

## **EDUCATION**

### **Fiscal Accountability, Efficiency and Budgeting**

#### **Proposed Readoption with Amendments: N.J.A.C. 6A:23A-1 through 15**

Authorized By: Kimberly Harrington, Acting Commissioner, Department of Education.

Authority: P.L. 2006, c. 15; P.L. 2007, c. 53; P.L. 2007 c. 62; P.L. 2007, c. 63; P.L. 2007, c. 260; P.L. 2008, c. 36; P.L. 2008, c. 37; P.L. 2009, c. 19; P.L. 2010, c. 39; P.L. 2010, c. 44; P.L. 2010, c. 49; P.L. 2010, c. 121; P.L. 2011, c. 202; P.L. 2012, c. 78; P.L. 2013, c. 173; P.L. 2013, c. 280; P.L. 2015, c.46; P.L. 2015, c. 157.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2016-???

**Public testimony sessions** on the rules proposed for readoption with amendments will take place at the following dates and locations:

Monday, January 9, 2017, 12:00 P.M. to 2:00 P.M.

New Jersey Department of Education

100 River View Executive Plaza

Trenton, New Jersey 08625-0500

Tuesday, January 10, 2017, 6:00 P.M. to 8:00 P.M.

Camden County College

200 College Drive

Blackwood, NJ 08012

Wednesday, January 11, 2017, 6:00 P.M. to 8:00 P.M.

Morris County Police and Fire Academy

Auditorium

500 W. Hanover Avenue

Morristown, NJ 07960

Submit written comments by February 17, 2017, to:

Diane Shoener  
Director, State Board of Education Office  
New Jersey Department of Education  
100 River View Executive Plaza  
PO Box 500  
Trenton, New Jersey 08625-0500  
E-mail: [chapter23A1to15@doe.state.nj.us](mailto:chapter23A1to15@doe.state.nj.us)

The agency proposal follows:

### **Summary**

The Department of Education (Department) proposes to readopt with amendments N.J.A.C. 6A:23A, Fiscal Accountability, Efficiency and Budgeting Procedures, Subchapters 1 through 15, as noted in this Summary. The chapter expires November 25, 2016.

Subchapters 1 through 15 provide for fiscal accountability, efficiency, and budgeting procedures; transfers and reserve accounts for school districts and private schools for students with disabilities; and State aid calculations and aid adjustments for charter schools. Subchapters 1 through 15 are proposed for readoption with amendment as Commissioner rules consistent with the original authority that established the regulations.

In July 2008, in accordance with P.L. 2007, c. 63 and P.L. 2007, c. 260, the Department promulgated the first of two phases of emergency rules as N.J.A.C. 6A:23A under the Commissioner's rulemaking authority and the procedures for special adoption. The second phase of accountability regulations were adopted and effective December 18, 2008. The combined version of the two phases of accountability regulations, N.J.A.C. 6A:23A-1 through 15, was effective through June 30, 2009.

The Department then began the readoption of Subchapters 1 through 15 with three public hearings held after publication of the proposed regulations. Concurrently, the State Board of Education reviewed N.J.A.C. 6A:23, Finance and Business Services, for amendment and recodification as Subchapters 16 through 22 of N.J.A.C. 6A:23A.

The current rulemaking for N.J.A.C. 6A:23A-1 through 15 is necessary to update the regulations for the following State statutes: P.L. 2009, c. 19; P.L. 2010, c. 39; P.L. 2010, c. 44; P.L. 2010, c. 49; P.L. 2010, c. 121; P.L. 2011, c. 202; P.L. 2012, c. 78; P.L. 2013, c. 173; P.L. 2013, c. 280; P.L. 2015, c. 46; and P.L. 2015, c. 157.

Amendments proposed throughout the chapter include: replacing references to the “Division of Finance” with “Office of School Facilities and Finance”; replacing “Comparative Spending Guide” with “Taxpayers’ Guide to Education Spending” to reflect the change in the guide’s title; deleting “of Education” after “Commissioner” and “Department” because the meaning of the terms are commonly understood; lowercasing “executive county superintendent”; adding “school” before “district”; and adding “district” before “board of education.”

Unless otherwise specified in the Summary, all amendments are proposed to update statutory or Administrative Code citations, or for clarity or stylistic and grammatical improvement.

## **Subchapter 1. Purpose, Scope and Definitions**

### **N.J.A.C. 6A:23A-1.1 Purpose and scope**

This section describes the purpose and scope of the fiscal accountability, efficiency, and budgeting procedures regulations.

The Department proposes to amend N.J.A.C. 6A:23A-1.1(b)1 to add P.L. 2009, c.19; P.L. 2010, c. 39; P.L. 2010, c. 44; P.L. 2010, c. 49; P.L. 2011, c. 202; and P.L. 2012, c. 78 to the list of specific State laws effectuated by the chapter.

The Department proposes to repeal N.J.A.C. 6A:23A-1.1(b)2, which states “[t]hese rules supersede the rules at N.J.A.C. 6A:10, 6A:10A, and 6A:23 where the provisions of those rules are inconsistent.” The referenced N.J.A.C. 6A:10, Financing Foundational and Demonstrably Needed Programs and Services in Abbott School Districts, and N.J.A.C. 6A:10A, Improving Standards-Driven Instruction and Literacy and Increasing Efficiency in Abbott School Districts, expired since the last re adoption of this chapter. The rules in N.J.A.C. 6A:23, Finance and Business Services, have been either repealed or recodified as N.J.A.C. 6A:23A-16 through 22.

#### **N.J.A.C. 6A:23A-1.2 Definitions**

This section defines the essential terms for the chapter.

The Department proposes to amend N.J.A.C. 6A:23A-1.2 to include definitions necessary to update the regulations for additional State laws and to delete definitions that no longer are relevant.

The proposed new definitions are as follows:

- "Taxpayers' Guide to Education Spending" or "TGES" means the annual report of comparative financial statistics of school districts compiled and published for general distribution by the Commissioner, pursuant to N.J.S.A. 18A:4-30, and available on the Department's website. The new term will replace "Comparative Spending Guide," which is proposed for deletion, to reflect the change in the guide's title; and
- "Unused tax authority" means the amount of the difference between the maximum allowable amount to be raised by taxation for the current school budget

year and the actual amount to be raised by taxation for the current school budget year, pursuant to N.J.S.A. 18A:7F-39. The new term will replace the term “unused spending authority,” which is proposed for deletion since State law now limits levy growth rather than spending growth.

The Department also proposes to add a definition for “additional administrative position salary increment,” which would create a new increment category for an additional administrative position held by a superintendent and set the increment amount at \$5,000. The Department proposes to provide this additional increment category to account for the increased responsibilities that superintendents have when they are serving in more than one administrative role and to provide additional incentives to superintendents to accept additional administrative positions within the school district, which will increase the school district’s fiscal efficiency.

Definitions proposed for deletion and reasons for their removal are as follows:

- “Adjusted for inflation” is only used once, and in a rule proposed for repeal;
- “Bilingual education pupil” because the term appears only in “combination pupil,” which also is proposed for deletion because it is not used in the chapter;
- “Commissioner” is commonly understood to mean the Commissioner of Education unless otherwise stated;
- “County superintendent roundtable” will be replaced with “executive county superintendent roundtable” and moved to its new alphabetical location;
- “Energy costs” is no longer a category for a spending growth limitation waiver due to a change in statute and the term no longer will be used in the chapter;
- “Extraordinary costs” is no longer a category for a spending growth limitation waiver due to a change in statute and the term no longer will be used in the chapter;
- “Forensic audit” is not used in the chapter;

- “Lease purchase payment” is defined in statute;
- “Local public school district” will be replaced by “school district” wherever it appears in the chapter for consistency throughout Title 6A of the Administrative Code. “School district” already is a defined term and has the same meaning as “local public school district”;
- “Member of immediate family” is redundant since “immediate family member” is already defined;
- “Net budget” is no longer used due to a change in statute and all references to the term are proposed for repeal or deletion;
- “New school facility” is no longer used due to a change in statute and all references to the term are proposed for repeal;
- “Permanent fund” is not used in the chapter and is defined by Government Accountability Standards Board and in the New Jersey Chart of Accounts;
- “Preliminary budget” is no longer used as it was relevant to statutory budget waivers that have been repealed and all references to the term are proposed for repeal;
- “Spending growth limitation” is no longer used due to a change in statute and all references to the term are proposed for repeal or deletion;
- “Unrestricted State aid” is no longer used since it was relevant to budget waivers that have been eliminated through changes in statute; all references to the term are proposed for repeal or deletion; and
- "Unused spending authority" is no longer used due to a change in statute and all references to the term are proposed for repeal or deletion.

Definitions proposed for amendment and the associated reasons are as follows:

- “Additional district salary increment” to increase the increment amount for each additional school district served by a single superintendent from \$10,000 to \$15,000. The \$10,000 increment has remained the same since the February 7, 2011, amendment to the regulations. The Department is proposing to increase the increment amount to account for inflation since the initial adoption and to provide greater incentive for superintendents to share their services with multiple school districts.
- “Annual salary” to include all increments in annual salary. The Department proposes this amendment to clarify and codify the fact that all allowable increments are included in the calculation of the annual salary.
- “Efficiency standards,” which means the standards established pursuant to N.J.S.A. 18A:7F-46 that are contained in Appendix E of the publication, A Formula for Success: All Children, All Communities, and that are reestablished every three years in the Educational Adequacy Report beginning with the 2011-12 school year, is proposed for amendment to replace “pursuant to N.J.S.A. 18A:7F-46 that are contained” with “for the 2008-2009 school year” and “reestablished every three years in” with “updated periodically through,” respectively, because the 2008-2009 school year has passed. The Department also proposes to delete “beginning with the 2011-12 school year” because the school year has passed;
- “Excess costs” is proposed for amendment to replace the current reference to Administrative Code with a reference to the authorizing statute because the cited Administrative Code definition is only a reference to the authorizing statute;
- “High school salary increment” to increase the increment amount for a superintendent working in a school district served with a high school from \$2,500 to \$5,000. The \$2,500 increment has remained the same since the February 7,

2011, amendment to the regulations. The Department is proposing to increase the increment amount to account for inflation since the initial adoption.

- “Maximum salary amount,” which sets forth the maximum salaries for superintendents. The maximum salaries are based on the student enrollment figures in school districts, which are broken down into six enrollment categories, and range from \$125,000 for the smallest school districts to \$175,000 for the largest school districts. The six enrollment categories in the definition are: 250 students or less; from 251 to 750 students; from 751 to 1,500 students; from 1,501 to 3,000 students; from 3,001 to 6,500 students; and, more than 6,500 students. For school districts with more than 10,000 students, district boards of education may submit a salary cap waiver request to the Commissioner, which the Commissioner will approve on a case-by-case basis. The Department proposes to increase the caps commensurate with inflation and create renewal incentives in recognition that school districts should have more flexibility to recruit and retain educational leaders who meet the needs of the school district. The proposed amendments also seek to address the instability that may accompany increased rates of superintendent turnover and an over-reliance on interim superintendents to fill vacant superintendent positions. The proposed amendments further seek to provide more flexibility and greater discretion at the local level to set the superintendent’s salary amount by collapsing the enrollment categories, thus creating a broader salary range within each category. A review of the characteristics of the school districts that will make up each of the three proposed categories demonstrates similarities in the operational requirements amongst these school districts. The Department proposes to amend the definition to collapse the six enrollment categories into the following three categories: 749 students or less; 750 students to 2,999 students; and 3,000 or more students. The Department also

proposes to increase the salary caps in the definition to account for inflation based upon Consumer Price Index adjustments from 2011 (the effective date of the salary caps) to 2016, plus a two percent projected adjustment for 2017. The Department also proposes to permit superintendents serving in the same school district to receive an annual salary that exceeds the maximum salary amount by up to two percent in the first year of the renewal contract, followed by annual increases of up to two percent in each of the remaining years of the renewal contract, and any contract thereafter. The ability to exceed the maximum salaries for renewal contracts provides incentives to superintendents to remain in the school district beyond their initial contract and, thereby, increasing stability and consistency within the school district administration. The Department also proposes to add language to the definition limiting salary cap waiver requests to one request during the term of a contract to prohibit the renegotiation of waivers mid-contract.

- “New Jersey Student Learning Standards,” which means the student achievement standards adopted and revised every five years by the State Board of Education and that ensure all children are provided the educational opportunity needed to equip them for the role of citizen and labor market competitor, to add “or ‘NJSLS’” after the defined term. The Department also proposes to replace the current definition with “as defined in N.J.A.C. 6A:8-1.3” to link the term to its definition at N.J.A.C. 6A:8, Standards and Assessments.
- “Prebudget year adjusted tax levy,” which means the adjusted tax levy of the prebudget year less approved waivers and/or separate question(s) unless explicitly approved to be permanent, is proposed for amendment to delete “approved waivers and/or” since the statutory authority for the waivers was repealed; and
- "School facilities project" will be moved to the correct alphabetical order.

- “Shared services” is proposed for amendment to replace the current reference to the “Interlocal Services Act” with “Uniform Shared Services and Consolidation Act” to reflect current law.

## **Subchapter 2. Executive County Superintendents of Schools**

The subchapter provides an overview of the general powers and duties of the executive county superintendent, including procedures for promoting consolidation and sharing services.

### **6A:23A-2.1 General powers and duties of Executive County Superintendent**

This section states each executive county superintendent shall exercise and perform the general power and duties vested in him or her pursuant to N.J.S.A. 18A:7-8.

### **N.J.A.C. 6A:23A-2.2 School district regionalization and consolidation of services advisory committee**

This section requires the executive county superintendent to create a School District Regionalization and Consolidation of Services Advisory Committee to assist in developing a school district consolidation plan for the creation of regional school districts.

### **N.J.A.C. 6A:23A-2.3 Consolidation and sharing of services; joint and cooperative purchasing**

This section sets forth the requirements for the executive county superintendent to study the consolidation of school districts’ administrative services.

#### **N.J.A.C. 6A:23A-2.4 Elimination of school districts that are not operating schools**

This section describes the responsibilities of the executive county superintendent with respect to developing a plan to eliminate school districts that are not operating schools.

#### **N.J.A.C. 6A:23A-2.5 Plan for district consolidation to create regional school districts**

This section describes the executive county superintendent's responsibility, in consultation with the School District Regionalization and Consolidation of Services Advisory Committee, to study the consolidation of school districts within the county, except county school districts and existing preschool or kindergarten through grade 12 operating school districts, into one or more all-purpose regional school districts.

#### **N.J.A.C. 6A:23A-2.6 Transportation efficiency study**

This section requires the executive county superintendent to complete a study of pupil transportation services in the county no later than July 12, 2009, pursuant to N.J.S.A. 18A:7F-57.

#### **N.J.A.C. 6A:23A-2.7 Shared special education services**

This section describes the duties of the executive county superintendent with respect to promoting and facilitating the sharing of special education services within the county.

### **Subchapter 3. Administrator and Board Member Accountability**

This subchapter sets forth provisions designed to ensure greater accountability of school district administrators and district boards of education regarding the hiring and termination of high-level school district employees.

**N.J.A.C. 6A:23A-3.1 Review of employment contracts for superintendents, assistant superintendents and school business administrators**

This section details the procedures an executive county superintendent must follow when reviewing an employment contract or any other employment actions for key school district leaders.

The Department proposes to amend N.J.A.C. 6A:23A-3.1(e)2, which prohibits the contracts of superintendents to include salaries that are above the “maximum salary amount,” plus, if applicable, an “additional district salary increment” or a “high school salary increment.” The Department proposes an amendment to include an “additional administrative position salary increment” as another possible adjustment to a superintendent’s salary to be consistent with the proposed new definition in N.J.A.C. 6A:23A-1.2. The Department also proposes to specify that the additional administrative increment is limited to one additional administrative position, and must be supported by a job description and justified as being cost efficient and operationally feasible for the school district. These parameters are being proposed to prevent school districts from assigning superintendents to additional administrative positions to receive salary increments when it may not be in the best interest of the school district.

The Department proposes to recodify the last two sentences of N.J.A.C. 6A:23A-3.1(e)2 as new N.J.A.C. 6A:23A-3.1(e)3. The Department proposes an amendment at recodified N.J.A.C. 6A:23A-3.1(e)3 to add “, and/or additional administrative position salary increment” after “high school salary increment.”

The Department proposes to recodify current N.J.A.C. 6A:23A-3.1(e)3 through 15 as new N.J.A.C. 6A:23A-3.1(e)4 through 16, respectively.

