation with the SLC shall include in the annual modification of the school three-year operational plan and budget, provisions for the transition from current to future model or alternative WSR design with a schedule for the introduction of new materials and practices, training for the school community in the new model or alternative WSR design and a description of how the newly chosen WSR model or design will contribute to the nine elements of whole school reform and to deeper and broader student achievement.

5. 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 2003-2004 or 2004-2005 three-year operational plans and budgets, as appropriate. On approval, the 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 [the 2003 mediation agreement between the parties as ordered in] Abbott X.

1. For the 2003-2004 school year, the Commissioner shall, by September 15, 2003:

i. Designate as a low 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 is equal to or less than 50 percent; and

ii. Review the school's general education student mean score gain between 1999-2002 to determine if it exceeds by 50 percent or more the average mean score gain among general education students in all Abbott elementary schools. In such cases, after consultation with the district CSA to determine possible explanations for the increase in mean scores, the Commissioner may remove the school from the list of low performing schools.

2. For school year 2004-2005 and thereafter, the Commissioner shall:

i. Assess and refine the definition of low performing schools to incorporate the results of the NJASK4;

ii. Review the latest published school achievement data and five-year mean scores of all Abbott elementary schools to:

(1) Determine if a school that was previously designated as low performing produces a mean score gain among general education students over the latest five-year period that exceeds by 50 percent or more the average mean score gain among general education students in all Abbott elementary schools during the same period. In such cases, after consultation with the district CSA to determine possible explanations for the increase in mean scores, the Commissioner may remove the school from the list of low performing schools;

(2) Determine if the performance of ELLs and students with disabilities on appropriately developed assessment instruments is at least 50 percent higher than the Abbott average for such students. After consultation with the district CSA, the Commissioner may remove such a school from the low performing category, assuming that the school has met the condition in (e)2ii(1) above; and

(3) Determine if a school that was not previously classified as low performing has produced a proficiency score of 50 percent or less and if such school's mean score gain is at or below the average mean score gain among all Abbott elementary schools during the same period. Such schools shall then be designated as low performing schools.

3. For schools designated as low performing, the Commissioner shall establish, in consultation with the CSA, a Performance Assessment Team (PAT) that will be responsible for implementing a collaborative assessment and planning for achievement (CAPA) review of low-performing schools and shall designate either the Department representative or the CSA designee as the PAT Leader. A CSA may request that the Commissioner assign a PAT to a school deemed to be in need of improvement 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 PAT Process.

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

(1) A highly skilled teacher;

(2) A principal from a high performing school (PAT Principal);

(3) A parent representative; and

(4) [A] [1]Literacy and math specialists, who [is] are qualified to observe classroom instruction.

ii. PAT members shall attend Department and/or CSA sponsored training sessions as necessary.

iii. The PAT's primary function is to implement the CAPA process for identifying 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 principal and developer field staff, among others and as appropriate.

iv. Based on this evaluation, the PAT shall issue a written report on findings and recommendations that will address the following areas: 1) Quality of Instruction; 2) Quality of School Leadership; 3) Quality of School Leadership Council; 4) Quality of Parent Participation; 5) Quality of Whole School Reform; 6) Support from Central Office and the Department; and 7) Adequacy of Supplemental Programs to meet documented instructional need. [on the quality of instruction and obstacles to achievement and other factors including the quality of school leadership; effectiveness of the SLC; parent participation; WSR model implementation; support from the central office; and the adequacy of supplemental programs and services.]

v. All participants of the school stakeholder community shall be guaranteed confidentiality to the greatest extent possible.

vi. The PAT, SLC and CSA will develop a written Improvement Agreement based on the findings and recommendations of the PAT 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 needed to do so successfully. The PAT 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 review and approve the Improvement Agreement based on a determination that the Improvement Agreement is an effective and efficient means of improving teaching and learning in that school. Upon approval, the district and school shall present the agreement to the school, SLC and community.

(f) Any school, other than those designated low or high performing, that did not have a WSR developer contract in 2002-03 shall be required to reinstate the contract for 2003-04 or contract with another WSR developer. The Commissioner and CSA shall assess schools without a 2002-2003 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 alternative WSR design.

(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 and 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 alternative WSR design. Throughout this process, the Commissioner will defer to the district as the preferred source of mediation and of implementation of any resolution.

(h) Schools that decide to terminate WSR model implementation under N.J.A.C. 6A:10A-3.3(f) or (g) shall:

1. Demonstrate that the requirements of the WSR model have been fully implemented, and that the model has not led to sufficient improvement in student proficiency on the CCCS or that the philosophy and practices of the WSR model have been integrated fully into the school;

2. Select a Department-approved WSR model or submit an application for an alternative whole school reform design;
3. Ensure that the new WSR model shall be consistent with the criteria in (a) above;
4. Include a transition plan to the new model or design;
5. Cooperate with the district to ensure alignment of model/design requirements with district professional development activities, curriculum, CCCS, goals of early literacy and other district priorities;
6. Use funds to implement the new WSR model or design for purposes designated by the districts. Districts shall budget or reallocate the funds required to implement the new WSR model or design; and
7. Include a description of the selection process 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.

(i) The Department shall review the determinations of the district and school in retaining, modifying or terminating its WSR model consistent with the requirements above. Additionally, the Department shall review the proposed new WSR model or the alternative whole school reform design to determine if the likelihood of sustained and broadened achievement and literacy for all students is well documented. The Department shall expeditiously render its decision.

(j) Following the Commissioner's approval of a school's request, which request shall be in the form of a letter from the CSA, to develop a school- or district-designed alternative whole school reform design, schools, eligible in (d) through (g) above, may apply to the Commissioner, with the approval of the CSA, to implement an alternative whole school reform design. Such applications shall include:

1. Evidence that the school has completed a thorough needs assessment, including the most recent ISIS, and 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 in N.J.A.C. 6A:10A-3.6, are to be addressed in an alternative WSR design, which shall be authorized by the SLC and a vote of the school's certificated staff; and
3. A letter of support from the CSA that details how the school will be supported in its implementation by the central office and external providers of technical assistance and professional development.