The Department proposes amendments at recodified N.J.A.C. 6A:23A-3.1(e)16, which requires the executive county superintendent's contract review and approval to ensure no contract includes a provision for additional compensation upon the completion of coursework or acquisition of a graduate degree unless the graduate degree is conferred by a duly accredited institution of higher education as defined in N.J.A.C. 6A:9-2.1. The Department proposes to replace "a duly accredited institution of higher education" in both instances with "regionally accredited college or university" because the latter is the term defined in N.J.A.C. 6A:9-2.1.

#### **N.J.A.C. 6A:23A-3.2 Required actions relative to early termination of superintendent**

This section details the procedures for the early termination of an employment agreement for a superintendent.

#### **N.J.A.C. 6A:23A-3.3 Certification review under certain conditions**

This section requires the State Board of Examiners to review the certification of a school district's superintendent and school business administrator (SBA) when the appointment of a State monitor to the school district is authorized.

#### **N.J.A.C. 6A:23A-3.4 Noncompliance with GAAP, review of certification of a SBA**

The section requires the Commissioner to recommend to the State Board of Examiners that it review the certification of the school district's SBA when a school district's accounting

system and financial reports are not in compliance with GAAP within one year of March 15, 2007.

The Department proposes an amendment at N.J.A.C. 6A:23A-3.4 to delete the deadline for compliance since March 15, 2007, has passed.

#### **Subchapter 4. School District Fiscal Accountability**

The subchapter provides standards and procedures for several school district accountability provisions contained in P.L. 2007, c. 53.

##### **N.J.A.C. 6A:23A-4.1 Additional powers of Commissioner to achieve fiscal accountability**

This section allows the Commissioner to appoint an external entity to perform a compliance audit of a school district's general fund spending upon identification that the school district may be spending State education funds for purposes not in compliance with State education laws and rules. It further sets forth the required components of the audit's final report.

##### **N.J.A.C. 6A:23A-4.2 Compliance with requirements for income tax**

This section requires the SBA or other person designated by a district board of education to certify to the New Jersey Department of the Treasury on annual basis that the school district has complied with Federal and State laws and regulations on reporting for income tax purposes in regard to superintendents, assistant superintendents, and SBAs.

##### **N.J.A.C. 6A:23A-4.3 Annual audit to assure income tax reporting compliance**

This section requires the annual audit to include test measures to assure documentation prepared for income tax related purposes complies fully with Federal and State laws and regulations regarding the compensation that is required to be reported.

#### **N.J.A.C. 6A:23A-4.4 Repeat annual audit recommendations; action required**

This section requires school districts that had repeat audit findings in the Auditor's Management Report submitted with the Comprehensive Annual Financial Report (CAFR) to submit to the executive county superintendent or State monitor a specific corrective action plan for addressing the repeat audit findings noted in the Auditor's Management Report. The section also details the corrective action plan's required components.

### **Subchapter 5. Additional Measures to Ensure Effective and Efficient Expenditures of School District Funds**

#### **N.J.A.C. 6A:23A-5.1 Order to show cause to withhold or recover State aid due to excessive, unreasonable, ineffective or inefficient expenditures**

This section outlines the procedures for a school district to file an order to show cause as to why State aid should not be withheld based on alleged ineffective or inefficient expenditures. Nothing in the rules preclude the Commissioner from immediately withholding State aid if he or she determines a school district is in violation of a statute, regulation, rule, or directive of the State Board of Education or Commissioner.

#### **N.J.A.C. 6A:23A-5.2 Public relations and professional services: board policies; efficiency**

This section requires district boards of education and county vocational school district (CVSD) boards of education to establish a public relations and professional services policy that outlines the school district's strategies to minimize the cost of services. The section also requires the policy to include items such as setting an annual maximum dollar limit and requiring professional services contracts to be issued in a deliberative manner.

### **N.J.A.C. 6A:23A-5.3 Failure to maximize Special Education Medicaid Initiative (SEMI)**

This section establishes a waiver process regarding the Special Education Medicaid Initiative (SEMI) beginning in the 2008-2009 school year. The section also authorizes the Commissioner to withhold State aid if a school district violates public bidding laws, or does not maximize SEMI or implement its approved SEMI action plan for any given budget year. The rules include the standards for maximizing SEMI, the required benchmarks and action plan, and the process to request a waiver to the SEMI requirement. The rules also define what should be recognized as revenue for purposes of SEMI beginning in the 2009-2010 school year. The regulations establish guidance regarding acceptable participation rates for SEMI beginning in the 2008-2009 school year.

The Department proposes to amend N.J.A.C. 6A:23A-5.3(b), which allows school districts and CVSDs to apply for a waiver of the requirements if they have fewer than 40 Medicaid-eligible classified students, or if the school district demonstrates that efforts to participate in SEMI would not provide a cost benefit to the school district based on the projection of the school district's available SEMI reimbursement for the budget year. The Department proposes to delete "or the district demonstrates that efforts to participate in SEMI would not provide a cost benefit to the district, based on the projection of the district's available SEMI reimbursement for the budget year as set forth in (c) below" because the State no longer allows

the exception. To expand school district participation in the SEMI program, the Department permits waiver applications only from school districts with 40 or fewer eligible students.

The Department proposes to delete N.J.A.C. 6A:23A-5.3(b)1, which established initial timelines for waiver request submission and executive county superintendent review and decision for the 2008-2009 school year. Since the rule only applied to only the 2008-2009 school year, the Department proposes to delete the outdated rule.

The Department proposes to recodify N.J.A.C. 6A:23A-5.3(b)2 as new N.J.A.C. 6A:23A-5.3(b)1.

The Department proposes to amend recodified N.J.A.C. 6A:23A-5.3(b)1, which requires, in part, the application for a waiver of the section's requirements to be made to the executive county superintendent no less than 45 days prior the submission of the school district's proposed budget for the school year to which the waiver request applies, to delete "[b]eginning with the 2009-2010 school year" at the beginning of the rule. The language was related to the second year of implementation of the waiver process and the date has passed. The same amendment is proposed at N.J.A.C. 6A:23A-5.3(c)1.

The Department proposes an amendment at N.J.A.C. 6A:23A-5.3(c), which requires the Department, as part of the annual budget information, to provide each school district and CVSD with a projection of available SEMI reimbursement for the budget year, as determined by the New Jersey Department of the Treasury's third-party administrator for SEMI, and requires the projection to be based on the number of Medicaid-eligible students; assumption of 20 services per eligible student per year; one IEP meeting per eligible student per year; and applicable SEMI reimbursement rates. The Department proposes to delete the last sentence -- "The projection shall be based on the following: the number of Medicaid-eligible students; assumption of 20 services per eligible students per year; one IEP meeting per eligible student per year; and applicable SEMI reimbursement rates" -- because the description of the projection is outdated.

The Department proposes an amendment at N.J.A.C. 6A:23A-5.3(e)2vi, which establishes the documentation required for speech therapists providing services submitted for Medicaid reimbursement, to replace “Speech Therapist” with “Speech-language specialist” to reflect current terminology.

The Department proposes to delete N.J.A.C. 6A:23A-5.3(e)2vi(1) through (3), which require speech therapists providing services submitted for Medicaid reimbursement to have one of the following sets of documentation: Department certification and American Speech-Language-Hearing Association (ASHA) certification; Department certification and past or present license (on or after January 1, 1993); or Department certification and documentation of equivalent educational requirements and work experience necessary for ASHA certification. The Department proposes new N.J.A.C. 6A:23A-5.3(e)2vi(1) and (2) to differentiate the requirements for speech-language specialist by qualifications for providing evaluation services and qualifications for providing related services. Proposed N.J.A.C. 6A:23A-5.3(e)2vi(1)(A) through (C) will require documentation for evaluation services to include either a copy of physician’s orders, which are required to be maintained with the student’s IEP or a copy of New Jersey license as a speech-language pathologist and Department certification as a speech-language specialist for the individual who either signs the IEP or provides a copy of documentation that identifies the referral of speech services included in or with the student’s IEP. Proposed N.J.A.C. 6A:23A-5.3(e)2vi(2)(A) and (B) will require documentation for the provision of related services to include: a copy of Department certification or endorsement issued and an ASHA Certificate of Clinical Competence; or a copy of Department certification or endorsement and a valid license authorized by the State Audiology and Speech-Language Pathology Advisory Committee. The proposed amendments will align the rule with Federal regulations regarding practitioner qualifications for the delivery of speech-language evaluations and speech language services. The requirements for practitioner qualifications were updated through amendments to 42 C.F.R. § 440.110(c).

The Department proposes N.J.A.C. 6A:23A-5.3(e)2vii to add the newly required documentation for an audiologist to be considered a Medicaid qualified practitioner: copy of license issued by the State Audiology and Speech-Language Pathology Advisory Committee. The proposed amendment will align N.J.A.C. 6A:23A-5.3(e)2 with the updated Federal regulations at 42 C.F.R. § 440.110(c).

The Department proposes amendments at N.J.A.C. 6A:23A-5.3(e)3, which authorizes practitioners who are not Medicaid qualified to deliver services under the direction of certain Medicaid qualified practitioners, including certified occupational therapist assistants, physical therapist assistants (PTAs), and speech correctionists. The Department proposes to replace “speech correctionists” with “speech-language specialists who do not meet the qualifications at (e)2vi(2)(A) or (B) above” because the speech correctionist certificate is no longer valid, per N.J.A.C. 6A:9B-14.6(d). Additional amendments will add to the list of certified practitioners “licensed practical nurses (LPNs),” and will add “only” to clarify the rule is limited to the listed providers. The proposed amendments will align the rule with the New Jersey State Medicaid Plan as allowed under Federal requirements.

The Department proposes an amendment at N.J.A.C. 6A:23A-5.3(e)5, which requires entities where a school district has placed SEMI-eligible students to take steps to enable school districts to maximize participation, including either logging the eligible services provided directly through the vendor or the sending school district, to replace “vendor” with “third-party system as determined by the New Jersey Department of the Treasury” to clarify the school district is required to use the specific third-party under contract with the New Jersey Department of the Treasury.

The Department proposes new N.J.A.C. 6A:23A-5.3(e)6 to require each school district that does not have an approved waiver to comply with the program requirements to assure the year-end cost settlement of SEMI claims is properly calculated with the standardized submission of quarterly and annual cost data, as well as staff pool lists transmitted directly through the third-

party system as determined by the New Jersey Department of the Treasury. The proposed rule is necessary to bring the regulations into compliance with new requirements from the New Jersey Department of the Treasury that were implemented to ensure New Jersey's Medicaid State Plan (State Plan Under Title XIX of the Social Security Act Medical Assistance Program) aligns with guidance provided by the Centers for Medicare and Medicaid. The new rule is consistent with current practice.

The Department proposes new N.J.A.C. 6A:23A-5.3(e)7 to require school districts that do not have an approved waiver to ensure compliance with the necessary components of the cost settlement requirements, which include completion of the online questionnaire Random Moment Time Study (RMTS) by staff provided directly through the third-party system as determined by the New Jersey Department of the Treasury. The proposed rule will bring the regulations into compliance with new requirements from the New Jersey Department of the Treasury that were implemented to ensure New Jersey's Medicaid State Plan (State Plan Under Title XIX of the Social Security Act Medical Assistance Program) aligns with guidance provided by the Centers for Medicare and Medicaid. The new rule is consistent with current practice.

The Department proposes to recodify current N.J.A.C. 6A:23A-5.3(e)6 as new N.J.A.C. 6A:23A-5.3(e)8.

The Department proposes amendments at N.J.A.C. 6A:23A-5.3(f), which requires a school district that has less than 90 percent participation of SEMI eligible students in the 2007-2008 school year or has failed to comply with all program requirements set forth in N.J.A.C. 6A:23A-5.3(e) to demonstrate a good faith effort to achieve maximum participation and to maximize available SEMI revenue during the 2008-2009 school year by submitting SEMI plans to the executive county superintendent for review and approval by September 1, 2008, and establishes the same requirement for subsequent years. The Department proposes to delete the language specific to the first year of implementation and the September 1, 2008, due date.

The Department proposes amendments at N.J.A.C. 6A:23A-5.3(g)2 and (g)2i, which require the SEMI action plan to include a benchmark for the 2008-2009 school year, or for the first year the school district does not have an approved waiver, to attain 90 percent participation rates, and instead require the school district to reduce the gap between current participation and maximum participation by 50 percent. The proposed amendment will replace “2008-2009 school year” with “first year of implementation” because the original timeframe has passed. The rules remain relaxed for any school district that is new to the SEMI program to allow time for full implementation.

The Department proposes amendments at N.J.A.C. 6A:23A-5.3(g)3, which allows a school district to seek reimbursement for an IEP meeting only if a Medicaid qualified practitioner is present, to add “and it is documented that a health-related service is discussed” to ensure school districts are reimbursed only for medical supports. The meeting costs are eligible for reimbursement only when the child’s disability requires the discussion of health-related services. The proposed amendment will bring the rule into compliance with Federal requirements, which do not permit reimbursement for educational services – only for medical.

#### **N.J.A.C. 6A:23A-5.4 Violation of public school contracts law**

This section grants the Commissioner the authority to withhold State funds for a school district or CVSD that fails to obey the provisions of the Public School Contracts Law, N.J.S.A. 18A:18A-1 et seq.

#### **N.J.A.C. 6A:23A-5.5 Expenditure and internal control auditing**

This section determines the criteria for an independent audit of a school district's expenditures and a review of the school district's internal controls.

**N.J.A.C. 6A:23A-5.6 District response to Office of Fiscal Accountability and Compliance (OFAC) investigation report**

This section establishes the procedures a school district or CVSD must follow in response to an audit or investigation by Office of Fiscal Accountability and Compliance (OFAC).

**N.J.A.C. 6A:23A-5.7 Verification of payroll check distribution**

This section requires school districts to conduct at least once every three years an in-person verification procedure for distribution of payroll checks or vouchers.

The Department proposes an amendment at N.J.A.C. 6A:23A-5.7(a), which requires – beginning with the 2008-2009 school year -- district boards of education to verify employees for payroll at least once every three years between the months of September through May, to delete “[b]eginning with the 2008-2009 school year.” Since three years have elapsed, the beginning date is no longer relevant.

The Department proposes to repeal N.J.A.C. 6A:23A-5.7(c)1, which permits school districts to use an alternative record of personnel if the school district elects to conduct the payroll verification prior to the school district’s required implementation of the position control roster, because the due date of December 31, 2009, has passed.

**N.J.A.C. 6A:23A-5.8 Board of education expenditures for non-employee activities, meals and refreshments**

This section delineates allowable and prohibited expenditures by a district board of education or CVSD for non-employee activities, meals, and refreshments.

The Department proposes to amend N.J.A.C. 6A:23A-5.8(d), which requires district boards of education to comply with State regulations regarding education expenditures, to replace the OMB Circular 08-19-OMB and 06-14-OMB with references to the categories of OMB Circulars that apply (“travel regulations” and “entertainment, meals, and refreshments”). The proposed amendment is necessary to remain compliant with OMB regulations because the specific OMB Circular numbers may be superseded by subsequent updates, and New Jersey OMB no longer posts the superseded Circulars on its website.

#### **N.J.A.C. 6A:23A-5.9 Out-of-State and high cost travel events**

This section provides the approval process for out-of-State, high-cost, and international travel for school district employees and district board of education members.

#### **Subchapter 6. Conditions for the Receipt of State Aid**

This subchapter includes specific efficiency and accountability standards and other policies that every school district must implement as a condition for the receipt of State aid.

#### **N.J.A.C. 6A:23A-6.1 Conditions precedent to disbursement of State aid**

This section describes the efficiency requirements that a school district must implement as a condition for receiving State aid.

#### **N.J.A.C. 6A:23A-6.2 Nepotism policy**

This section conditions a school district's receipt of State aid on the district board of education implementing a nepotism policy that includes, among other things, a provision prohibiting the school district from employing any relative of a district board of education member or superintendent (existing employees are grandfathered) and prohibiting an employee from supervising or exercising authority over personnel actions of a relative.

The Department proposes an amendment at N.J.A.C. 6A:23A-6.2(a), which requires the adoption and implementation of a nepotism policy, to delete "established by this subsection by October 1, 2008, except that districts previously subject to N.J.A.C. 6A:10 and 6A:10A shall implement such policy on July 1, 2008" because the original required adoption dates have passed.

#### **N.J.A.C. 6A:23A-6.3 Contributions to board members and contract awards**

This section requires school districts to maintain honest and ethical relations with vendors as a condition of receiving State aid, and prohibits actions such as a district board of education voting on a contract worth more than \$17,500 if the contracting entity made a reportable contribution to a district board of education member during the preceding year.

The Department proposes an amendment at N.J.A.C. 6A:23A-6.3(a), which requires each school district to adopt policies regarding ethical relationships with vendors by October or July of 2008, to delete the sentence that establishes the October 1, 2008, for most school districts, and July 1, 2008, for school districts previously subject to N.J.A.C. 6A:10 and 6A:10A. The dates have passed and the cited Administrative Code chapters no longer are in effect.

#### **N.J.A.C. 6A:23A-6.4 Internal Controls**

This section requires specific policies and procedures on internal controls designed to provide management with reasonable assurance that the school district's goals and objectives will be met to be established by district boards of education as a condition of receiving State aid. The section also requires the internal controls to be established together with other internal controls contained in N.J.A.C. 6A and other law and regulations, required by professional standards, and as deemed necessary and appropriate by school district management.

#### **N.J.A.C. 6A:23A-6.5 Segregation of duties; organization structure**

This section establishes that a strong internal control environment for business processes must be supported by proper segregation of duties and must be subject to ongoing evaluation.

#### **N.J.A.C. 6A:23A-6.6 Standard operating procedures for business functions**

This section requires school districts and CVSDs to implement certain standard operating procedures (SOPs) for business functions as a condition of receiving State aid. The section also delineates the areas governed by the SOPs.

The Department proposes an amendment at N.J.A.C. 6A:23A-6.6(a), which requires, by December 31, 2009, each school district and CVSD to establish SOPs for each task or function of the school district's business operations, to delete "[b]y December 31, 2009," since it has passed and school districts are required to implement SOPs.

#### **N.J.A.C. 6A:23A-6.7 Financial and human resource management systems: access controls**

This section requires school districts with budgets in excess of \$25 million or with more than 300 employees to maintain, as a condition of receiving State aid, a financial and human resource management system by the 2010-2011 school year.

The Department proposes to repeal N.J.A.C. 6A:23A-6.7(b), which requires school districts to have an Enterprise Resource Planning (ERP) system in place by the 2010-2011 school year, because the deadline for implementation has passed.

The Department proposes to recodify N.J.A.C. 6A:23A-6.7(c) and (d) as new N.J.A.C. 6A:23A-6.7(b) and (c).

#### **N.J.A.C. 6A:23A-6.8 Personnel tracking and accounting**

This section requires school districts to maintain, as a condition of receiving State aid, an accurate, complete, and up-to-date automated position control roster to track the actual number and category of employees and detailed information for each employee.

The Department proposes an amendment at N.J.A.C. 6A:23A-6.8(a), which requires the implementation of an automated position control roster, to delete the requirement for school districts that did not or were not required to maintain a position control roster to fully implement one by December 31, 2009, as the deadline has passed.

#### **N.J.A.C. 6A:23A-6.9 Facilities maintenance and repair scheduling and accounting**

This section requires school districts or CVSDs with three or more school district buildings to establish by July 1, 2010, as a condition of receiving State aid, an automated work order system for facilities maintenance and repair. The section further describes required system components.

The Department proposes to amend N.J.A.C. 6A:23A-6.9(a) by deleting “by July 1,

2010,” since the date has passed.

**N.J.A.C. 6A:23A-6.10 Approval of amounts paid in excess of approved purchase orders;  
board policy**

This section requires district boards of education to adopt a policy addressing the process required for approval of remittance in payment of an invoice in excess of the approved purchase order. The section also establishes program requirements for financial systems.

**N.J.A.C. 6A:23A-6.11 Vehicle tracking, maintenance and accounting**

This section requires a district board of education to adopt a policy for the management, control, and regulatory supervision of school district vehicles and establishes the required vehicle records.

**N.J.A.C. 6A:23A-6.12 District vehicle assignment and use policy**

This section requires a district board of education policy for the assignment and tracking of school district vehicle usage.

The Department proposes an amendment at N.J.A.C. 6A:23A-6.12(a), which requires each school district and CVSD board of education to adopt a policy regarding vehicle assignment, to replace references to outdated OMB Circular 08-16-ADM. The proposed amendment will refer to “The State Vehicular Assignment and Use Policy” to ensure the OMB Circular reference remains current by name and to enable interested parties to find the relevant circular.

## **N.J.A.C. 6A:23A-6.13 Board travel policy**

This section requires district boards of education, as a condition of receiving State aid, to establish specific travel policies and procedures that comply with N.J.S.A. 18A:11-12 and N.J.A.C. 6A:23A-7.

## **Subchapter 7. School District Travel Policies and Procedures**

This subchapter delineates the required policies and practices with respect to school district travel to ensure the efficient and effective use of public funds.

The Department proposes amendments throughout the subchapter to delete references to superseded OMB Travel Regulations (Circulars). Where appropriate, the Department replaced direct numerical reference to the current OMB Travel Regulations with generic reference to State travel regulations as established by the Department of the Treasury in accordance with statute (N.J.S.A. 18A:11-12).

## **N.J.A.C. 6A:23A-7.1 School district travel expenditures**

This section requires school districts to establish travel policies and procedures in accordance with N.J.S.A. 18A:11-12 and OMB Circulars on travel and entertainment and clarifies the costs that can be included as school district travel expenditures.

The Department proposes an amendment at N.J.A.C. 6A:23A-7.1(a), which requires each school district to adopt and implement policies and procedures in accordance with statutory requirements to ensure the effective and efficient use of funds expended on travel and travel-related activities. The proposed amendment will replace reference to superseded OMB Travel Circulars 08-19-OMB and 06-14-OMB with current OMB Travel Circulars 16-11-OMB and 11-

09-OMB. The proposed amendment will not change the requirements to adopt and implement policy.

The Department proposes an amendment at N.J.A.C. 6A:23A-7.1(c), which requires State statutory requirements to be followed when conflict exists between OMB Travel Regulations (Circulars) and New Jersey school law. For purposes of clarity, the Department proposes to replace references to the OMB Circulars with a general reference to the State travel regulations (Circulars) as established by OMB.

### **N.J.A.C.6A:23A-7.2 Board policy for travel expenditures**

This section describes required elements of district board of education policies for all travel by employees and district board of education members. The section also requires a district board of education to ensure all travel is educationally necessary and fiscally prudent.

### **N.J.A.C. 6A:23A-7.3 Maximum travel budget**

This section requires a district board of education to set the maximum travel budget for each budget year and authorizes the district board of education to set an annual maximum per employee for which district board of education approval is not required: \$1,500 for regular business travel; and \$150 registration fee for in-State professional development activities. The section also requires a superintendent to approve travel prior to attendance or incurring costs for travel, and gives a superintendent the authority to designate an alternate approval authority in his or her absence.

### **N.J.A.C. 6A23A-7.4 Travel approval procedures**

This section requires a school district superintendent's written approval of travel expenses prior to attendance or incurring costs for travel. This section also requires approval by a majority of the district board of education's full voting membership, except if the district board of education has excluded regular school district business travel from the prior approval requirements.

The Department proposes new N.J.A.C. 6A:23A-7.4(f) to clarify the procedures required for reimbursement of travel expenses for prospective employees. Reimbursement for such travel must first be pre-approved by a majority of the full voting membership of the district board of education and then by the executive county superintendent before any funds are obligated. OMB Travel Regulations currently require the OMB Director to pre-approve all travel expenditures of prospective government employees. The travel circular requirements apply to school districts, but school districts are expected to request approval from the executive county superintendent in lieu of the OMB Director.

#### **N.J.A.C. 6A:23A-7.5 Required documentation for travel**

This section requires a district board of education to include in its travel policy what documentation will be required to justify the attendance of employees and/or district board of education members for purposes of determining whether travel will be approved. The section also specifies the minimum amount of documentation required to approve the request. The rules further require the district board of education to maintain on file the policies, approvals, reports, and receipts for all school district funded expenditures, as appropriate.

#### **N.J.A.C. 6A:23A-7.6 SBA responsibilities regarding accounting for travel**

This section details the substantive requirements and responsibilities of the SBA for the budgeting, recording, and reporting of school district travel expenditures.

The Department proposes an amendment at N.J.A.C. 6A:23A-7.6(b), which requires the SBA to maintain separate accounting for school district travel expenditures, to replace “[T]his” in the second sentence with “[t]he separate accounting tracking system” for clarity.

#### **N.J.A.C. 6A:23A-7.7 Sanctions for violations of travel requirements**

This section describes statute-enforceable sanctions for travel violations. Most of the sanctions are requirements listed in N.J.S.A. 18A:11-12.

#### **N.J.A.C. 6A:23A-7.8 Prohibited travel reimbursements**

This section requires a district board of education to state in its travel policy specifically prohibited travel expenditures not eligible for reimbursement.

#### **N.J.A.C. 6A:23A-7.9 Travel methods**

This section establishes allowable transportation methods for necessary official travel on railroads, airlines, shuttles, buses, taxicab, school district owned or leased vehicles, and personal vehicles.

The Department proposes to amend the last sentence of N.J.A.C. 6A:23A-7.9(c)2viii, which prohibits additional expenses without sufficient justification from being reimbursed, to replace the sentence with “[t]he burden of proof shall be placed upon the purchaser and any additional expenses incurred without sufficient justification and documentation, as determined by the school business administrator, shall not be reimbursed.” The proposed amendment will

clarify eligible additional reimbursements are limited to additional travel costs that are documented as being beyond the purchaser's control.

The Department proposes to delete N.J.A.C. 6A:23A-7.9(c)3ii, which requires a single traveler within the Northeast Corridor to use NJ Transit as the rail option unless Amtrak is the only means of travel available. The proposed deletion is necessary because the prohibited use of Amtrak was repealed by the current New Jersey OMB Travel Regulations (Circular).

The Department proposes to recodify current N.J.A.C. 6A:23A-7.9(c)3iii as new N.J.A.C. 6A:23A-7.9(c)3ii.

The Department proposes to delete current N.J.A.C. 6A:23A-7.9(c)3iv, which prohibits the use of rail travel when multiple numbers of school district employees and/or district board of education members are traveling to the same event in the Northeast Corridor. The rule further requires the travelers to use a school district vehicle or a personally owned vehicle if rail travel is prohibited. The proposed deletion will bring the regulations into compliance with the current New Jersey OMB Travel Regulations (Circular).

The Department proposes to recodify N.J.A.C. 6A:23A-7.9(c)3v as N.J.A.C. 6A:23A-7.9(c)3iv.

#### **N.J.A.C. 6A:23A-7.10 Routing of travel**

This section prescribes certain modes of transportation and requires the most economical route to be utilized.

The Department proposes an amendment at N.J.A.C. 6A:23A-7.10(a), which requires school districts to follow a list of travel requirements “[p]ursuant to OMB Circulars,” to replace “OMB Circulars” with “State travel guidelines as established by the New Jersey Department of the Treasury, Office of Management and Budget, and presented in the OMB Travel Circulars”

for clarity. The same amendment is proposed at N.J.A.C. 6A:23A-7.11(a) and (c) to further clarify “OMB Circulars.”

#### **N.J.A.C. 6A:23A-7.11 Subsistence allowance – overnight travel**

This section establishes when school district employees and district board of education members can seek reimbursement for subsistence while traveling overnight.

The Department proposes an amendment at N.J.A.C. 6A:23A-7.11(f)1, which requires allowable per diem reimbursement for lodging, meals, and incidentals to be actual reasonable costs not in excess of the Federal per diem rates for the event location and establishes \$31.00 for meal/incidental expenses and \$60.00 for lodging, or amounts listed in any superseding OMB Travel Circular, as the maximum allowable per diem rates for destinations not listed in the applicable published Federal per diem rates. The Department proposes to replace “\$ 31.00 for meal/incidental expenses and \$ 60.00 for lodging, or amounts listed in any superceding NJOMB circular” with “equal to the standard CONUS per diem rates published by the General Services Administration for meals, incidental expenses, and lodging.” The proposed amendment will ensure the maximum per diem reimbursements for lodging, meals, and incidentals (when the event location is not listed in the Federal per diem rates schedule) remain current with the standard CONUS per diem rates published by the General Services Administration.

#### **N.J.A.C. 6A:23A-7.12 Meal allowance – special conditions- and allowable incidental travel expenditures**

This section provides the conditions under which a school district may reimburse an employee or district board of education member for meals and incidental travel expenses.

The Department proposes amendments at N.J.A.C. 6A:23A-7.12(b), which provides for the reimbursement of meals during one-day, out-of-State trips required for school business purposes for breakfast, lunch, and/or dinner in an amount permitted by OMB; and requires the Commissioner to post the most current per-diem meal rates on the Department's website. The proposed amendments will replace "[m]eals during one-day, out-of-State trips required for school business purposes may be authorized for breakfast, lunch, and/or dinner in an amount permitted by NJOMB" with "[a] meal allowance may be provided to employees or district board of education members in relation to one-day, out-of-State trips required for school business purposes that do not require an overnight stay. The reimbursement for breakfast, lunch, and/or dinner shall not exceed the amounts authorized in State travel regulations as published by the New Jersey Department of the Treasury, Office of Management and Budget, and presented in the OMB Travel Circular." The proposed amendments will clarify to whom the rule is applicable, to what travel characteristic the rule is applicable, how the reimbursement amount is determined, and the authoritative source of permissible reimbursement rates. Because the source of allowable reimbursement for meals for out-of-State travel that does not require an overnight stay will be identified specifically by the regulation as proposed, the Department proposes to remove the requirement for the Commissioner to post on the Department's website meal reimbursement rates established by the State Travel Regulations as presented by the OMB at section X. D. 5. of the Travel Circular.

The Department proposes to recodify the second sentence of N.J.A.C. 6A:23A-7.12(c)3, which prohibits providing lunch for staff meetings and in-service days or for staff that come from other parts of the school district, as the second sentence of N.J.A.C. 6A:23A-7.12(c)2. The proposed recodification will keep the reimbursement eligibility rules for lunch in one rule, since N.J.A.C. 6A:23A-7.12(c)3 authorizes the provision of refreshments during breaks at training sessions held at a site other than the school district.

The Department proposes an amendment at N.J.A.C. 6A:23A-7.12(e), which authorizes reimbursement for official luncheons and dinners at rates of up to \$7 and \$10, respectively, if the meal is scheduled as an integral part of an official proceeding or program related to school district business and the employee's responsibilities, to update the rates to \$10 and \$15, respectively, to reflect the rates in current NJOMB Circular 16-11, Section X1. J.

The Department proposes an amendment at N.J.A.C. 6A:23A-7.12(g)3, which allows incidental expenses necessarily incurred by the traveler in connection with official business to be submitted for reimbursement only when the expense's necessity and nature are clearly and fully explained on the travel voucher and the voucher is approved, to clarify that incidental expenses is defined by the State travel regulations as "non-meal tips."

#### **N.J.A.C. 6A:23A-7.13 Records and supporting documents**

This section requires a district board of education to maintain specific records to support travel expenditures.

#### **Subchapter 8. Annual Budget Development and Submission**

This subchapter includes budget submission requirements, administrative cost limits, capital outlay budgets, designation of fund balances, and appropriation of debt service fund balance.

#### **N.J.A.C. 6A:23A-8.1 Budget submission; supporting documentation; website publication**

This section describes the methods and sets requirements for budget submission by district boards of education, including the requirement to provide the budget and certain

employee contract information for public inspection in a “user-friendly” format on the school district’s website following a public hearing. The section also requires the Department to make the user-friendly budget available through its website.

The Department proposes an amendment at N.J.A.C. 6A:23A-8.1(a), which requires annual budget submission based upon an April election date. Current law permits school districts to hold annual elections in November, and the authorizing statute for this law (N.J.S.A. 18A:7F-5.c) was amended to include a different due date (March 20) for school districts holding November elections. As a result, the Department proposes an amendment to replace “March 4” with “the due date established in N.J.S.A. 18A:7F-5.c,” which is the authorizing statute and includes both due dates (March 4 and March 20).

The Department proposes an amendment at N.J.A.C. 6A:23A-8.1(c)1ii, which requires a budget to be maintained on the school district’s website, with a visible link on the main page, for the entire budget year and revised upon voter rejection of a separate proposal(s). The Department proposes to replace “rejection” with “approval” because, in accordance with P.L. 2007, c. 62, rejected separate proposals do not result in any change to the budget summary; approved separate proposals require an update to the budget summary form to reflect the revised budget.

The Department proposes an amendment at N.J.A.C. 6A:23A-8.1(c)2, which, in part, requires school districts to submit to the Department the budget summary form following approval of the base budget question by voters or the board of school estimate, as applicable, or following municipal action when the base budget question is rejected by the voters. The Department proposes to add “when the base budget question is rejected by voters; or, pursuant to N.J.S.A. 18A:22-32, following approval by the district board of education for school districts with November elections” to update the rule in accordance with amendments made to the authorizing statute at N.J.S.A. 18A:22-32.