6A:10A-3.4 Supports for teachers

(a) Abbott schools and 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, P.O. Box 500, Trenton, N.J., 08025-0500 or found on the Abbott Division's website, as provided in this chapter.

(b) Abbott schools and districts shall support a culture of professional inquiry and improvement through enhancements and modification in school and 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 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 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 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 teacher needs for content, strategies, skills, concepts, and expectations associated with the curriculum;
2. Reflect student achievement data, and school and district goals;
3. Be cohesive and comprehensive through 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, principals, and central office personnel with appropriate expertise, and, when necessary, external experts under contract to schools or central offices;
6. Be continually assessed and refined to assure teacher learning, improved practice, and advancement of student achievement; and
7. Be adequately supported by district policies and funding.

6A:10A-3.5 Supports for students

(a) The parties to Abbott shall establish a Collaborative Work Group on Middle and High Schools as agreed and ordered in Abbott X. The Group shall produce analysis and recommendations that can lead to programs and practices that yield higher student achievement and high school graduation levels and may take the form of new regulations to guide implementation in Abbott middle and high schools.

(b) Each CSA shall prepare a needs assessment at least annually based on an instrument that is provided by the Department, 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, those areas if any, in which additional programs or services may be needed to attain the Abbott goals. Where any of the programs, services or positions in (c) through (n) below are in place, the assessment shall include evidence of their relationship to improved student achievement. The needs assessment shall be infused into the district's three-year operational plan and annual budget.

(c) 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 essential for improved student achievement. Such programs and services, depending on need, shall be adjusted to provide none, less, or more than any Court-identified baseline in the Chart of Supplemental Programs in Abbott X.

(d) Each elementary school shall operate a full-day kindergarten to improve children's readiness to enter first grade, to become more effective learners, and to take advantage of whole school reform. In addition to one teacher for every classroom, each kindergarten class shall have an aide.

(e) 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 to increase the frequency of student-teacher interactions, to reduce distractions, and to provide more opportunities for assessment, feedback and reinforcement. 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. The Department may temporarily suspend class size requirements until a school facility's rehabilitation or replacement has been completed, unless the SLC can successfully demonstrate that the increased class sizes would create an undue negative impact on the student's ability to read on grade level by the completion of third grade and to achieve the CCCS.

(f) Each elementary school shall [provide] 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, as appropriate. All student data and records shall remain confidential.

i. The Family Support Team shall identify student needs, consult regularly with parents or guardians, provide direct services where appropriate, establish relationships with community social and health providers for services not available in the school, refer students to such providers, and follow-up to assure that student need was satisfied.

ii. The school three-year operational plan shall include an evaluation of the efficiency and effectiveness of any current Family Support Team and its relation to improved student performance.

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.

(g) 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. Based on demonstrated need, the school shall provide a health and social services coordinator who shall:

1. 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;

2. Conduct a formal study to determine if community-based services are sufficient and if on-site services would be more effective and efficient in improving student achievement; and

3. Coordinate an on-site clinic to provide health and social services, if needed.

4. Each CSA shall ensure that district central office staff assist schools seeking to determine the availability of community services to prevent the duplication of effort.

(h) 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, each school shall provide:

1. A [media coordinator] library media specialist, [formerly called school librarian,] who shall coordinate the mixed media instructional support programs;

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 to support any planned and budgeted changes to the staffing pattern showing that less or more technology staff and equipment are required in the school.

(i) Each school serving secondary students shall provide a coherent program, as described below, to assure universal high school graduation. Based on demonstrated need, each school shall:

1. Identify students at risk of dropping out based on meeting at least three of the following criteria, which may be supplemented with additional criteria by the district:

i. Current achievement below proficiency for two consecutive years in reading and/or mathematics on State and District assessments;

ii. For purposes of this section, demonstration of poor academic skills, that is, failing two or more subjects in two of the past four school years;

iii. A student who is consistently absent or tardy and who has been absent twenty-five or more unexcused days in the last two school years and has an overall grade point average below a "C" (2.0);

iv. A student who has been suspended, which includes in-school alternative to home suspension or home suspension two or more times during the past school year;

v. A student who has a record of continuous disruptive behavior;

vi. A student who becomes pregnant;

vii. A student whose family has a history of dropping out or whose family does not support the student in the completion of school;

viii. A student who has a school health record that includes chronic illness, drug or alcohol abuse, or other general condition(s) that affect school performance; and

ix. Upon approval of the Department, other indicators supported by strong evidence may also be utilized to identify students at high risk for dropping out;

2. Assess the special needs of at-risk students for alternative education, extended day and year programs, tutoring, social and health services, school to work, and other interventions responsive to identified needs;

3. Include parents or guardians in the assessment of student needs;

4. Establish articulation with feeder schools to facilitate the transition to high school to connect middle school students to their prospective high school experience;

5. Assure that every middle and high school student has access to guidance and counseling and receives assistance from teachers, counselors and other educational professionals in addressing obstacles to academic achievement;

6. Provide a Dropout Prevention Coordinator if documented as necessary to improve student achievement to assure the placement of each at-risk student in appropriate programs and services responsive to individual student need;

7. Plan and budget sufficient programs, services, and staff to ensure that all programs and services documented as necessary for improved student achievement are available at the school;

8. Assure access to alternative education or comparable non-traditional programs for pregnant students and teenage parents; and

9. Establish annual targets for reduction of number and percent of students identified at-risk.

(j) Each school shall operate a comprehensive violence prevention and school security program based on demonstrated need. The school shall:

1. Provide adequate security personnel and electronic surveillance and security hardware as needed;

2. Establish and enforce a student code of conduct;

3. Conduct staff/parent/community forums to discuss school safety issues that may impact on school climate and student achievement; and

4. Include in the school's three-year operational plan specific plans to end, reduce, maintain, or upgrade existing violence prevention and school security measures, based on the physical needs of the school, data obtained from school and police reports, and an annual review.