The Department proposes to delete N.J.A.C. 6A:23A-8.1(d)2iii, which requires a school district to include in its budget submission retirement contributions, including, but not limited to, the payment of the employee's share of a contribution to a pension, annuity, or trust account, because payment of the employee's share is prohibited by current regulations (N.J.A.C. 6A:23A-3.1(e)4).

#### **N.J.A.C. 6A:23A-8.2 Public notice and inspection**

This section requires district boards of education to make all budget and supporting documentation available for public inspection after submission to the executive county superintendent for approval.

#### **N.J.A.C. 6A:23A-8.3 Administrative cost limits**

This section requires school districts to submit budgets that are within the administrative cost limits and the method for calculating the limits, pursuant to N.J.S.A. 18A:7F-5.c. This section also establishes the process for review of school district budgets within set parameters.

The Department proposes an amendment at N.J.A.C. 6A:23A-8.3(c)3iii, which requires district boards of education to include supporting documentation for changes to nondiscretionary fixed costs as defined in N.J.A.C. 6A:23A-1.1, to replace the citation with "N.J.A.C. 6A:23A-1.2." The current citation references the chapter's "Program and Scope" section rather than the "Definitions" section.

#### **N.J.A.C. 6A:23A-8.4 Capital outlay budget**

This section requires a district board of education to obtain approval for local funding included in a capital outlay budget.

The Department proposes an amendment at N.J.A.C. 6A:23A-8.4(b), which provides the available funding options for school districts seeking to obtain approval for non-referendum capital projects to be completed through the use of local funding sources and appropriated in the school district's annual capital outlay budget. The proposed amendment will add the following sentence at the end: "For school districts that hold annual elections in November, approval of local funding for a non-referendum capital project shall be obtained through executive county superintendent approval of the base budget." The proposed amendment is necessary for consistency with P.L. 2011, c. 202, which eliminated the vote on a budget in the November election if the tax levy is within the statutory limit of two percent plus allowable adjustments. District boards of education that have a November election no longer are required to obtain voter approval, but instead must have executive county superintendent approval for local funding included in a capital outlay (fund 12) budget.

#### **N.J.A.C. 6A:23A-8.5 Designation of general fund balances**

This section describes how and when a district board of education must restrict or designate general fund balance.

The Department proposes amendments at N.J.A.C. 6A:23A-8.5(a), which, in conjunction with N.J.S.A. 18A:7F-7, requires a school district to deposit excess surplus for use in the subsequent year's budget. The Department proposes to replace "unreserved" with "undesignated-unassigned" to align with statute and to clarify the applicable general fund balance is not limited to funds that are unrestricted but also includes uncommitted and unassigned funds. The Department proposes to replace "reserved by law" with "restricted by law." The proposed amendments will clarify the requirement and will update the terminology

related to availability of general fund balance to reflect new definitions according to generally accepted accounting principles (GAAP).

The Department also proposes to amend N.J.A.C. 6A:23A-8.5(a) to allow district boards of education to exclude restricted school bus advertising revenue from the excess surplus calculation to reflect recent statutory changes.

#### **N.J.A.C. 6A:23A-8.6 Appropriation of unreserved debt service fund balance; exception**

This section provides an exception to N.J.S.A. 18A:24-57, which requires that any debt service surplus fund balance be appropriated to offset property taxes. This exception is authorized by N.J.S.A. 18A:7F-41, which allows a district board of education to establish a debt service reserve account within the debt service fund for the express purpose of maintaining proceeds from the sale of school district property for a period not to exceed the lesser of five years or the remaining term on the related outstanding bond obligation. The section also requires a district board of education to include in a referendum the specific purpose and time period for maintaining the unreserved debt service fund balance.

The Department proposes to amend the section's heading and N.J.A.C. 6A:23A-8.6(a) and (b) to replace "unreserved" with "unrestricted" to reflect revisions to GAAP as provided by the Governmental Accounting Standards Board.

#### **N.J.A.C. 6A:23A-8.7 Tuition rate adjustment by districts receiving preschool expansion aid or educational opportunity aid in the 2007-2008 school year**

This section describes the process to phase out over five years the reduction of Abbott Parity Remedy Aid, Educational Opportunity Aid and Discretionary Education Opportunity Aid in the calculation of tuition. In the previous school funding formula, the aid categories were

excluded from the calculation of the maximum “actual cost” per pupil Abbott school districts could charge their sending districts. Under the current funding formula, former Abbott school districts receive State aid using the same formula as all other school districts, so no reduction is necessary. Since a significant portion of former Abbott school districts’ actual costs were excluded under the previous funding formula, it was necessary to phase in the new tuition calculation.

The Department proposes to repeal the section since the tuition rate adjustment period has expired and the adjustment has been fully implemented. The first year of adjustments began in the 2008-2009 school, and the final year was 2012-2013.

## **Subchapter 9. Executive County Superintendent budget review procedures**

### **N.J.A.C. 6A:23A-9.1 Executive County Superintendent budget review**

This section requires the executive county superintendent to review the annual school district budget and approve the budget prior to advertisement.

The Department proposes an amendment at N.J.A.C. 6A:23A-9.1(c), which lists documents the executive county superintendent must consult during the budget review, to replace “school performance report” with “school report card” to update the record’s title.

### **N.J.A.C. 6A:23A-9.2 Executive County Superintendent budget review and approval: administrative and non-instructional expenses**

This section requires the executive county superintendent to review school district budgets. The section also authorizes the executive county superintendent to disapprove a portion of the proposed budget when a school district demonstrates inefficiency in administrative or non-

instructional expenditures. This section provides the procedures subsequent to the disapproval for budget reallocations and approval.

**N.J.A.C. 6A:23A-9.3 Efficiency standards for review of administrative and non-instructional expenditures and efficient business practices**

This section describes criteria, including consideration of the Taxpayers' Guide to Education Spending, to be used during the budget review process to determine efficient administrative and non-instructional cost standards to ensure efficiencies in school district business practices.

The Department proposes an amendment at N.J.A.C. 6A:23A-9.3(a), which states the section's standards and requirements shall apply for purposes of executive county superintendent budget reviews pursuant to N.J.A.C. 6A:23A-9.1 through 9.5 and tax levy cap waivers pursuant to N.J.S.A. 18A:7F-39. The proposed amendment will delete "and tax levy cap waivers pursuant to N.J.S.A. 18A:7F-39" since the authorizing statute that permitted the use of tax levy cap waivers was repealed by P.L. 2010, c. 44.

The Department proposes amendments at N.J.A.C. 6A:23A-9.3(c)6, which allows efficient administrative and non-instructional costs to include school district participation in the State Health Benefits Program or School Employee Health Benefit Program that permits employees with other health care coverage to waive health care coverage and receive payment not to exceed 50 percent of the savings resulting from the waiver of health care coverage. The Department proposes to replace "therefore not to exceed 50 percent of the savings resulting from such waiver of health care coverage" with "pursuant to N.J.S.A. 52:14-17.31a" at the end of the rule to align it with the statute as it has been amended.

The Department proposes an amendment to N.J.A.C. 6A:23A-9.3(c)7, which, in part, requires certain school districts to establish a tiered system of pupil transportation or demonstrate

doing so would not result in savings or would be more costly. The Department proposes to delete the timelines requiring school districts without a tiered system to submit to the executive county superintendent on or before December 31, 2009, a plan to establish a tiered system of pupil transportation no later than the opening of schools for the 2011-2012 school year because the dates have passed.

#### **N.J.A.C. 6A:23A-9.4 Commissioner's authority to direct expenditures to achieve T&E**

This section authorizes the Commissioner to direct a district board of education that proposes a budget with a general fund tax levy and equalization aid set below the school district's adequacy budget to increase its expenditures up to the school district's adequacy budget – beyond the statutory levy limit, if necessary. The section also authorizes the Commissioner to direct budgetary reallocations and programmatic adjustments, as needed, to ensure the provision of a thorough and efficient education.

#### **N.J.A.C. 6A:23A-9.5 Commissioner to ensure achievement of the New Jersey Student Learning Standards; corrective actions**

This section describes the actions the Commissioner may take when a district board of education fails to achieve the NJSLs as evidenced by existing Statewide assessment methods or other statutory or regulatory methods of evaluation.

The Department proposes to amend N.J.A.C. 6A:23A-9.5(d), which permits district boards of education to appeal Commissioner actions to the Appellate Division, to replace the existing reference to P.L. 2008, c. 36 with "N.J.S.A. 18A:6-9.1."

#### **N.J.A.C. 6A:23A-9.6 Appeal of Executive County Superintendent budget reductions**

This section requires district boards of education that appeal an executive county superintendent decision to the Commissioner to submit the appeal with supporting documentation within five days. The section further requires the Commissioner to respond within 15 days. The section also lists the required documentation to be provided.

The Department proposes an amendment at N.J.A.C. 6A:23A-9.6(b)1ii, which requires the school district to provide the supporting data on a disk in Microsoft Excel with a list of the line items reduced by the executive county superintendent, to replace “[a] disk” with “[a]n electronic schedule” to replace the obsolete method of collecting data and to align the rule with the current submission method.

**N.J.A.C. 6A:23A-9.7 Procedures following voter defeat of proposed budget; municipal governing body or board of school estimate action**

This section sets forth procedures a district board of education must follow when a budget has been rejected by voters at the annual school election. The procedures are listed separately for the following situations: voters defeat a proposed budget with a general fund tax levy above the school district’s required local share; the proposed general fund levy is at the school district’s local share; and the budget is reviewed by a board of school estimate.

Prior to the passage of PL 2011, c. 202, all annual school elections were held in April. The revised law permits school districts to move the school election to November. Most of the current rules in this section apply only to elections held in April. Consequently, the Department proposes throughout the section to replace references to the “annual election” with “the April election” to differentiate from the November elections. The proposed amendment is necessary because school districts with November elections do not vote on the general fund tax levy.

The Department proposes to repeal N.J.A.C. 6A:23A-9.7(a)1xiv and (b)1iv, which require school districts beginning in 2012-2013 to submit to the executive county superintendent and/or the governing body comprising the school district information regarding separate questions rejected by voters. The authority for appeal of separate questions has been repealed by statute.

The Department proposes to recodify N.J.A.C. 6A:23A-9.7(a)1xv and (b)1v as new N.J.A.C. 6A:23A-9.7(a)1xiv and (b)iv, respectively.

The Department proposes amendments at N.J.A.C. 6A:23A-9.7(a)5, which requires the governing body to certify to the county board of taxation the school district tax levy on or before May 19, to add “or the Commissioner-established date if the April school election date is changed pursuant to N.J.S.A. 19:60-1” and to replace “this purpose” with “as school district tax levy” to align the rule with N.J.S.A. 18A:22-37. The same amendment is proposed at N.J.A.C. 6A:23A-9.7(b)4.

The Department proposes an amendment at N.J.A.C. 6A:23A-9.7(b)4i, which requires the general fund tax levy to be equal to the base budget amount plus, beginning in 2012-2013, any additional amounts approved by voters through separate questions. The Department proposes to delete “beginning in 2012-2013” because the deadline has passed.

The Department proposes an amendment at N.J.A.C. 6A:23A-9.7(d)2, which permits district boards of education to apply to the Commissioner for restoration of reductions made to the school district’s proposed tax levy by the governing body(ies) or the board of school estimate that has certified the tax levy in an amount less than that presented in the proposed tax levy. The proposed amendment will replace “the provisions of this section” with “N.J.A.C. 6A:23A-9.9” to clarify the rules for filing an application for Commissioner-restoration of budget reductions are located at N.J.A.C. 6A:23A-9.9 and not within N.J.A.C. 6A:23A-9.7.

The Department proposes to repeal N.J.A.C. 6A:23A-9.7(d)3, which exempts certain school districts from having Commissioner reductions imposed, because statutory changes render the rule obsolete.

**N.J.A.C. 6A:23A-9.8 Municipal governing body failure to certify or agree; Commissioner sets tax levy**

If the governing body fail to certify by May 19 an amount of tax levy for any item rejected at the annual school election or certify different amounts to the county board of taxation, the section requires a district board of education to submit the budget and any reduction recommended by the governing body following voter defeat for Commissioner review and determination of the tax levy amount to be certified to the county board of taxation.

The Department proposes an amendment to add “or the Commissioner-established date if the April school election date is changed pursuant to N.J.S.A. 19:60-1,” after “May 19.” The proposed amendment will align the rule with current statute requiring the Commissioner to change the May 19 tax levy certification deadline if the April election date is moved.

**N.J.A.C. 6A:23A-9.9 Application for Commissioner restoration of budget reductions**

This section sets forth procedures to be followed by a district board of education when a school district budget has been defeated, the municipality certifies a reduced tax levy, and the school district appeals to the Commissioner for a restoration of the levy cut by the municipality.

The Department proposes to amend N.J.A.C. 6A:23A-9.9(a)2i, which provides the regulatory application and definition of the term “T&E grounds.” Specifically, when a district board of education appeals to the Commissioner for restoration of a municipal budget reduction, statute provides the option to appeal based upon the contention that the municipal reductions

made to the tax levy would adversely affect the district board of education's ability to implement programs and services at the level contained in the efficiency standards ("T&E grounds"). The amendment will delete the language defining the efficiency standards because the definition is already included in N.J.A.C. 6A:23A-1.2.

The Department proposes to delete N.J.A.C. 6A:23A-9.9(a)6, which provides that for purposes of determining a district board of education's adequacy budget, the number of students sent and their associated tuition costs are excluded from the calculation of the sending school district's adequacy budget. Since amendments to statute have eliminated tuition costs for sent students from the calculation of excess spending over adequacy, the rule is no longer relevant.

The Department proposes to amend N.J.A.C. 6A:23A-9.9(b)2, which permits the Commissioner to consider additional information in determining the amount of a school district's budget to restore, to delete ", for example, the Fall Report," because the report has been replaced by NJSMART.

The Department proposes an amendment at N.J.A.C. 6A:23A-9.9(b)4iv, which allows the Commissioner to consider a school district's contractual obligations on the effective date of N.J.S.A. 18A:7F-43 et seq. and the relationship of contractual obligations since the effective date of N.J.S.A. 18A:7F-43 et seq. to Statewide trends in bargaining practices when determining potential budget reductions. The Department proposes to replace "on the effective date of" with "under" and to delete "since the effective date of N.J.S.A. 18A:7F-43 et seq." Since the effective statute date was January 2008, the referenced date is obsolete.

The Department proposes an amendment at N.J.A.C. 6A:23A-9.9(b)4x, which allows the Commissioner to consider, when determining the impact on a school district's stability of municipal reductions to a district board of education's proposed tax levy, the school district's original budget to actual spending and undesignated general fund balance usage and projections trend histories. The proposed amendment will replace "undesignated" with "unreserved" to

reflect updated governmental GAAP terminology prescribed by the Governmental Accounting Standards Board (GASB).

The Department proposes to delete N.J.A.C. 6A:23A-9.9(b)6, which requires reallocation directed as a result of review under the subsection to be made consistent with provisions of N.J.S.A. 18A:7F-6.e. The statute, which prohibited reallocation of courtesy busing during defeated budget reviews, was repealed by P.L. 2007, c. 260.

The Department proposes to recodify N.J.A.C. 6A:23A-9.9(b)7, which provides that Commissioner decisions issued pursuant to the subchapter are final decisions that may be appealed to the Appellate Division of the Superior Court, pursuant to P.L. 2008, c. 36, as new N.J.A.C. 6A:23A-9.9(b)6. The Department also proposes an amendment to replace “P.L. 2008, c. 36” with “N.J.S.A. 18A:6-9.1,” which corresponds to the chapter law.

#### **N.J.A.C. 6A:23A-9.10 Executive County Superintendent ongoing budget review**

This section lists the responsibilities of the executive county superintendent to re-examine a school district's fiscal position subsequent to voter or board of school estimate approval and prior to the submission of the subsequent school budget.

The Department proposes amendments at N.J.A.C. 6A:23A-9.10(a)2, which requires the executive county superintendent to notify in writing any school district where administrative efficiencies and/or excessive non-instructional costs are identified and the amounts by account that are prohibited from being included in the school district's subsequent budget and the transfers that are prohibited during the current budget year from those accounts. Specifically, the Department proposes to replace “administrative efficiencies” with “identified administrative inefficiencies” and to replace “during the budget year from those accounts” with “during the current budget year to the identified accounts.”

## **N.J.A.C. 6A:23A-9.11 Year-end financial procedures for Executive County Superintendent and fiscal monitor**

This section details the procedures the executive county superintendent and State monitor commence within 30 days of receipt of a school district's audited Comprehensive Annual Financial Report (CAFR). The review includes assessing debt that may result in savings if refinanced, auditing account payables that exceed \$5,000, and reviewing accounts payable and general fund balances at year's end.

The Department proposes an amendment to the heading to replace "fiscal monitor" with "State monitor" to be consistent with N.J.S.A. 18A:7A-55.

The Department proposes an amendment at N.J.A.C. 6A:23A-9.11(e), which requires the reserve for encumbrances or undesignated general fund balance created by cancelled encumbrances to be reclassified to "designated general fund balance for tax relief in the subsequent school year." Since tax levy cap laws have rendered the terminology associated with an appropriation-based budget cap irrelevant, the Department proposes to replace "designated general fund balance for tax relief in the subsequent school year" with "designated general fund balance for appropriation in the subsequent school year." The proposed amendment will ensure the language is appropriate for a budget prepared under the current law that caps the tax levy.

The Department proposes amendments at N.J.A.C. 6A:23A-9.11(g), which requires liability to be reported as an encumbrance when a year-end liability in the fund financial statements results from goods or services that have not been received or rendered as evidenced by the invoice date on or before June 30 of the audited fiscal year. The Department proposes to replace "undesignated general fund balance" with "unassigned general fund balance" and "designated general fund balance" with "assigned general fund balance." The proposed amendments will replace terminology regarding financial statement presentation of fund balance

classifications to match terminology currently accepted in governmental accounting standards established by the Governmental Accounting Standards Board (GASB).

### **Subchapter 10. Spending Growth Limitation**

This subchapter provides the rules relevant to a district board of education budget prepared under prior law, which placed a cap, subject to certain adjustments, upon the growth of a district board of education's level of appropriations. The appropriations growth law, and the related adjustment to spending growth, have been repealed and replaced by tax levy cap laws. The change in law has rendered irrelevant much of the terminology associated with an appropriation-based budget cap.

The Department proposes amendments to the subchapter heading and throughout the subchapter to replace "Spending Growth Limitation" with "Unused Tax Authority (Banked Cap)." The proposed amendments will align the rules with statute, which now limits levy growth rather than appropriations. As proposed, this section will authorize the Commissioner to study the issues and impact of the tax levy growth limitation model as compared with the fiscal impact of banked cap on school district spending. The section, as proposed, also will provide guidance for allowable adjustments to spending growth limitation.

### **N.J.A.C. 6A:23A-10.1 Moratorium on spending growth limitation and municipal governing body authority to determine amount to be raised upon voter rejection of separate proposal**

This section references the moratorium on use of spending growth limitation adjustments and municipal review of defeated separate proposal from 2008-2009 through 2011-2012 school years.

The Department proposes to repeal the section to reflect statutory changes that established a cap on property tax levy increases as the vehicle for limiting school district spending rather than a spending growth limitation.

#### **N.J.A.C. 6A:23A-10.2 Adjustments to spending growth limitation**

This section establishes the requirements and calculations for the spending growth limitation adjustments after the moratorium period has ended, pursuant to N.J.S.A. 18A:7F-5.d.

The Department proposes to repeal this section to reflect statutory changes that established a cap on property tax levy increases as the vehicle for limiting school district spending rather than a spending growth limitation.

#### **N.J.A.C. 6A:23A-10.3 Unused spending authority (banked cap)**

This section provides the regulatory requirements for district boards of education to utilize when the school district budget provides unused spending authority (“banked”) from one budget year for use in either of the next two succeeding budget years, pursuant to N.J.S.A. 18A:7F-5.a.

The Department proposes to recodify this section as new N.J.A.C. 6A:23A-10.1 to reflect the repeal of N.J.A.C. 6A:23A-10.1 and 10.2.

The Department proposes an amendment to the section heading and throughout the section to replace “spending” with “tax” to reflect the statutory change from a spending limit to a tax levy limit.

The Department proposes amendments to recodified N.J.A.C. 6A:23A-10.1(a), which allows a school district to use 50 percent of the unused spending authority (the difference between its actual net budget and its permitted net budget) in either of the next two succeeding

budget years, to replace the rule with “[a] district board of education may increase its adjusted tax levy pursuant to N.J.S.A. 18A:7F-39.e.” The currently referenced statute, N.J.S.A. 18A:7F-5.a, has been repealed and replaced by N.J.S.A. 18A:7F-39.e, which authorized the creation and subsequent use of “banked cap.” The proposed amendment will align the rule with the current statutory provisions that include a two percent levy cap (as opposed to a spending cap) and allow a school district not raising its levy to the full amount of the cap to “bank” that amount for potential use during the next three years (as opposed to two years).

The Department proposes amendments at recodified N.J.A.C. 6A:23A-10.1(b), which requires a district board of education to follow specific procedures to include unused spending authority in either of the next two budget years. The proposed amendments will replace “spending authority” with “tax authority” and replace “either of the next two budget years” with “any of the next three budget years” to align the rule with current law. The obsolete rules permitted banking of unused spending authority, while current law permits banking of unused taxing authority. The banked amounts under the old law were available for use in the subsequent two years, while the current banked amounts are available for use in the subsequent three years. The same amendments are proposed at recodified N.J.A.C. 6A:23A-10.1(c), which provides that unused spending authority is not created by the combining of an approved separate proposal to increase appropriations with the district board of education’s base spending plan.

### **Subchapter 11. Tax Levy Growth Limitation**

This subchapter authorizes adjustments to the tax levy growth limitation for increases in enrollment, reductions in State aid, and increases in health care costs.

The Department proposes amendments to the subchapter align it with the statutory provisions at N.J.S.A. 18A:7F-38 that established a two percent levy cap and reduced the number of allowable adjustments.

## **N.J.A.C. 6A:23A-11.1 Adjusted tax levy growth limitation**

This section requires school districts to adopt budgets that do not exceed the adjusted tax levy growth limitation, authorizes adjustments to the two percent levy cap, and defines the calculation of the adjustments.

The Department proposes an amendment at N.J.A.C. 6A:23A-11.1(a), which prohibits school districts from adopting a budget with an increase that exceeds the adjusted tax levy growth limitation, to add “calculated pursuant to N.J.S.A. 18A:7F-38” after “adjusted tax levy growth limitation” to refer to the governing statute.

The Department proposes an amendment at N.J.A.C. 6A:23A-11.1(a)1, which provides the formula for determining a district board of education’s adjusted tax levy growth amount with an allowable tax levy growth limit of four percent. To align this section with current law, the Department proposes to replace “four percent” with “two percent” to reflect statutory changes.

The Department proposes amendments at N.J.A.C. 6A:23A-11.1(a)2, which provides adjustments to the calculation of the adjusted tax levy growth limitation for a reduction in total unrestricted State aid in the prebudget year, an increase in health care costs, and Commissioner-approved waivers, to align the rule with N.J.S.A. 18A:7F-38. The Department proposes an amendment to delete “a reduction in total unrestricted State aid in the prebudget year calculated pursuant to N.J.S.A. 18A:7F-38” and “Commissioner approved waivers granted pursuant to N.J.S.A. 18A:7F-39,” which address adjustments for a reduction in total unrestricted State aid and Commissioner waivers that are no longer permitted by statute. The Department also proposes to add “an increase in normal and accrued liability pension contributions Public Employees’ Retirement System (PERS) (pension deferral) calculated pursuant to N.J.S.A. 18A:7F-38.d(2)”, as authorized by N.J.S.A. 18A:7F-38.

The Department proposes to repeal N.J.A.C. 6A:23A-11.1(b), which requires a CPI adjustment to the growth limit calculation for school districts spending above adequacy, to align the section with the statutory provisions establishing a two percent levy cap. The statutory provision for a two percent levy cap eliminated the need for the CPI adjustment.

The Department proposes to recodify N.J.A.C. 6A:23A-11.1(c) and (d) as new N.J.A.C. 6A:23A-11.1(b) and (c).

The Department proposes an amendment at recodified N.J.A.C. 6A:23A-11.1(c), which requires the tax levy to be adjusted when the responsibility and associated cost of an activity is transferred to another school district or government entity, to replace “adjusted” with “increased or decreased” and “an activity” with “a school district activity.” The proposed amendment will align the rule with the authorizing statute. The proposed amendment will also clarify the general fund levy may be increased when a cost is transferred to a school district board of education from another school district or governmental entity; or decreased when a cost is transferred from a school district board of education to another school district or governmental entity.

### **N.J.A.C. 6A:23A-11.2 Adjustment for increases in enrollments**

This section details the purpose and calculation of the allowable tax levy cap adjustment for increases in enrollment.

### **N.J.A.C. 6A:23A-11.3 Adjustment for a reduction in total unrestricted State aid**

This section details the purpose and calculation of the allowable tax levy cap adjustment for reduction(s) in unrestricted State aid. This section also provides for an increase to the tax levy cap for a current year reduction in total unrestricted State aid as compared with the prior year.

Prior law permitted limited adjustments to the calculation of a district board of education's tax levy cap determination.

The Department proposes to delete this section because the authorizing statute for tax levy cap increases was repealed by P.L. 2010, c. 44. Accordingly, a district board of education is no longer authorized to increase general fund tax levy when the school district has experienced a reduction in total unrestricted State aid.

#### **N.J.A.C. 6A:23A-11.4 Adjustment for an increase in health care costs**

This section provides the calculation of the allowable tax levy cap adjustment for an increase in health care costs.

The Department proposes to recodify this section as new N.J.A.C. 6A:23A-11.3 to reflect the proposed repeal of N.J.A.C. 6A:23A-11.3.

The Department proposes to amend recodified N.J.A.C. 6A:23A-11.3(b), which limits the adjustment for health costs to four percent, to replace the explanation of the calculation with a reference to the statute. The statute (N.J.S.A. 18A:7F-38.d) was updated and changed the limit to two percent. The Department proposes to delete the first sentence and replace it with “[a] district board of education may increase its adjusted tax levy pursuant to N.J.S.A. 18A:7F-38.d” to align the rule with current statute and to improve clarity.

The Department proposes amendments at recodified N.J.A.C. 6A:23A-11.3(b)1, which defines the calculation of health care costs for purposes of the adjustment calculation, to replace “budget year” with “prebudget year” and to change the base health care cost used for purposes of the adjustment calculation from the amount “as of February 1 of the prebudget year” to “the original budget of the prebudget year.” The proposed amendments will align the rule with the statute governing the two percent levy cap.

The Department proposes an amendment at recodified N.J.A.C. 6A:23A-11.3(c), which requires supporting documentation for a board of education to receive the approval of the executive county superintendent for an increase to the general fund tax levy cap as a result of an increase to budgeted health care costs. The proposed amendment will replace “submitted to the Department” with “submitted to the executive county superintendent” to clarify supporting documentation for the health care cost increase to the tax levy cap must be submitted directly to the executive county superintendent. The proposed amendment is consistent with the executive county superintendent’s responsibility for approval of district board of education budgets.

The Department proposes an amendment at recodified N.J.A.C. 6A:23A-11.3(c)2, which requires a district board of education to submit to the executive county superintendent a summary schedule of health care insurance provider invoices for the 12 months or four quarters, as applicable, prior to the waiver request for medical and prescription drug insurance. The proposed amendment will replace “waiver request” with “fiscal year for which the adjustment request” and to add “is being requested” at the end. The change in terminology is necessary to align in the rule with current law.

The Department proposes an amendment at recodified N.J.A.C. 6A:23A-11.3(c)5, which requires a school district requesting an adjustment for increases in health care costs to include in its documentation the reimbursement required by employees, if any, to delete “if any” since all employees receiving health coverage are now required to contribute a minimum of 1.5 percent of their salary to reimburse school districts for a portion of the cost of employee healthcare premiums (N.J.S.A. 18A:16-17.1).

## **Subchapter 12. Commissioner Waivers of Tax Levy Growth Limitation; Separate Voter Approval**

This subchapter details the procedures to submit to the Commissioner a request to exceed the tax levy growth limitation.

The Department proposes to amend the subchapter heading to delete “Commissioner Waivers of” because P.L. 2010, c. 44 eliminated Commissioner waivers to increase the adjusted tax levy growth.

The Department proposes to repeal N.J.A.C. 6A:23A-12.1 through 12.12 to align this subchapter with N.J.S.A. 18A:7F-38. Under P.L. 2010, c. 44, school districts can no longer apply to the Commissioner for a waiver to increase their adjusted tax levy.

#### **N.J.A.C. 6A:23A-12.1 Waivers subject to Commissioner authorization**

This section established the methodology for implementation of Commissioner waivers of the tax levy cap.

The Department proposes to repeal N.J.A.C. 6A:23A-12.1 as previously discussed.

#### **N.J.A.C. 6A:23A-12.2 Waivers to address failure to meet the New Jersey Student Learning Standards**

This section provides for a tax levy cap waiver if the school district does not meet the NJSLS as determined through the implementation of QSAC.

The Department proposes to repeal N.J.A.C. 6A:23A-12.2 as previously discussed.

#### **N.J.A.C. 6A:23A-12.3 Waiver for energy cost increase**

This section provides for a tax levy cap waiver for energy cost increases in excess of four percent over the prebudget year.

The Department proposes to repeal N.J.A.C. 6A:23A-12.3 as previously discussed.

#### **N.J.A.C. 6A:23A-12.4 Waiver for capital outlay cost increases**

This section provides for a tax levy cap waiver for certain capital outlay expenditures. The section also details the calculation and documentation required for regular school districts in submitting a waiver request for increases in capital outlay.

The Department proposes to repeal N.J.A.C. 6A:23A-12.4 as previously discussed.

#### **N.J.A.C. 6A:23A-12.5 Waiver for use of non-recurring general fund revenues**

This section provides for a tax levy cap waiver for the appropriation of non-recurring general fund revenues including surplus appropriation in the prebudget year's original budget.

The Department proposes to repeal N.J.A.C. 6A:23A-12.5 as previously discussed.

#### **N.J.A.C. 6A:23A-12.6 Waiver for increases in insurance costs**

This section provides for a tax levy cap waiver for insurance cost increases over the prebudget year in excess of four percent.

The Department proposes to repeal N.J.A.C. 6A:23A-12.6 s as previously discussed.

#### **N.J.A.C. 6A:23A-12.7 Waiver for increases in transportation costs to service hazardous routes**

This section provides for a tax levy cap waiver, pursuant to N.J.S.A. 18A:7F-39.f, for increases in transportation costs required to service hazardous routes over the prebudget year in

excess of four percent. The section is applicable for transportation along hazardous routes between home and school and not applicable for after-school activities.

The Department proposes to repeal N.J.A.C. 6A:23A-12.7 s as previously discussed.

#### **N.J.A.C. 6A:23A-12.8 Waiver for increases in special education costs**

This section provides for a tax levy cap waiver, pursuant to N.J.S.A. 18A:7F-38.e(1) and 39.g, for increases in special education costs per pupil in excess of \$40,000 that exceed the prebudget year by four percent.

The Department proposes to repeal N.J.A.C. 6A:23A-12.8 as previously discussed.

#### **N.J.A.C. 6A:23A-12.9 Waiver for increases in tuition costs**

This section provides for a tax levy cap waiver, pursuant to N.J.S.A. 18A:7F-38.e(2) and 39.h, for regular school districts for which there is a formal sending/receiving relationship or for tuition charged by a county vocational school district.

The Department proposes to repeal N.J.A.C. 6A:23A-12.9 as previously discussed.

#### **N.J.A.C. 6A:23A-12.10 Waiver for costs associated with opening a new school facility**

This section provides for a tax levy cap waiver, pursuant to N.J.S.A. 18A:7F-39.i, for regular school districts for the incremental expenditures associated with opening a new school facility in the budget year.

The Department proposes to repeal N.J.A.C. 6A:23A-12.10 as previously discussed.

#### **N.J.A.C. 6A:23A-12.11 Waiver for service essential to health, safety and welfare of children**

This section provides for a tax levy cap waiver, pursuant to N.J.S.A. 18A:7F-39, to address extraordinary costs.

The Department proposes to repeal N.J.A.C. 6A:23A-12.11 as previously discussed.

**N.J.A.C. 6A:23A-12.12 Commissioner may direct reallocations up to the total amount of the waiver request**

This section outlines the authority and standards for the Commissioner to determine budget reallocations up to the total amount of the waiver request.

The Department proposes to repeal N.J.A.C. 6A:23A-12.12 as previously discussed.

**N.J.A.C. 6A:23A-12.13 Voter authorization to exceed tax levy limitation; separate proposal(s)**

This section establishes the procedures for a district board of education to present a proposal(s) to increase the tax levy beyond the cap upon approval of 60 percent of voters at the school election or upon an affirmative vote of the majority of a quorum of the board of school estimate. This section also sets forth the requirements for submission of separate proposals.