(k) Each high school shall provide an adequate program of school to work and/or college transition, based on demonstrated need. The school shall provide:

1. Information about college and employment opportunities to each student;

2. Organization and facilitation of student attendance at college and workplace trips and internships;

3. Specialized course offerings and counseling to help students identify interests and strengths and to learn college and workplace readiness skills, including, but not limited to study habits, on the job cooperation with peers and superiors, interview presentation and techniques, timeliness and other skills identified by school staff as necessary and insufficiently treated in the regular curriculum; and

4. Annual review of the adequacy of the design, intensity and scope of the program and annual plans to end, reduce, maintain, or upgrade existing program components.

(l) Each school shall provide an adequate extended day program, if documented as needed, to provide continual learning opportunities for students. These programs and their need shall be evaluated annually as part of the school and district needs assessment and the three-year operational plan, and, if currently in place, shall include an evaluation of their contribution to improved student achievement.

(m) Each school shall provide an adequate extended year program, if documented as needed, to provide continual learning opportunities for students. Extended day programs and the need for these programs shall be evaluated annually for their contribution to improved student achievement as part of the school and district needs assessments and three-year operational plans.

(n) Each school shall provide an enriched, balanced, nutritional food program based on standards of the Department of Agriculture at N.J.A.C. 2:36. The need for these programs shall be evaluated annually as part of the school and district needs assessments and three year operational plans.

6A:10A-3.6 Supports for parents and families

(a) Abbott schools shall facilitate opportunities for families, teachers and other school staff to work together and get to know each other. Each school shall:

1. Provide collaboratively developed procedures for parents and other family members to meet with teachers, the principal, and others working directly with students;
2. Operate a volunteer program for parents, guardians, grandparents, and other family members to work in classrooms and on school-wide projects; and
3. Establish and maintain an active school-wide 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 school wide issues and needs, school and district achievement, and to express their concerns and opinions;
 - v. Assure that information is available in a variety of parent native languages; and
 - vi. Operate under standards and procedures adopted by the district board of education.

(b) Abbott schools shall assure family participation on SLCs and, where practicable, on school-wide committees as provided in this chapter.

(c) Abbott schools shall provide parent education programs, as needed.

(d) Abbott schools shall provide multiple forms of regular communication with every family, including, but not limited to, the provision of written notes sent home with students, telephone contact, email (where appropriate), letters mailed, teacher conferences, and home visits. Such communication shall take into account the native languages spoken and shall be used to inform families about individual student progress and needs and school wide events, including family education programs and elections to 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-time parent liaisons or a part-time parent liaison. 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 parent or parent/teacher organization, the SLC, and other school wide events in order to determine the effectiveness of policies, procedures and structures implemented under this chapter. 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: 10-4.1 Improving the Abbott Division's organizational capacity to support Abbott school improvement

(a) The Division will operate to the same standards it expects of Abbott 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. Ensure appropriate alignment of professional credentials, experience and training between assigned field staff and the intended recipient of their assistance; and
4. Assure that all staff members are sufficiently informed about and fluent with these rules.

(b) The Abbott Division shall prepare a three-year plan for the transformation of the Abbott division to enable it to successfully lead the state's efforts to improve teaching and learning in the Abbott 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 by June 1, 2004 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. It will also account for the use of the current budget funds provided by designation of two percent parity aid for the year ending June 30, 2004.

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

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

1. Provide accurate, timely, and reliable information on Abbott students and their level of mastery of the CCCS through the implementation of a student-level database system, NJ SMART, for tracking, analyzing and disseminating data on student performance and demographics;

[2. Modify the existing Indicators and Standards for Improving Schools (ISIS) to conform to Abbott X and make it available to schools and districts for planning and budgeting for the 2004-2005 year;]

[3] 2. Serve as a clearinghouse for current research findings related to school improvement, central office reform, school and district leadership, instructional practice, budgeting, high quality 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

[4] 3. Prepare an annual report that aggregates and disaggregates school and district level achievement data for all students and coordinate with reports required by NCLB.

(b) The Department shall train district and school personnel to collect, analyze and apply, store and transmit accurate data for NJ SMART and in the use of the NJ SMART data warehouse and in the daily assessments.

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

1. Disseminate and provide assistance for central office personnel and others to become fully informed about these rules;

2. Provide on-going, high quality, collaborative assistance to districts through the assignment of LSTs.

i. The Commissioner shall designate Department staff to serve on LSTs to be assigned to Abbott districts. Staff assignments shall be adjusted to serve the varying needs of Abbott districts.

ii. The primary role of the LST shall be to facilitate improvement in central office capacity to support school-based assessment, planning, budgeting, implementation and improvement.

iii. LSTs shall attend Abbott Advisory Council or SLC meetings at the request of either the 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, district or community levels in order to improve public understanding of and support for Abbott reforms, programs and services.

v. LSTs shall offer training and assistance to the district central office and schools in the collection and analysis of student and school needs assessment data utilizing the instruments developed and disseminated by the Division.

vi. LSTs shall participate in the formation of 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 central office budgets fully support such plans. On request, LSTs shall assist principals and their SLCs in the preparation of plans; [and budgets;]

3. Collaborate with SLCs and district central office personnel to assure development of effective three-year school and district operational plans and budgets;

4. Issue a decision on Abbott 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, 2004;

5. Develop guidance and technical assistance for districts to foster a coordinated and integrated delivery of programs and services for special education students, English language learners, homeless or displaced students, migratory students and gifted and talented students;

6. Assign a PAT with the approval of the CSA to each low-performing school, pursuant to N.J.A.C. 6A:10A-3.3(e);

7. 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 pursuant to N.J.A.C. 6A:14 and 6A:15;

8. Assist district offices in the development of regular and continuous training of SLC members; and

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

[(c)] (d) The Department shall, in concert with the CSA:

1. Conduct orientation and/or training sessions for PAT members and PAT leaders in procedures and practices appropriate to their assignment; and

2. Provide protocols and other materials to assist PAT members.

[(d)] (e) 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 districts to develop integrated and improved pre-service and in-service professional development 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 central offices, including model developers, universities, consultants and others;

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

4. Encourage the evaluation and study of Abbott student achievement, reforms, programs, and services by recognized 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 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 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 establish 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; and review and make recommendations concerning this Chapter as needed;
2. Hold its first meeting by October 15, 2003 at which time it will advise on procedures, frequency of meetings, and priority agenda items for the year; and
3. Be chaired by the Commissioner.