The Department proposes to recodify this section as new N.J.A.C. 6A:23A-12.1.

The Department proposes an amendment at recodified N.J.A.C. 6A:23A-12.1(a), which allows a district board of education to put to voters the matter of exceeding the tax levy limitation, to delete “[n]otwithstanding N.J.A.C. 6A:23A-12.12(l),” and to add at the end of the rule “pursuant N.J.S.A. 18A:7F-5.d(9) and 39” to reference the relevant statutes.

The Department proposes an amendment at recodified N.J.A.C. 6A:23A-12.1(a)1, which requires approval of 60 percent of the people voting at the school election for the passage of a

separate proposal to exceed the tax levy limitation or, when applicable, approval by a majority of a quorum of the board of school estimate, to replace “60 percent” with “a majority” at the annual school election to align the rule with P.L. 2010, c. 44, which reduced the threshold from 60 percent to a simple majority.

The Department proposes new N.J.A.C. 6A:23A-12.1(b) to require school districts that hold their annual election in November to base the calculation of half the tax levy on the base budget and not include a separate proposal. The proposed rule also will require a school district with a November-approved separate proposal to recertify the levy, including the approved separate proposal, within 15 days after the proposal’s authorization. The proposed rule will establish the methodology on how and when a revised tax certification must be made to include a separate proposal approved by voters in a November election. The base tax levy for certification in May will be calculated as one half the base budget not including the separate proposal. A school district with an approved separate proposal will recertify the tax levy, including the approved separate proposal, within 15 days after authorization. The proposed rule will implement provisions of P.L. 2011, c. 202 that allow school districts to move the annual election from April to November and to raise additional tax levy through an approved separate proposal.

### **Subchapter 13. Budget Transfers, Underestimated Surplus and Deficits**

This subchapter clarifies provisions of N.J.S.A. 18A:22-8.1 regarding transfers during the budget year.

**N.J.A.C. 6A:23A-13.1 Commissioner adjusted tax levies; Commissioner budget reallocations and directives; transfers and underestimated year-end surplus**

This section clarifies restrictions on line item transfers from line accounts included in approved Commissioner waiver requests and establishes a waiver reserve when excess surplus results from a tax levy waiver.

The Department proposes to amend the section heading to delete “and underestimated year-end surplus” because statutory authority for Commissioner waiver requests has been repealed.

The Department proposes an amendment at N.J.A.C. 6A:23A-13.1(a), which prohibits waiver amounts and expenditure reallocations directed by the Commissioner to be transferred without prior approval. The Department proposes to delete the “waiver amounts approved by the Commissioner” to reflect the repeal of the Commissioner’s statutory waiver authority.

The Department proposes to delete N.J.A.C. 6A:23A-13.1(b), which requires certain reserve funds to be applied against a Commissioner waiver amount, because the statutory authority for Commissioner waivers has been repealed.

**N.J.A.C. 6A:23A-13.2 Executive County Superintendent reduction of administrative and non-instructional expenses; transfers prohibited**

This section prohibits transfers of funds into accounts during the year the executive county superintendent disapproved the spending in a school district’s proposed budget.

**N.J.A.C. 6A:23A-13.3 Transfers during the budget year**

This section sets forth the requirements and parameters for transfers of surplus and other unbudgeted and under budgeted revenue to increase spending, and the transfers of revenue during the first nine months of the year for an emergent circumstance. This section also establishes the requirements for approvals of line item budget transfers in excess of 10 percent

and of transfers to administrative and capital outlay accounts. This section requires a report be maintained of transfer requests.

The Department proposes an amendment at N.J.A.C. 6A:23A-13.3(b), which permits a district board of education to transfer surplus or other unbudgeted or underbudgeted revenue between April 1 and June 30 only upon prior approval and requires all approved transfer requests to be expended or encumbered for the approved use by June 30 or for the funds to be reserved and designated for tax relief in the subsequent budget year, to replace “tax relief” with “appropriation” to reflect the statutory change from a net budget cap to a tax levy cap.

The Department proposes N.J.A.C. 6A:23A-13.3(d)7 to allow district boards of education to appropriate, at any time without Commissioner approval, unbudgeted or underbudgeted revenue from school bus advertising or restricted fund balance that has been designated to offset fuel costs associated with the provision of transportation services. The proposed rule will bring the section into compliance with current law.

The Department proposes amendments at N.J.A.C. 6A:23A-13.3(f)1ii, which states a district board of education’s transfer request is deemed approved after 10 working days if the executive county superintendent’s approval or denial is not provided within that timeframe. The rule also requires the district board of education to maintain documentation of the executive county superintendent receipt of all transfer requests deemed approved. The proposed amendments will replace “after 10 working days” with “after 10 business days” and will replace “shall maintain documentation of the Executive County Superintendent receipt of” with “shall maintain proof in the form of a sent and received email receipt, or other form of documentation of proof of delivery to the executive county superintendent for.” The proposed amendments will clarify the rule requires school districts to provide adequate proof of delivery of the written appropriation line-item transfer request to the executive county superintendent.

#### **Subchapter 14. Reserve Accounts**

## **N.J.A.C. 6A:23A-14.1 Capital reserve**

This section sets forth procedures to establish a capital reserve account and to increase the balance or withdraw funds for use in capital projects.

The Department proposes an amendment at N.J.A.C. 6A:23A-14.1(b), which prohibits district boards of education from using funds in the capital reserve account for current expenses, to update the statutory reference to “N.J.S.A. 18A:22-8.2” with “N.J.S.A. 18A:21-4.”

The Department proposes an amendment at N.J.A.C. 6A:23A-14.1(b)2ii, which permits a district board of education to use capital reserve funds to augment a capital project funded in whole or part by bond proceeds only when voter or board of school estimate approval was received to augment the original approved question by special appropriation in a type I school district, by separate question at a special election, or through the appropriate line items and supporting documentation in the base budget at the annual school election. The Department proposes to add “or, for school districts that hold annual elections in November, through executive county superintendent approval of the base budget” at the end of the rule. State law now permits district boards of education to adopt a budget with a general fund tax levy increase less than or equal to two percent in lieu of holding an April vote on the budget. The proposed amendment will address the approval process as it relates to district boards of education that adopt a budget with a general fund tax levy increase less than or equal to two percent and are not required to hold an April vote on the budget. The proposed amendment will provide regulatory authority for a district holding the annual election in November to have the transfer approved by the executive county superintendent during the regular base budget approval process.

The Department proposes an amendment at N.J.A.C. 6A:23A-14.1(c)2, which authorizes the district board of education to increase the balance in the capital reserve account through an appropriation of excess unreserved general fund balance into the capital reserve fund with

approval from the executive county superintendent. The proposed amendment will add “anticipated” before “excess unreserved general fund balance” to clarify district boards of education can increase the balance in the capital reserve fund, concomitant with budget preparation, when the increase is approved by the executive county superintendent as part of the general fund budget.

The Department proposes an amendment at N.J.A.C. 6A:23A-14.1(e), which permits a district board of education to request additional funds from voters at budget time or by a special question at a special election, to replace “budget time” with “the April or November election, as applicable.” The proposed amendment will align the rule with current statutes that allow districts to hold elections in November rather than April (P.L. 2011, c. 202).

The Department proposes an amendment at N.J.A.C. 6A:23A-14.1(h)2, which authorizes the transfer of funds from the capital reserve account by district board of education resolution to fund the local share less excess costs of a school facilities project, to add “and approved pursuant to N.J.A.C. 6A:26-3.3.” The proposed amendment will clarify the excess cost of a school facilities project is based only on approved projects.

The Department proposes an amendment at N.J.A.C. 6A:23A-14.1(h)3, which authorizes the transfer of funds from the capital reserve account by district board of education resolution to fund the total costs less excess costs of an other capital project, to add “submitted and reviewed in accordance with N.J.A.C. 6A:26-3.11” after “an other capital project.” The proposed amendment will clarify the authorized transfer applies only to projects that have been submitted and reviewed.

The Department proposes an amendment at N.J.A.C. 6A:23A-14.1(h)4, which authorizes the transfer funds to the capital reserve projects by district board of education to adopt a resolution after receiving voter, board of school estimates, or capital project review board approval, as applicable. The proposed amendment will add “for a school facilities project

approved pursuant to N.J.A.C. 6A:26-3.3” to clarify the rule applies only to approved school facilities projects.

The Department proposes an amendment at N.J.A.C. 6A:23A-14.1(h)4, 5, 5i, 5iv, and 6 and (k)2, which authorize withdrawal from capital reserve funds under specific conditions and when approved by the district board of education, board of school estimate, or voters. The Department proposes to add “or executive county superintendent approval for a school district that holds the annual school election in November.” The proposed amendment will align the rules with the current law that permits district boards of education to hold elections in November. The proposed amendment will authorize the executive county superintendent to approve transfers because school district budgets do not appear on ballots when elections are held in November.

The Department proposes amendments at N.J.A.C. 6A:23A-14.1(h)6, which authorizes a district board of education to withdraw funds from the capital reserve account for the transfer of funds to the line items in the capital outlay major account/fund for the purchase of land if the district board of education passes a resolution and receives approval for the withdraw from the Commissioner, and voter, board of school estimate or capital projects review board approval. The proposed amendments will delete voter approval and add “in accordance with N.J.A.C. 6A:26-3.1; and voter approval for school districts with April elections, or executive county superintendent, or approval for a school district that holds the annual school election in November” at the end of the rule.

The Department proposes N.J.A.C. 6A:23A-14.1(h)8 to permit a withdrawal from capital reserve by district board of education resolution for transfer to the general fund for the purpose of funding the Schools Development Authority (SDA) debt assessment associated with grants the school district received in current or prior years. The rule will provide a related funding source for SDA levies upon a regular district board of education. Since 2010-2011, the State has charged fees to regular operating school districts that received SDA grants to fund school

renovations or the construction of schools. The assessment is a method to recoup some of the State's costs associated with school construction grants.

The Department proposes an amendment at N.J.A.C. 6A:23A-14.1(j)5ii, which requires a district board of education to record a capital reserve account on the annual audit's general fund sheet, in part, as Cr: Reserved Fund Balance – Capital Reserve Account. The proposed amendment will add “/Restricted” after “Reserved” to align the account names assigned to the sample journal entry with the governmental generally accepted accounting terminology as established by the Governmental Accounting Standards Board and with the New Jersey Minimum Chart of Accounts.

#### **N.J.A.C. 6A:23A-14.2 Maintenance reserve**

This section sets forth the procedures for district boards of education to establish and use maintenance reserve funds.

#### **N.J.A.C. 6A:23A-14.3 Supplementation of capital reserve and maintenance reserve accounts**

This section sets forth the procedures for a district board of education to supplement a capital or maintenance reserve.

#### **N.J.A.C. 6A:23A-14.4 Establishment of other reserve accounts**

This section establishes the procedures for a district board of education to establish and use a current expense emergency reserve, debt service reserve, and tuition reserve accounts.

This section also requires the exclusion from the budgeted fund balance and appropriation of the tuition adjustment reserve in the third year following the contract year for the tuition adjustment.

The Department proposes to delete N.J.A.C. 6A:23A-14.4(a)3iii, which excludes from the cap calculation the budgeted fund balance and appropriation of the tuition adjustment reserve in the third year following the contract year for the tuition adjustments, since the net budget cap calculation is no longer applicable under current statute. When P.L. 2007, c. 62 replaced the spending cap with a tax levy cap and the calculation of the cap was modified, the exclusion of budgeted fund balance and appropriation of tuition in the third year became irrelevant.

The Department proposes to recodify N.J.A.C. 6A:23A-14.4(a)3iv as new N.J.A.C. 6A:23A-14.4(a)3iii.

The Department proposes N.J.A.C. 6A:23A-14.3(a)4 to authorize district boards of education to establish a new school bus advertising reserve account for the purpose of retaining 50 percent of school bus advertising revenues, which must be used to offset transportation fuel costs pursuant to N.J.S.A. 18A:39-31.

The Department proposes N.J.A.C. 6A:23A-14.3(a)5 to authorize district boards of education to establish Federal Impact Aid reserves in the general fund for the purpose of retaining unspent Federal Impact Aid, pursuant to N.J.S.A. 18A:7F-41.c(3). P.L. 2015, c. 46 allowed separate Federal Impact Aid reserves to be created for general fund expenses and for capital expenses.

#### **N.J.A.C. 6A:23A-14.5 Reserve accounts recorded in accordance with GAAP; audit**

This section establishes the method in which reserve accounts and the corresponding capital gains or interest earned are recorded by a district and requires an annual audit.

### **Subchapter 15. State Aid Calculation and Aid Adjustments for Charter Schools**

## **N.J.A.C. 6A:23A-15.1 Definitions**

This section defines the language of the subchapter's essential components.

The Department proposes at N.J.A.C. 6A:23-15.1 to amend the definition of "certification," which means the endorsement of a person who is employed by a district board of education or a charter school board of trustees to perform duties regulated by N.J.A.C. 6A:9B, 6A:11 and 6A:23, and N.J.S.A. 18A:26-2, to delete the outdated citation for N.J.A.C. 6A:23.

The Department also proposes to amend the definition of "school year," which means July 1 to June 30 of any given academic year. If operating with an extended school year, this term means an alternate fiscal year beginning no later than September 1 and ending no later than August 31 of any given academic year, to replace "fiscal year" with "school year." The proposed amendment will clarify the fiscal year does not change with a charter school's implementation of an extended school year program. The school year may be different, but the fiscal year always ends June 30.

## **N.J.A.C. 6A:23A-15.2 Per pupil calculations, notification and caps**

This section details the procedures used to calculate charter school aid and initiate school district payments for the subsequent year.

The Department proposes an amendment at N.J.A.C. 6A:23A-15.2(c), which requires each charter school board of trustees to submit to the Commissioner by March 30 a budget summary, budget narrative, and cash flow statement, to replace "budget summary, budget narrative and cash flow statement" with "budget in the State-mandated format" for consistency with the new reporting format. The Department is in the process of developing an electronic reporting system for charter school budgets to improve accuracy and make the reporting

consistent with regular school district budgets. The new reporting system will require charter schools to provide a detailed line item budget that renders the budget narrative and cash flow statement unnecessary. The proposed amendment provides flexibility for the State to require an alternative format before the electronic reporting system becomes available.

### **N.J.A.C. 6A:23A-15.3 Enrollment counts, payment process and aid adjustments**

This section describes the process by which a student enrolls in a charter school and the payment method a school district uses to pay to the charter school.

The Department proposes an amendment at N.J.A.C. 6A:23A-15.3(g)1, which requires the district of residence and non-resident school district to initiate payments to the charter school based on projected enrollment, as set forth in N.J.A.C. 6A:23-9.4(a), to replace “N.J.A.C. 6A:23-9.4(a)” with “N.J.A.C. 6A:23A-15.3” because N.J.A.C. 6A:23 no longer is in effect.

The Department proposes to recodify N.J.A.C. 6A:23A-15.3(g)5ii and iii as N.J.A.C. 6A:23A-15.3(g)5i(4)(A) and (B), respectively. Current N.J.A.C. 6A:23A-15.3(g)5ii limits a change in the contractual payment provisions agreed upon by the charter school board of trustees and a district board of education to be effective only for the stated school year. Current N.J.A.C. 6A:23A-15.3(g)5iii requires copies of the district board of education and charter school board of trustees resolutions approving changes to the contractual provisions to be submitted to the Commissioner on or before July 1 of the applicable school year. The recodifications will move the rules under N.J.A.C. 6A:23A-15.3(g)5i(4), which authorizes the agreement. N.J.A.C. 6A:23A-15.3(g)5 concerns enrollment counts and is not relevant to payment adjustments.

### **N.J.A.C. 6A:23A-15.4 Procedures for private school placements by charter schools**

This section describes the processes by which a charter school sends a student to an out-of-district placement in a private school and by which a school district can appeal the placement.

The Department proposes an amendment at N.J.A.C. 6A:23A-15.4(a)1, which permits the district of residence to request from a charter school a copy of a student's records and requires the charter school to notify the parent that a copy of the records was forwarded, to update the Administrative Code citation for written notification of student records at N.J.A.C. 6A:32, School District Operations.

The Department proposes an amendment at N.J.A.C. 6A:23A-15.4(b)3, which requires due process hearings resulting from challenges to charter school placements to be addressed by an administrative law judge, to replace "these regulations" with "N.J.A.C. 6A:14-2.7." The latter provides the rules for due process under special education law.