SUBCHAPTER 5. THE ABBOTT DISTRICT'S ROLE IN SCHOOL IMPROVEMENT

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

(a) The district shall address student, staff and school needs through full, effective, and timely implementation of reforms, programs, and services mandated or authorized in the Abbott decisions, and in compliance with all Federal and State law and regulation. The district shall seek to become a collaborative learning organization focused on improving teaching and student learning through building its own and school-based capacity for self-improvement.

(b) The Abbott district board of education as required by N.J.A.C. 6A:10A-3.1(b) shall review and adopt not later than [February 2, 2004] **March 11, 2004** the district three-year operational plan [and 2004-2005 budget] submitted by the CSA. The district budget shall be adopted by the board of education and submitted to the Department no later than March 11 of the pre-budget year. In adopting the plan and budget, the board shall assure that the three-year operational plans and budgets adopted by each SLC have been incorporated into the district's three-year operational plan and budget as approved by the district; that each school has highly qualified teachers and able leaders; and that the district central office and schools have budgeted for

sufficient resources and facilities . The board shall provide for public review and comment at an advertised special or regular meeting. The district board of education shall consider recommendations from the CSA and input from the SLCs and shall:

1. Assure the appointment and regular performance review of a highly qualified superintendent, consistent with N.J.A.C. 6:11, 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, P.O. Box 500, Trenton, N.J., 08025-0500 or found on the Department's website.

(c) The district board of education, administration, teaching staff and support staff of each 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.

(d) The district board of education shall submit secretary's reports, treasurer of school monies reports, minutes and reports of all transfers to the Department monthly.

[(d)](e) The board of education shall adopt policies on the duties and responsibilities of SLCs, established pursuant to NJAC 6A: 10A-6.2.

(f) The district board of education shall budget an amount equal to two percent of the district's Abbott v. Burke Parity Remedy Aid in the 2004 fiscal year for the Department's costs to manage, improve, and supervise the implementation of programs and services authorized in this chapter as authorized in the appropriations act for fiscal year 2004.

6A:10A-5.2 Role of Chief School Administrator and central office

(a) The Chief School Administrator (CSA) shall lead the district-wide improvement of teaching and learning. The CSA shall:

1. Encourage among central office staff a focus on professional inquiry and growth. The CSA shall:

i. Assess staff expertise and professional development needs through the use of regular and fair performance reviews, informed by best practices, and consistent with N.J.A.C. 6:11;

ii. Provide opportunities for ongoing, targeted professional development, central to the district's mission of improved teaching and student learning; and

iii. Assure widespread awareness of the meaning and intent of this chapter to guide school, local and state implementation of the Abbott reforms, programs, and services;

2. Ensure that each school is led by a qualified and effective principal. The CSA shall

i. Be guided by the 1996 Standards for School Leaders, developed by the Interstate School Leaders Licensure Consortium under the guidance of the Council of Chief School Administrators

in assessing principal effectiveness. The 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, P.O. Box 500, Trenton, N.J., 08025-0500 or found on the Department Web site; and

ii. Regularly assess and provide for the needs of all principals to achieve the objectives of this chapter as a foundation for persistent professional development;

3. Establish 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 district's instructional objectives; and

4. Develop and align 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-5.2; 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 central office and school-specific teams comprised of teachers, 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

iv. Assure that all staff are fully informed through professional development opportunities about new or revised curricula and is prepared to teach the curricula.

(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 district shall collect and analyze student, teacher and school data including achievement, attendance, professional development and documented needs. The district shall:

1. Assist schools with data collection and analysis for assessing student instructional needs, preparing three-year operating plans, reviewing school budgets, and reporting student results as required by NCLB;

2. Provide adequate services and expertise to the schools to assist in the improvement of school operations, programs, and services, as needed; and

3. 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 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 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 maintenance budgets by November 3, 2003 for the 2004-2005 school budget that continue current year expenditure, adjusted for the estimated cost of living increases for the following year;

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

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

2. Produce a district three-year operational plan, including:

i. Assessment of, and planning for, improved central office management of school, programs and district operations with priority to assisting school instruction and student achievement, particularly in underperforming schools; and

ii. A 2004-2005 district budget that is submitted to the Department pursuant to N.J.S.A. 18A:7F-5(c) and 6(c), that is balanced consistent with N.J.S.A. 18A:4-14 and 18A:22-8 and that supports adequately the combined approved budgets of the SLCs and the central office.

(d) The CSA shall create school and 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 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. Establish an 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. Be established no later than October 24, 2003;
- v. Establish by-laws to govern its operation, based upon a draft supplied by the CSA, no later than December 8, 2003;
- vi. Review the district three-year operational plan and budget and its annual modifications, prior to submission to the board of education;
- vii. Review district policies and procedures to implement Abbott reforms, programs, and services prior to submission to the board of education; and
- viii. Receive status reports on district wide 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.

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

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

(a) The Abbott school principal's role as instructional and organizational leader is expanded to include managing daily school operations; program implementation; and staff assignment, supervision, and evaluation. An Abbott principal shall also ensure:

1. Effective, timely, and coordinated implementation of standards-based reform, whole school reform, and the adequate provision of teacher, student and parent supports, provided in this chapter;
2. The establishment of a culture of professional inquiry and growth among school staff leading to improved teaching and learning;
3. Growth of parent and family engagement in, and support for, the school;
4. The effective development and operation of the SLC, including SLC member professional development; and
5. Effective use of the district central office, the LST, model developers, or other providers of professional development and technical assistance.

6A:10A-6.2 Establishment of School Leadership Councils

(a) Each school shall have an SLC to facilitate the participation of the 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. In this role, the principal and instructional staff are responsible for implementation. No SLC shall manage the

day-to-day implementation of school policies. The primary responsibility of the SLC shall be to assist in the effective delivery of instruction.

(b) SLC membership shall include the building principal, teachers, the non-instructional support staff, parents, community representatives and, where applicable, the WSR facilitator. The SLC may include students. District board of education members shall not serve on the SLC. Parents employed by the district, but not employed at the school, are eligible to serve on the school's SLC as a parent representative. No group identified above may 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 from certificated staff. The election process shall be agreed upon and conducted jointly by the principal and the building representative of the bargaining unit or his or her designee, if the building representative is a candidate in the election.

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

3. Parents and guardians shall elect parent representatives. The election process shall be agreed upon and conducted jointly by the principal and the president or chairperson of the school's parent organization/association or his or her designee[.] [I]f the parent leader is a candidate in the election[.], such election shall occur after notifications 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.

4. The community representative(s) shall be nominated by the principal and approved by the SLC. The principal shall send the criteria for nomination to religious and community-based organizations/institutions, and other means of communication to attract a broad and diverse candidate pool.

(d) Every SLC shall operate as follows:

1. The minimum term for each representative is two years. Terms should 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, if permitted by the district guidelines.

2. The 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 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 bylaws that are consistent with 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. The SLC may also report operating difficulties to the LST.
 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 performance assessment team, shall, with the LST and the CSA, produce a transition plan that identify actions to make the SLC more effective, which may include requests for appropriate waivers or equivalencies of the requirements pursuant to this chapter.

6A:10A-6.3 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 principal:
1. Continuously analyze student and school needs assessment data; assess, review, and improve standards-based reform, whole school reform, and supports for teaching, student learning and parent engagement;
 2. Review the school-based budget prepared by the 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 district budgeting procedures and criteria. The SLC must document its recommendations and explain why the proposed budget is insufficient or excessive to meet the district's and the school's goals;
 3. Participate in required district- or Department-provided training;
 4. Interview and recommend at least three candidates for principal to the CSA, if the SLC has decided by majority vote to participate in personnel matters and has completed specific district

training in that area. If the CSA determines that the SLC is eligible to participate in principal interviews, the principal vacancy shall not be filled without its recommendation;

5. Collaborate with the Performance Assessment Team if the school has been designated a low performing school;
6. Review State assessment results and other performance data to determine strengths and weaknesses in student performance, instructional practice and/or curriculum, and to recommend steps to remove obstacles to improvement;
7. 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, the district, and the Department. The revised three-year operatin[[g](#)][al](#) plan shall reflect a continuous evaluation of the impact of programs and services on student achievement, and recommend improvements. The revised school three-year operational plan for 2004-2005 and beyond shall be submitted to the district not later than December 12, 2003; and
8. 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:10-6.4 Training of School Leadership Council members

(a) The 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 portion of the annual budget;
3. School-based budget review process;
4. Needs assessment and continuous improvement process;
5. Curriculum and instruction including the scope and content of the CCCS; as well as programs and opportunities for ELL students and special education students;
6. Teamwork and consensus building;
7. Personnel, including certification requirements and the classroom observation and evaluation process; and
8. The requirements of NCLB and other laws or regulations that impact on school operations or 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 district all Department training materials and information. The Department shall ensure that the district has adequate technical resources to provide training. Upon request, the Department shall assist the district in providing training.

SUBCHAPTER 7. DISTRICT REQUEST FOR [SUPPLEMENTAL] DISCRETIONARY EDUCATION OPPORTUNITY AID FUNDING FOR THE 2004-2005 SCHOOL YEAR

6A:10A-7.1 Application for [supplemental funding] discretionary education opportunity aid

(a) [Supplemental funding] DEOA is provided to support those needs of age eligible residents of the district assessed by the district, [as] and approved by the Commissioner, as essential to improved student achievement that cannot be otherwise funded with State categorical aid, and other State aid, [*Abbott v. Burke* parity aid] EOA, Federal and local funds, or from the reallocation of funds from non-instructional or ineffective instructional programs. The board shall submit to the Department by [February 25, 2004] March 11, 2004 pursuant to N.J.S.A. 18A:7F-5(c) and 6(c), a balanced budget for the 2004-2005 school year consistent with N.J.S.A. 18A:4-14 and 18A:22-8. This budget shall be consistent with the district's approved three-year operational plan as revised. Any request for [supplemental funding] discretionary education opportunity aid requires the applicant district to complete the budget application, supporting documents and all [supplemental funding] discretionary education opportunity aid request forms provided by the Department in accordance with N.J.S.A 18A:7F-6. Failure to provide timely and complete information may be the basis for rejection of the requested funds. Applications for discretionary education opportunity aid will not be considered until the district has completed the following:

1. Established the Continuously Enrolled Student – District and the Continuously Enrolled Student-School subgroups to report the results of state assessments;

2. Reduced all capital reserves to one dollar and all tuition reserves, and any other reserves established by the district that are not required by the Department to zero; and,

3. Maximized for the Enterprise Fund for food services and other enterprises to achieve profitability at best or to reduce any deficit to within the efficient standard set by the Department.