As the Department has provided a 60-day comment period on this notice of proposal, the notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

The proposed readoption with amendments, repeals, and new rules govern essential activities that support the educational process and enhance fiscal accountability. The proposed readoption with amendments, repeals, and new rules also is based on the passage of new laws that limit the tax levy increase to two percent plus adjustments, and allow school districts to move the annual school election from April to November with no vote on the budget in a November election if the school district has proposed a budget within the two percent levy cap. The proposed readoption with amendments, repeals, and new rules will continue to protect the public interest by ensuring educational support activities will be conducted both in accordance with law and in a manner that benefits students and the general public. More than \$8 billion in

public tax dollars is provided to district boards of education and charter school boards of trustees Statewide to implement educational programs. The proposed re adoption with amendments, repeals, and new rules are essential to promote sound administrative practices and provide for the proper expenditure of funds. The proposed re adoption with amendments, repeals, and new rules also will continue to ensure district boards of education, charter school boards of trustees, and the public have access to necessary information to make informed policy decisions.

There should be no impact on consistent management of public monies since district boards of education, charter school boards of trustees, or private schools for students with disabilities still must conduct certain essential educational support activities in a consistent manner with sound administrative procedures and practices. Experience has shown the rules resolve problems, have a positive impact on educational programs and students, and benefit taxpayers.

### **Economic Impact**

The proposed re adoption with amendments, repeals, and new rules will have a positive impact on public schools, charter schools, and private schools for students with disabilities through the promotion of the proper expenditure of public funds by providing an orderly and efficient method for conducting essential education support activities.

The proposed re adoption with amendments, repeals, and new rules will continue this process and create an overall positive economic impact in terms of the degree of protection and accountability provided for the proper expenditure of public funds.

The proposed re adoption with amendments, repeals, and new rules do not require the employment of additional personnel. The Department anticipates no negative economic impact as a result of the proposed re adoption with amendments, repeals, and new rules.

## **Federal Standards Statement**

The proposed readoption with amendments, repeals, and new rules will not be inconsistent with or exceed Federal requirements or standards. The federal SEMI program is required by the State for school districts and private schools for students with disabilities. The regulations at N.J.A.C. 6A:23A-5.3 will be amended and a new rule added to conform to Federal regulations and requirements. There are no other Federal standards or requirements applicable to the proposed readoption with amendments, new rules, and repeals; therefore, a Federal standards analysis is not required.

## **Jobs Impact**

The Department does not anticipate the proposed readoption with amendments, repeals, and new rules will result in the generation or loss of jobs.

## **Agriculture Industry Impact**

The proposed readoption with amendments, repeals, and new rules impact solely upon New Jersey district boards of education, charter school boards of trustees, and private schools for students with disabilities. There will be no impact on the agriculture industry in New Jersey.

## **Regulatory Flexibility Analysis**

Private schools for students with disabilities meet the definition of a small business as that term is defined under Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. With the exception of N.J.A.C. 6A:23A-1.2, which provides definitions for terms used throughout the

chapter, the regulations within N.J.A.C. 6A:23A-1 through 15 do not apply to approved private schools for students with disabilities (APSSDs). Since the proposed readoption with amendments, repeals, and new rules in Subchapters 1 through 15 impact solely upon district boards of education and charter school boards of trustees, the rules do not impose reporting, recordkeeping, or other compliance requirements on APSSDs. Under N.J.A.C. 6A:23A, the rules for APSSDs are contained primarily in Subchapter 18, which is outside the scope of this rulemaking.

### **Housing Affordability Impact Analysis**

The proposed readoption with amendments, repeals, and new rules will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood the proposed readoption with amendments, repeals, and new rules would evoke a change in the average costs associated with housing. The proposed readoption with amendments, repeals, and new rules pertain to the operations of school districts, charter schools, and private schools for students with disabilities.

### **Smart Growth Development Impact Analysis**

The proposed readoption with amendments, repeals, and new rules will have an insignificant impact on smart growth and there is an extreme unlikelihood the proposed readoption with amendments and new rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The proposed readoption with amendments, repeals, and new rules concern the operations of public schools, charter schools, and private schools for students with disabilities.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative code at N.J.A.C. 6A:23A-1 through 15.

**Full text** of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 6A:23A-8.7, 10.1, 10.2, 11.3, and 12.1 through 12.12.

**Full text** of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

## CHAPTER 23A FISCAL ACCOUNTABILITY, EFFICIENCY, AND BUDGETING PROCEDURES

### SUBCHAPTER 1 PURPOSE, SCOPE, AND DEFINITIONS

#### 6A:23A-1.1 Purpose and scope

- (a) The purpose of these rules is to assure the financial accountability of **district** boards of education through enhanced State monitoring, oversight and authority, and to ensure [that] each district board of education adopts an annual budget that provides adequate resources to meet the State Constitution's mandate for a thorough and efficient system of free public schools for all children. These rules set forth the roles of the Commissioner of Education and the [Executive County Superintendent] **executive county superintendent** in overseeing **district** board of education budgeting and expenditures. The rules also establish mechanisms to ensure the efficient expenditure of budgeted funds in a manner consistent with a **school** district's approved annual budget.
- (b) Pursuant to these rules, the Commissioner [of Education] delegates to the [Executive County Superintendent those] **executive county superintendent** powers, tasks, and

duties that further support efficiency of **school** district operation pursuant to N.J.S.A. 18A:7F-43 et seq. and that complement the powers, tasks, and duties set forth in N.J.S.A. 18A:7-1 et seq.

1. The rules effectuate the provisions of **P.L. 2006, c. 15; P.L. 2007, c. 53; P.L. 2007, c. 62; P.L. 2007, c. 260[,]; P.L. 2007, c. 63[, and]; P.L. 2008, c. 36; P.L. 2008, c. 37; P.L. 2009, c. 19; P.L. 2010, c. 39; P.L. 2010, c. 44; P.L. 2010, c. 49; P.L. 2010, c. 121; P.L. 2011, c. 202; P.L. 2012, c. 78; P.L. 2013, c. 173; P.L. 2013, c. 280; P.L. 2015, c. 46; and P.L. 2015, c. 157.**
- [2. These rules supersede the rules at N.J.A.C. 6A:10, 6A:10A and 6A:23 where the provisions of those rules are inconsistent.]

#### 6A:23A-1.2 Definitions

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

**“Additional administrative position salary increment” means \$5,000 for an additional administrative position held by a superintendent as set forth in N.J.A.C. 6A:23A-3.1(e)2.**

"Additional **school** district salary increment" means [\$10,000] **\$15,000** for each additional **school** district served by a single superintendent pursuant to N.J.S.A. 18A:17-24.1.

["Adjusted for inflation” means indexed by the greater of the CPI or 2.5 percent.]

...

"Administrative cost" means total administrative costs as reflected in the [Comparative Spending] **Taxpayers' Guide to Education Spending** and defined in the Uniform Minimum Chart of Accounts for New Jersey Public Schools and by the National Center for [Educational] **Education** Statistics or (NCES)[)], as referred to at N.J.A.C. 6A:[23-2.2(f)1]**23A-16.2(f)1**, and other reporting directives published and distributed by the Commissioner pursuant to N.J.S.A. 18A:4-14 and N.J.A.C. [6A:23-2] **6A:23A-16.2**.

...

"Annual audit program" means the uniform program published and distributed by the Commissioner for preparation of the Comprehensive Annual Financial Report by a district board of education pursuant to N.J.S.A. 18A:4-14 and N.J.A.C. 6A:[23-2.2(i)]**23A-16.2(i)**.

"Annual salary" shall include, but not be limited to, base pay, **increments**, stipends or payments for additional positions, annuities, and/or longevity, and the total of [any] per diem payments.

"Authorized membership of the [school] **district board of education**" means the full membership of the district board of education as established pursuant to Title 18A of the New Jersey Statutes.

...

["Bilingual education pupil" means a resident pupil enrolled in a program of bilingual education or in an English as a second language program approved by the State Board of Education.]

...

“Capital maintenance” means as defined in N.J.A.C. 6A:[26A-1.3]**26-1.2.**

...

“Capital projects fund deficit” means the amount of the sum of expenditures and encumbrances for a capital project that exceeds the total amount of funds authorized for the capital project by the State, school district’s voters by referendum, the board of school estimate, or the capital projects control board, as applicable.

...

"Chief school administrator" means the superintendent pursuant to N.J.S.A. 18A:17-15[, or]; the administrative principal pursuant to N.J.S.A. 18A:17-20.5[, or]; the State district superintendent pursuant to N.J.S.A. 18A:7A-35 or 18A:7A-49 in the case of a **school** district under full or partial intervention[,]; or the lead person of a charter school as defined at N.J.A.C. 6A:11-1.2.

[“Combination pupil” means a resident pupil who is both an at-risk pupil and a bilingual education pupil as defined in N.J.S.A. 18A:7F-45.

"Commissioner" means the Commissioner of Education or his or her designee.

“Comparative Spending Guide” means the annual report of comparative financial statistics of districts compiled and published for general distribution by the Commissioner pursuant to N.J.S.A. 18A:4-30 and available on the Department’s website at <http://www.state.nj.us/njded/guide.>]

...

“Concentration of at-risk pupils” shall be based on prebudget year pupil data and means, for a school district or a county vocational school district, the number of at-risk pupils [among those] counted in resident enrollment, divided by resident enrollment pursuant to N.J.S.A. 18A:7F-45.

...

[“County superintendent roundtable” means the regularly scheduled meetings in each county with the chief school administrators in that county and the executive county superintendent.]

...

“Educational [Service Commission] **services commission**” or “ESC” means [Educational Service Commission] **an educational services commission** established pursuant to N.J.S.A. 18A:6-52.

"Efficiency standards" means the **efficiency** standards established [pursuant to N.J.S.A. 18A:7F-46 that are contained] **for the 2008-2009 school year** in Appendix E of the publication, A Formula for Success: All Children, All Communities, dated December 18, 2007, and available on the Department's website at <http://www.state.nj.us/education/sff/reports/AllChildrenAllCommunities.pdf>. The standards shall be [reestablished every three years in] **updated periodically through** the Educational Adequacy Report [pursuant] **according** to N.J.S.A. 18A:7F-46 [beginning with the 2011-12 school year].

...

["Energy costs" mean the cost of electricity, natural gas, and fuel oil.]

...

"Excess costs" means as [defined at N.J.A.C. 6A:26-1.2] **set forth in N.J.S.A. 18A:7G-3.**

"Executive [County Superintendent] **county superintendent**" means the [Executive County Superintendent of Schools] **executive county superintendent** or [Acting Executive County Superintendent of Schools] **acting executive county superintendent** pursuant to N.J.S.A. 18A:7-1 et seq.

["Extraordinary costs" mean particular expenditures beyond what is customary and usual in the operation of a public school district, that are beyond the control of the school district, that are necessary to achieve a "T&E" Education as determined by the Commissioner, and where said expenditures either were not included in the original budget of the prebudget year or increased by more than four percent of the amount included in the original budget of the prebudget year.]

**"Executive county superintendent roundtable" means the regularly scheduled meetings in each county with the chief school administrators in that county and the executive county superintendent.**

"Fiduciary funds" means the funds used to account for assets held by a district board of education in a trustee capacity or agency capacity for others[,] and, therefore, cannot be used to

support the district board of education's own programs.

["Forensic audit" means an audit conducted in a scientific fashion and in greater depth and specificity than the annual independent audit required by N.J.S.A. 18A:23-1, which is sufficiently thorough and complete so that an accountant, in his or her independent professional judgment, can deliver a finding as to accounts, inventories, or the presentation thereof that is of such high quality that it would be sustainable in an adversarial legal proceeding, or judicial or administrative review.]

"Fund" means a fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities or balances, and changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions, or limitations.

...

"Health care costs" mean the costs of medical and prescription drug insurance consistent with [those] benefits provided by the School Employees' Health Benefits Program.

"High school" means a public school [which] **that** is not a charter school **and** that may grant a State-endorsed diploma to students, pursuant to N.J.S.A. 18A:7C-4.

"High school salary increment" means [\$2,500] **\$5,000** for a **school** district served that includes a high school.

...

“Individualized education program” or “IEP” means as defined in N.J.A.C. 6A:14-[13]**1.3**.

...

“Job description” means a written specification of the function of a position, duties and responsibilities, the extent and limits of authority, and work relationships within and outside the school and **school** district.

["Lease purchase payment" means as defined at N.J.A.C. 6A:26-1.2.]

...

["Local public school district" or “school district” means any local or regional school district established pursuant to N.J.S.A. 18A:8 or 18A:13, or a school district under full State intervention pursuant to N.J.S.A. 18A:7A-34, but not including a charter school established pursuant to N.J.S.A. 18A:36A-1 et seq. unless specified otherwise.]

...

"Maximum salary amount" for superintendents means [\$125,000] **\$147,794** for any **school** district(s) [or districts] with a total enrollment of [250] **749** or less based on the enrollment figures in the Application for State School Aid (ASSA) filed by the district(s) on the prior October 15; [\$135,000] **\$169,689** for any district(s) [or districts] with a total enrollment of 750 [or less but greater than 250] **to 2,999** based on the enrollment figures in the ASSA filed by the

district(s) on the prior October 15; [\$145,000] **\$191,584** for any **school** district(s) [or districts] with a total enrollment [of 1,500 or less but] greater than [750] **3,000** based on the enrollment figures in the ASSA filed by the district(s) on the prior October 15[; \$155,000 for any district or districts with a total enrollment of 3,000 or less but greater than 1,500 based on the enrollment figures in the ASSA filed by the district(s) on the prior October 15; \$165,000 for any district or districts with a total enrollment of 6,500 or less but greater than 3,000 based on the enrollment figures in the ASSA filed by the district(s) on the prior October 15; and \$175,000 for any district or districts with a total enrollment greater than 6,500 based on the enrollment figures in the ASSA filed by the district(s) on the prior October 15]. [The] **Upon the expiration of a contract in effect on July 1, 2016, a superintendent reappointed for a subsequent term with the same school district may receive an annual salary that exceeds the maximum salary amount by up to two percent in the first year of the renewal contract, followed by annual increases of up to two percent in each of the remaining years of the renewal contract and any contract thereafter. If the contract in effect on July 1, 2016, is not the superintendent's initial contract with that school district, the superintendent can renegotiate at any time following the effective date of these regulations and may receive an annual salary moving forward that exceeds the maximum salary amount by up to two percent in the first year of the renewal contract, followed by annual increases of up to two percent in each of the remaining years of the renewal contract and any contract thereafter. However, the superintendent shall not receive any retroactive or back pay as part of that renegotiation. For any school district(s) with a total enrollment of 10,000 or more based on the enrollment figures in the ASSA filed by the school district(s) on the prior October 15, the** Commissioner, upon written application by the **district** board(s) of education and on a case-by-case basis, may approve a waiver of the maximum salary amount [for any district or districts with a total enrollment of 10,000 or more based on the enrollment figures in the ASSA filed by the district(s) on the prior October 15]. **The eligible district board(s) of education may only**

**submit one waiver request during the term of a contract; requests for a renegotiated waiver during the term of a contract are prohibited.**

["Member of immediate family" means the spouse, civil union partner pursuant to N.J.S.A. 37:1-33, domestic partner pursuant to N.J.S.A. 26:8A-1 et seq. or dependent child of the individual residing in the same household.]

...

["Net budget" means the sum of the school district's general fund tax levy, State aid payable pursuant to the provisions of N.J.S.A. 18A:7F-43 et seq. other than preschool education aid, miscellaneous revenue estimated pursuant to GAAP, and designated general fund balance.]

...

"New Jersey Student Learning Standards" or "**NJSLS**" means [the student achievement standards adopted and revised every five years by the State Board of Education, pursuant to N.J.S.A. 18A:7F-46. The standards ensure that all children are provided the educational opportunity needed to equip them for the role of citizen and labor market competitor] **as defined in N.J.A.C. 6A:8-1.3.**

["New school facility" means any new school facility, or new addition to an existing school facility characterized by an increase in the gross square footage of the facility, used wholly or in part for educational purposes by a district board of education, but excludes stadiums, grandstands, garages, facilities used for non-instructional and non-educational purposes, and any facility used solely for administration. It also excludes renovations to existing space that do not

increase the gross square footage of the facility.]

...

["Permanent fund" means a fund used to report resources that are legally restricted to the extent that only earnings, and not principal, may be used for purposes that support the reporting district board of education's programs.]

"Prebudget year," as defined by N.J.S.A. 18A:7F-45, means the school fiscal year preceding the year in which the school budget is implemented.