(b) The board shall consider all available resources, reallocations and potential efficiencies before submitting an application for [supplemental funding] discretionary education opportunity aid as follows:

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

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

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

[3]4. Salary breakage for replacement of retiring staff during the upcoming budget year;

[4]5. Positions, programs and services or other [expenditures]appropriations that are not effective [in enabling some or]or not required for all students to achieve the CCCS and read at grade level by the end of third grade;

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

[5]7. Appropriations in excess of actual documented need as contained in the [approved] district and school three-year operational plans;

[6]8. Proper allocation of all costs eligible for funding under the Educational Facilities Construction and Financing Act;

[7]9. [For supplemental funding in the 2004-2005 school year, that t]The district's central office and administrative and non-instructional costs do not exceed the standards for effectiveness and efficiency established by the Department applies to all expenditures in 2004-05; [and]

10. A reduction in the number of special education students in out-of-district placement by providing special education services in-district or by finding lower-cost out-of-district providers; and

11. After reallocations of staffing and other resources, the following areas shall be considered for reallocation:

i. Reallocating from non-recurring costs;

ii. Reviewing budgeted revenues to identify areas of under-budgeted revenues and increasing budgeted revenues where appropriate – The estimation of projected end of year surplus shall be reviewed giving consideration to current spending in comparison to amounts budgeted, current estimates of miscellaneous revenues, revised state aid amounts, and open purchase orders that may be cancelled;

iii. Exploring alternative funding sources – The status of restricted program balances shall be reviewed. The aggressive monitoring of restricted programs should provide that grants are appropriately expended and not returned to the grantor;

iv. Reallocating from food services – the purpose of the enterprise fund is to avoid any district payment for the services provided through that fund. The district shall produce a transferable surplus, or in the alternative, a reduction in the operating deficit to within the efficiency standard set by the Department;

v. Reallocating from custodial services;

vi. Reallocating from maintenance;

vii. Reallocating from risk analysis/insurance costs;

viii. Reallocating from consultants/professional services ;

ix. Reallocating from utility costs;

x. Reallocating from tuition and tuition reserves;

xi. Reallocating from non-instructional equipment – Appropriations for non-instructional equipment shall be reviewed for purchases that may be eliminated or deferred;

xii. Reallocating from administrative/support staff – Staffing in this area shall be reviewed for potential reallocation as well as board member expenses for meals, travel, and conferences;

xiii. Reallocating from aides – Staffing in this area shall be reviewed for reallocation; and,

xiv. Reallocating from transportation – A review of route efficiencies and non-remote busing shall be performed to determine funds available for reallocation.

[8]11. [That for 2004-2005 school year funding, t]The organization, supervision, and implementation of instructional and supplemental programs fully integrate and coordinate State, local, and Federal funds at the classroom level and that school staffing levels meet Department standards for the effective and efficient delivery of instructional and supplemental services.

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

1. The existing program, service or other expenditure is [school-based and directly serving students and related to improved instructional results] resulting in improved student achievement that is verified by evidence;

2. [The existing program, service or other expenditure has demonstrated measurable results in enhancing student achievement] The district can demonstrate that any contracted service in excess of three years can be documented to be effective in improving student achievement or improving the operating efficiency of the school or the district;

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

4. The existing program, service or other expenditure is being delivered efficiently and [integrates] maximizes the use of State, local, and Federal programs and funds.

(d) The Department shall review the budget to ensure that all non-instructional expenditures are effective and efficient.

1. The effectiveness and efficiency of non-instructional expenditures in the budget shall be determined by:

- i. A comparative analysis of all expenditures to those of other school districts and historical spending patterns in the district, with particular attention to the spending patterns in Effective Districts;
- ii. An analysis of staffing needs including but not limited to comparative data of ratios of administrative staff to instructional staff as well as district-specific information regarding staffing needs, with particular attention to the staffing patterns employed in Effective Districts;
- iii. A review of expenditures that are included that may be funded through other funding sources or that alternative funding is not available because the expenditure is not essential to the provision of a thorough and efficient education. Such expenditures include, but are not limited to, capital costs that could be funded pursuant to the Education Facilities Construction and Financing Act or that exceed the facilities efficiencies standards established pursuant to that Act;
- iv. A review of evidence that the district operates efficiently, including but not limited to an absence of penalties for late payments, evidence that cash discounts have been taken, evidence that the district returned any funds to the federal government or private grantors, telecommunications service, health benefits, and insurance; and
- v. Cost savings or inefficiencies identified or proposed by the district or by the State Auditor or Offices of Legislative Services audit.

2. If a program is determined to be ineffective and/or inefficient, a corresponding reduction shall be made to the district's budget.

[(d)]e The Commissioner shall review applications for [supplemental funding for 2004-2005] discretionary education opportunity aid and make a determination based on:

1. Confirmation that the district filed a complete budget application and supporting documents with the Department that are consistent with this chapter and the district- specific guidance provided by the Department;
2. The district's provision of thorough and timely responses to the Department's requests for additional information;
3. Documentation by the district, confirmed by the Commissioner, that the additional funds sought cannot be achieved by any of the following:
 - i. Reallocating from non-instructional expenditures including central office administrative accounts, or other expenditures that do not serve students directly;
 - ii. Attaining economies and efficiencies in the delivery of services and programs; or

iii. Reallocating from school-level expenditures, programs, and services that cannot be documented to improve student attainment of the CCCS; and

4. Documentation by the district that essential programs or services cannot be funded through reallocation and that without [supplemental funding] DEOA the [approved] three-year operational plans cannot be implemented.

5. The determination by the Commissioner that the business and financial practices of the district are efficient and effective, that a current and complete roster of positions (both filled and vacant) in the district is available, that the Board Secretary and Treasurer of School Moneys reports are filed monthly, that all Federal, state and other funds awarded under grant agreements were fully utilized and not returned to the grantor, and other indicators that the district operates with a special regard for the value of public funds.

6. A review of the current status of the district's budget, the needs of the district as presented in the application and the proximity of the preliminary determination to the end of the school year. The Department may direct the reallocation of general fund balances below two percent prior to approving an award of discretionary education opportunity aid when the determination is issued subsequent to July 1 of the budget year.

7. The Department may direct appropriation of unreserved undesignated general fund balance below two percent in districts with salary increases included in the 2004-2005 budget for members of collective bargaining agreements that exceed the greater of the consumer price index or 3%, or another percentage greater than 3% if deemed appropriate by the Commissioner to fund those increases above the consumer price index, 3% or the percentage deemed appropriate by the Commissioner, whichever is greater.

8. Districts that exceed the administrative cost limits set by the Commissioner may have their awards of discretionary education opportunity aid reduced by the amount of administrative costs in excess of the limits set by the Commissioner.

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

1. The application shall document the nature of the unanticipated expenditures or unforeseen circumstances and the impact on the current approved budget and the specific budget lines and account numbers the discretionary education opportunity aid will be used to fund.

2. The Department's review of the separate application shall be consistent with the provisions in (c) and [(d)](e) above and shall consider the current status of the approved budget.

3. Upon review of the current status of the district's approved budget, the needs of the district as presented in the application and the proximity of the application submission to the end of the school year, the Department may direct the reallocation of general fund balances below two percent prior to approving additional resources.

[3]4. Amounts approved by the Commissioner in response to the district's separate application shall be available for expenditure during the 2004-2005 school year.

[4]5. The revenue shall be recognized through the establishment of an accounts receivable subject to appropriation in the subsequent year's appropriations act, or by a supplemental appropriation.

6. The initial appropriation equal to the revenue recorded in item 5 above shall be recorded in an account designated by the Department and shall be available only for the specific 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 Department approval prior to the transfer and use of the additional funds.

7. All transfers into and out of accounts discretionary education opportunity aid was awarded to fund in subsection 1. above, from the date of the award through the end of the school-year, require Commissioner approval prior to the transfer of funds.

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

(h) Any board requesting discretionary education opportunity aid shall ensure that the district has applied for and accepted the awards of all Federal, state and local resources available to it to fund its school and district three-year operational plans. Boards that refuse Federal, state or local funding for the budget year shall not be permitted to apply for discretionary education opportunity aid to fund the appropriations that were allowable under the Federal, state or local funding that was refused by the district.

(i) Any board receiving discretionary education opportunity aid in the current year or requesting discretionary education opportunity aid 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.

(j) Any board requesting discretionary education opportunity aid shall not increase a capital reserve account in the proposed budget.

SUBCHAPTER 8. ABBOTT SCHOOL LEVEL BUDGET AND FINANCIAL REPORTING REQUIREMENTS

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

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

1. The district board of education shall consider Comprehensive Education Improvement and Financing Act (CEIFA) generated revenue and all other State, local and Federal revenue as revenue [of]available for the general fund unless expressly restricted by Federal law or written contract, for the purpose of implementing the Department approved [whole-school reform

(WSR) model, alternative WSR design, and other court-ordered reforms] the district and school three-year operational plans.

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

3. Federal program carryover funds may be budgeted and accounted for in the special revenue fund.

[3]4. The district board of education shall record appropriations and expenditures by school for classroom instruction, school level technology, student support services (family support team), [curriculum development,] educational media and library, professional development, security and school level administration

[4]5. School level appropriation transfers necessary during the year to effectuate the requirements and components of the approved WSR model or alternative WSR design require the Commissioner's approval on forms prescribed by the Commissioner. [In addition,] Such forms shall require prior approval of all transfers from instructional to non-instructional accounts pursuant to N.J.S.A. 18A:7F-6(c) [shall require prior approval,] into or out of charter school lines; between functions/subfunctions that exceed ten percent of the original appropriations and any other transfers the Commissioner deems necessary. The [forms shall specify a maximum timeframe for Department review of all transfer requests] Department shall make every effort to respond to the district's transfer request within ten days of receipt of the requests on the forms prescribed by the Commissioner. No transfer shall be deemed approved by the Department until the written approval is received. The school business administrator and chief school administrator shall certify availability of funds prior to [approval] the submission of a transfer request to the Department.

6. School-level surplus balances occurring during the year from salary breakage, unanticipated circumstances, overestimated costs or other events, require written approval of the principal, school leadership council chairperson, school business administrator, chief school administrator and the Department before the surplus can be appropriated for new purposes.

i. Any appropriation balances remaining at the end of the year shall lapse and be commingled with the general fund balance of the district, except where prohibited by any Federal law that may restrict such commingling.

ii. Notwithstanding this paragraph, each district board of education shall ensure that each school has the necessary resources to implement all components of its WSR model or alternative WSR design, and shall appropriate additional funds from unreserved general fund balance or transfer amounts between schools during the year in accordance with N.J.A.C. 6A:23-2.11(a)3 and N.J.S.A. 18A:22-8.1, 18A:22-8.2, 18A:7F-6(c) and 18A:7G-31, except where prohibited by any Federal law. An Abbott district board of education may apply for additional State aid when necessary pursuant to N.J.A.C. 6A:10A-7.1(f).

7. The district board of education shall maintain separate accounts for full day 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 added to supporting documentation item 15 in the district budget that the district prepares a detailed budget for, in the special revenue section of the district budget and financial records in accordance with GAAP and N.J.A.C. 6A:23-2.

8. Early Childhood Program Aid and Demonstrably Effective Program aid are non-lapsing sources of funds. A 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 in the financial accounts and statements of the district. The Commissioner or his or her designee shall direct the appropriation of the deferred revenue in the subsequent year for districts requesting discretionary education opportunity aid. Districts not requesting discretionary education opportunity aid, shall either:

1. Add such revenue to the ECPA revenue of the subsequent year when identified prior to the preparation of the subsequent year budget;

2. Appropriate such revenue during the subsequent year with the approval of the Commissioner or his or her designee; or

3. Retain such revenue as deferred revenue until the second subsequent year budget.

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

SUBCHAPTER 9 - DISTRICTWIDE BUDGET/FINANCIAL REQUIREMENTS/NON-COMPLIANCE

6A:10A-9.1 District accountability to the communities and public

(a) Abbott districts shall be accountable to the communities they serve and to the public at large. Such accountability shall include:

1. At each regular public meeting of the district board of education, but not more often than once each month, report and provide opportunities for public comment on the monthly certified board secretary report, treasurer's reports and transfer reports.
2. Abbott districts requesting discretionary education opportunity aid that do not comply with the monthly board secretary report submission required by N.J.S.A. 18A:17-9 shall have their discretionary education opportunity aid payments withheld until such time as the district becomes compliant with N.J.S.A. 18A:17-9 and the Department has reviewed the late board secretary reports.
3. Abbott districts requesting discretionary education opportunity aid that do not comply with the monthly treasurer of school moneys report submission required by N.J.S.A. 18A:17-36 shall have their discretionary education opportunity aid payments withheld until such time as the district becomes compliant with N.J.S.A. 18A:17-36 and the Department has reviewed the late board secretary reports.
4. At each regular public meeting of the district board of education, but not more often than once each month, the district shall certify that all transfers requiring Department approval were submitted to the Department for approval and only the transfers

- approved by the Department are reflected on the transfer report and in the accounting records of the district. All transfers submitted to the Department for approval, which are denied and are recorded in the district's accounting records shall be reported to the public along with the reason for recording an unapproved transfer. The public shall be provided with the opportunity to comment on the unapproved transfers.
5. Abbott districts requesting discretionary education opportunity aid that record unapproved transfers in their accounting records will have their discretionary education opportunity aid award reduced by the amount of unapproved transfers recorded in their accounting records.
 6. Each Abbott district shall operate at a level to maintain a balanced budget with revenues not to exceed the amount approved by the Department, including the preliminary determination of discretionary education opportunity aid.
 7. Each Abbott district that does not submit their budget on time in accordance with N.J.S.A.18A:7F-(c) and 6(c), shall at the next regularly scheduled meeting of the board of education report to the public the reasons the budget was not submitted to the Department in accordance with N.J.S.A.18A:7F-(c) and 6(c), and when the budget will be submitted to the Department in accordance with N.J.S.A.18A:7F-(c) and 6(c). If the budget was not filed with the Department by the due date, the board of education shall inform the public of the following items:
 - a. The reason the budget was not filed in a timely manner
 - b. The anticipated date the budget will be filed with the Department
 - c. If the budget is not filed with the Department by the date anticipated in ii above, the district shall at each meeting following that date until the budget is filed with the Department, inform the public as to why the budget has not been filed and what the new anticipated filing date is and the reason for the delay in filing the budget.
 8. Each Abbott district shall at the next regularly scheduled meeting of the board of education following the due date to the CAFR submission report to the public whether the district's CAFR was filed with the Department by the due date. If the CAFR was not filed with the Department by the due date, the board of education shall inform the public of the following items:
 - a. The reason the CAFR was not filed in a timely manner
 - b. The anticipated date the CAFR will be filed with the Department
 - c. If the CAFR is not filed with the Department by the date anticipated in ii above, the district shall at each meeting following that date until the CAFR is filed with the Department, inform the public as to why the CAFR has not been filed and what the new anticipated filing date is and the reason for the delay in filing the CAFR.
 9. Abbott districts requesting discretionary education opportunity aid that do not submit the CAFR to the Department by November 15, 2004 shall have its State aid withheld upon the Commissioner's request to the Director of the Division of Budget and Accounting.
 10. Each Abbott district shall institute a position control plan detailing the number of full-time equivalent employees the district needs to be fully staffed and maintain the class sizes mandated in Abbott V. The plan shall include full and part time employees in the function/object categories required to be completed in the districtwide budget on supporting documentation item 3. The plan shall include the steps the district will take to hire the needed personnel including the timeframe the individuals are to be hired. The district shall track the number of employees on staff by payroll records against the position control plan

and report the information to the public semi-annually; as of the first day of school and as of the first school day in January. The public shall be provided with the opportunity to comment on the position control plan.

SUBCHAPTER [9]10. APPEALS

6A:10A-[9]10.1 Applicability of subchapter

(a) Commencing with decisions related to the 2004-2005 school year, an aggrieved applicant from any Department decision arising from this chapter with the exception of decisions on early childhood program and budget applications and district budgets may appeal to the Commissioner in accordance with the provisions of N.J.A.C. 6A:10A-[9]10.2 through [9]10.6.

(b) Commencing with decisions related to the 2004-2005 school year, 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]10.7.

(c) Commencing with decisions related to the 2004-2005 school year, appeals of Department decisions on District budgets shall proceed in accordance with the provisions of N.J.A.C. 6A:10A-[9]10.8.

6A:10A-[9]10.2 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, P.O. Box 112, Trenton, New Jersey 08625-0112; Attention: Education Section.

1. Except as provided in N.J.A.C. 6A:10A-[9]10.7 and 6A:10A-[9]10.8, any appeal filed pursuant to this subchapter shall be filed within 30 days of the date of the decision which is the subject of the requested contested case hearing.

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

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

6A:10A-[9]10.3 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]10.7, any answer filed pursuant to this subchapter shall be filed within 20 days of the date of receipt of the petition.

6A:10A-[9]10.4 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-7.5 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]10.5 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-7.4, 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]10.6 Commissioner review and decision

(a) If the Commissioner retains the matter pursuant to N.J.A.C. 6A:10A-7.5, 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]10.7 Early Childhood Program appeals

(a) In accordance with the order of the New Jersey Supreme Court, 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 districts on or before the fifteenth of January, which decisions shall include, at a minimum, the approved amount of the early

childhood budget, and a list of each proposed program and expenditure not approved by the Department, with specific reasons for denying the program or expenditure;

2. A district shall have five 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]10.2(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 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]10.8 Abbott district budget appeals

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

1. The Department shall issue budget decisions to districts on or before the last school day in May of the pre-budget year[, which decisions shall include, at a minimum, identification of any and all expenditures not approved by the Department, with specific reasons for denying the program or expenditure];
2. A district shall have [five] **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]10.2(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 District appeal within [40] **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 [six] 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 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 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.

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