"Prebudget year adjusted tax levy" means the adjusted tax levy of the prebudget year less [approved waivers and/or] separate question(s) unless explicitly approved to be permanent.

["Preliminary budget" means the budget approved by the district board of education as part of a waiver request submission to the Department prior to submission of the proposed budget required pursuant to N.J.S.A. 18A:7F-5(c).]

"Presumptive efficient spending level" means the State median cost per pupil of the prebudget year as reflected in the [Comparative Spending] **Taxpayers' Guide to Education Spending** by indicator for the applicable operating type and enrollment range adjusted by the increase in CPI, or the efficiency standards established pursuant to N.J.S.A. 18A:7F-46 and used in the calculation of the adequacy budget pursuant to the provisions of N.J.S.A. 18A:7F-51, whichever is more appropriate and comparable for the particular spending category under review as determined by the Commissioner.

“Proposed budget” means the budget required pursuant to N.J.S.A. 18A:7F-5[(c)].c.

"Proprietary funds" means the funds used to account for district board of education activities where the reporting focus is on the determination of operating income, financial position, and cash flow. Proprietary funds include enterprise and internal service funds.

“Regional school district” means a limited-[purpose] or all-purpose public school district established on a regional basis pursuant to N.J.S.A. 18A:13-1 et seq.

"Relative" means an individual's spouse, civil union partner pursuant to N.J.S.A. 37:1-33, domestic partner as defined in N.J.S.A. 26:8A-3, or the parent, child, sibling, aunt, uncle, niece, nephew, grandparent, grandchild, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half-brother, or half-sister of the individual or of the individual’s spouse, civil union partner, or domestic partner, whether the relative is related to the individual or the individual’s spouse, civil union partner, or domestic partner by blood, marriage, or adoption.

"Required maintenance" means as defined in N.J.A.C. 6A:[26A-1.3]**26-1.2**.

“School business administrator” or “SBA” means the school business administrator appointed pursuant to N.J.S.A. 18A:17-14.1 or any other title used for the chief financial officer of the **school** district, such as assistant superintendent for business or assistant superintendent for finance, and requiring the school business administrator endorsement pursuant to [the provisions of] N.J.A.C. 6A:9B-11.3(d).

...

“School district vehicle” means a vehicle purchased, leased, lease-purchased, or acquired without cost by gift, donation, or other method by the school district regardless of funding source.

["School facilities project" means as defined in N.J.A.C. 6A:26-1.2 and pursuant to N.J.S.A. 18A:7G-3.]

...

**"School facilities project" means as defined in N.J.A.C. 6A:26-1.2 and pursuant to N.J.S.A. 18A:7G-3.**

...

"Sending[/]-receiving relationship" means an agreement between two district boards of education, one of which does not have the facilities to educate in-district an entire grade(s) or provide an entire program(s), and as an alternative sends such students to a district board of education having such accommodations and pays tuition, pursuant to N.J.S.A. 18A:38-8 et seq.

"Shared service" means any educational or administrative service required to be performed by a district board of education in which the **school** district, with **district board of education** approval, is able and willing to share in the costs and benefits of that service with another district board of education, municipality, or other governmental unit, as authorized by the [Interlocal] **Uniform Shared Services and Consolidation** Act at N.J.S.A. [40:8A-1] **40A:65-1** et seq. and in compliance with existing school laws at N.J.S.A. 18A, but does not include sending[/]-receiving relationships.

...

["Spending growth limitation" means the annual rate of growth permitted in the net budget of a school district, county vocational school district or county special services school district as measured between the net budget of the prebudget year and the net budget of the budget year as calculated pursuant to N.J.S.A. 18A:7F-5(d) (authorization for spending growth limitation adjustments) and 18A:7F-5a (authorization for cap banking).]

...

“Student [Activity Fund] **activity fund**” means a fund used to account for monies derived from athletic events or other activities of pupil organizations and to account for the accumulation of money to pay for student group activities.

“Subsistence” means lodging, meals, and incidental expenses associated with traveling.

“Superintendent” means the superintendent of schools appointed pursuant to N.J.S.A. 18A:17-15, [or where there is no superintendent] the administrative principal appointed pursuant to N.J.S.A. 18A:17-20.5, or the State district superintendent appointed pursuant to N.J.S.A. 18A:7A-35 or 18A:7A-49 in [the case of] a school district under full or partial State intervention.

...

**"Taxpayers' Guide to Education Spending" or "TGES" means the annual report of comparative financial statistics of school districts compiled and published for general distribution by the Commissioner, pursuant to N.J.S.A. 18A:4-30, and available on the**

**Department's website.**

...

"Thoroughness standards" means the New Jersey Student Learning Standards as approved by the State Board pursuant to N.J.S.A. 18A:7F-[46a]**46.a.**

"Travel expenditures" means those costs paid by the school district using local, State, or Federal funds, whether directly by the school district or by employee reimbursement, for travel by school district employees and district board of education members to the following five types of travel events:

1. "Training and seminars" means all regularly scheduled, formal residential or non-residential training functions, conducted at a hotel, motel, convention center, residential facility, or at any educational institution or facility;
2. "Conventions and conferences" means general programs, sponsored by professional associations on a regular basis, which address subjects of particular interest to a school district or are convened to conduct association business. The primary purpose of employee attendance at conferences and conventions is the development of new skills and knowledge or the reinforcement of those skills and knowledge in a particular field related to school district operations. These are distinct from formal staff training and seminars, although some training may take place at such events;
3. "School district sponsored events" means conferences, conventions, receptions, or special meetings, where the school district plans, develops, implements, and coordinates the event and is the event's primary financial backer. School district employees are actively involved in working the event and other employees may

attend as participants;

4. "Regular school district business travel" means all regular official business travel, including attendance at meetings, conferences and any other gatherings [which] **that** are not covered by the definitions included in 1, 2, and 3 above. Regular school district business travel also includes attendance at regularly scheduled [in-state] **in-State** county meetings and Department sponsored or association sponsored events provided free of charge and regularly scheduled [in-state] **in-State** professional development activities with a registration fee that does not exceed \$150.00 per employee or **district board of education** member. Beginning in 2009-2010, the \$150.00 limit per employee or **district board of education** member may be adjusted by inflation; and
5. "Retreats" means meetings with school district employees and [school] **district board of education** members, at which organizational goals and objectives are discussed.

...

["Unrestricted State aid" means State aid as defined in N.J.S.A. 18A:7F-37.

"Unused spending authority" means the amount pursuant to N.J.S.A. 18A:7F-5a of the difference between the net budget of a school district, county vocational school district or county special services school district, and the permitted net budget as authorized pursuant to N.J.S.A. 18A:7F-5(d).]

**"Unused tax authority" means the amount of the difference between the maximum allowable amount to be raised by taxation for the current school budget year and the actual**

**amount to be raised by taxation for the current school budget year, pursuant to N.J.S.A. 18A:7F-39.**

"Weighted resident enrollment" means the differentials in costs based on the efficiency standards, established pursuant to N.J.S.A. 18A:7F-46[(a)].**a** of providing education at the kindergarten, elementary (grades one through five), middle school (grades six through eight) and high school levels (grades nine through 12), which are determined by dividing the elementary cost per pupil into each category. The weights are applied to resident enrollment in each category pursuant to N.J.S.A. 18A:7F-50.

## SUBCHAPTER 2 EXECUTIVE COUNTY SUPERINTENDENT OF SCHOOLS

6A:23A-2.1 General powers and duties of [Executive County Superintendent] **executive county superintendent**

- (a) Each [Executive County Superintendent] **executive county superintendent** shall exercise and perform the general powers and duties vested in him or her pursuant to N.J.S.A. 18A:7-8.
- (b) Nothing in this section shall be construed or interpreted to contravene or modify the provisions of the New Jersey Employer-Employee Relations Act, P.L. 1941, c. 100, (N.J.S.A. 34:13A-1 et seq.), or to limit or restrict the scope of negotiations as provided pursuant to law, or to require an employer to enter into a subcontracting agreement [which] **that** affects the employment of any employee in a collective bargaining unit represented by a majority representative during the time that an existing collective bargaining agreement with the majority representative is in effect.

6A:23A-2.2 School district regionalization and consolidation of services advisory committee

- (a) Each [Executive County Superintendent] **executive county superintendent** shall create a School District Regionalization and Consolidation of Services Advisory Committee ([Advisory Committee] **advisory committee**) for the purpose of providing advice and consultation to the [Executive County Superintendent] **executive county superintendent** on the issue of regionalization of school districts or consolidation of school district services. The Advisory Committee shall consist of representation from each **school** district in the county and shall meet on a monthly basis. At least quarterly, county representatives from the New Jersey Leadership for Educational **Excellence** (LEE) Group will be invited by the [Executive County Superintendent] **executive county superintendent** to attend and participate in the **advisory committee** meetings [of the Advisory Committee]. The LEE Group is composed of the New Jersey Education Association, the New Jersey Principals and Supervisors Association, the New Jersey School Boards Association, New Jersey Association of School Business Officials, the New Jersey Association of School Administrators, and the New Jersey Congress of Parents and Teachers. The [Executive County Superintendent] **executive county superintendent** may designate the county superintendent roundtable as the Advisory Committee, if appropriate. If the roundtable is used, attendance by the above organizations shall include only the portion of the roundtable meeting dedicated to the issue of regionalization and consolidation of services.
- (b) The [Executive County Superintendent, in his or her discretion,] **executive county superintendent** may create one or more advisory subcommittees that address issues by subject matter, by region or by some other method. [Members of the subcommittees] **Subcommittee members** may be local taxpayers or residents, [school] **district board of education** members, [school district] employees, school district parents, local

government officials, representatives of State or local education associations, or others, as deemed appropriate by the [Executive County Superintendent] **executive county superintendent**. The membership shall reflect the diversity of the county to the extent possible.

- (c) The [Executive County Superintendent] **executive county superintendent**, in his or her discretion, shall determine the working structure of the advisory subcommittees as he or she deems most effective and efficient.
- (d) The [Executive County Superintendent] **executive county superintendent** shall coordinate the work of the advisory subcommittees and shall report on the progress of that work to the [Advisory Committee] **advisory committee** at its monthly meetings.
- (e) The [Executive County Superintendent] **executive county superintendent** shall report on the progress of the advisory committee and advisory subcommittees' work at the regularly scheduled **executive county superintendent** roundtables, where appropriate.
- (f) The [Executive County Superintendent] **executive county superintendent** may **take**, [in his or her discretion] where necessary, [take] appropriate action to engage consultants to perform the work and studies required by these rules, including assisting **school** districts in submission of applications for funds under the SHARE program pursuant to N.J.S.A. 40A:65-30.
- (g) The [Executive County Superintendent] **executive county superintendent** shall encourage the advisory subcommittees to solicit input, to the extent possible, from current school employee representatives regarding regionalization and consolidation of services proposals.

#### 6A:23A-2.3 Consolidation and sharing of services; joint and cooperative purchasing

- (a) The [Executive County Superintendent] **executive county superintendent**, in

consultation with the Advisory Committee, shall study the consolidation of [local public] school districts' administrative services, to the extent practical. In particular, the [Executive County Superintendent] **executive county superintendent** shall focus on identifying opportunities for consolidation of administrative services in the following types of **school** districts:

1. Any [local public] school district with enrollment of 1,000 students or less;
2. Any [local public] school district with five **or fewer** school buildings [or less];
3. Two or more contiguous local public school districts of the same county with a combined enrollment of 2,500 students or less;
4. [Local public school] **School** districts that receive non-resident pupils pursuant to a formal send-receive agreement and their sending districts with a combined enrollment of 5,000 students or less;
5. Limited-purpose regional school districts and their [feeder] **member** school districts with a combined enrollment of 5,000 students or less; and
6. Any [local public] school district with an administrative cost per pupil in excess of 125 percent of the county median administrative cost per pupil.

(b) The study shall include consideration of the following models:

1. Shared leadership models where one or more [local public] school districts share the services and cost of one or more administrators pursuant to [the provisions of] N.J.S.A. 18A:17-24.1 et seq.
2. Consortiums such as ESCs, CSSSDs, [Jointure Commissions] **jointure commissions**, [Jointure] **jointure** agreements, and [Audio/Visual Aides Commissions] **audio/visual aides commissions**;
3. (No change.)

4. Shared purchased services models for [such] services **such** as accounting, graphic arts and printing, child study team services, transportation, food services, employee recruitment and screening services, and substitute calling services;
  5. (No change.)
  6. Other consolidated administrative services and non-instructional services arrangements, including but not limited to, regional school districts or [County Offices of Education] **county offices of education** pursuant to the provisions of N.J.S.A. 18A:7-12; or
  7. The study may also consider the feasibility of “alternative approaches” for [public school district] **the** sharing or consolidating administrative or management services between **school** districts. If [such] an alternative approach [is proposed] that is not currently authorized by statute **is proposed**, [such] **the** alternative approach shall not be implemented unless and until [the] statutory authorization for [such an] **the** alternative approach is duly enacted.
- (c) The [Executive County Superintendent] **executive county superintendent** shall also study ways to promote cooperative purchasing of textbooks and other instructional materials with the expectation that [the local public] school districts, ESCs, CSSSDs, and [jointures] **jointure commissions** shall be the primary entities for procuring such materials for the operation of [public] school districts.
- (d) As part of the study, the [Executive County Superintendent] **executive county superintendent** may conduct a survey of all [local public] school districts [of] **in** the county, [county vocational schools] **CVSDs**, CSSSDs, [and] ESCs, and other county- or regional-based entities to determine the scope of administrative services currently available within or outside the county and the capacity of administrative service providers to provide said services.
- (e) As part of the study, the [Executive County Superintendent] **executive county**

**superintendent** may solicit proposals, as necessary, from [local public] school districts, ESCs, [county vocational schools] **CVSDs**, **CSSSDs**, or other county entities to expand the scope of available administrative services and/or provider capacity to provide said services.

(f) Based on the study conducted pursuant to (a) through (e) above, the [Executive County Superintendent] **executive county superintendent** shall make **to the Commissioner** one or more of the following recommendations [to the Commissioner]:

1. Where a cost/benefit analysis demonstrates [that] the consolidation of one or more administrative services is economically advantageous and the consolidation of said service(s) [or services] will have no negative impact on a [local public] school district's educational program, the [Executive County Superintendent] **executive county superintendent** shall recommend [that] the **school** districts be required to enter **into** arrangements to consolidate administrative services.
2. Where it is determined that designation of one or more lead administrative service providers for one or more specific available administrative services are most effective and efficient and are in the best interest(s) of the [local public] **county's** school districts [of the county], the [Executive County Superintendent] **executive county superintendent** shall recommend such designation(s).
3. Where the establishment of a new administrative service provider(s) or shared service administrative arrangement(s) or expansion of administrative services delivered by a current provider within the county is in the best interests of the [local public] **county's** school districts [of the county], the [Executive County Superintendent] **executive county superintendent** shall recommend the establishment or expansion of provider(s) for administrative services[,] such as:
  - i. An [Educational Service Commission] **ESC**, pursuant to N.J.S.A. 18A:6-52;

- ii. A county department of child study to coordinate special education services and basic child study team services on a county[-]wide basis, pursuant to N.J.S.A. 18A:46-3 and, when applicable, N.J.S.A. 18A:7-12;
- iii. A [County Special Services School District] **CSSSD**, pursuant to N.J.S.A. 18A:46-29;
- iv. – vii. (No change.)

(g) The topic of consolidated administrative services shall be an item on the agendas of the [Executive County Superintendents] **executive county superintendents** and [County School Business Administrators] **county school business officials** for their respective countywide roundtable meetings at least once each quarter. Presentations may include school district success stories, service provider availability and capacity, **and** new or additional administrative service needs or suggestions to improve existing shared administrative services.

6A:23A-2.4 Elimination of school districts that are not operating schools

- (a) The [Executive County Superintendent] **executive county superintendent** shall submit to the Commissioner a plan to eliminate [those local] public school districts that are not operating schools. The plan shall address, but not be limited to, the following issues:
  - 1. The [Executive County Superintendent’s] **executive county superintendent** recommendation as to the most appropriate local public school district within the county for the “school district not operating a school” with which to consolidate that results in the least disruption on educational delivery, **school** district operations, and local finances, including the allocation of tax levy and State aid. The current receiving **school** district shall be considered the presumptive, most appropriate, local public school district that results in the least disruption. Factors

to rebut this presumption include the receiving **school** district's status under the No Child Left Behind Act whether the **school** district [that is] not operating a school is currently sending to [two different] **multiple school** districts, and the [long term] **long-term** goal of creating regional [local] school districts ([pre-K or K] **preschool or kindergarten** to grade 12);

2. (No change.)
3. A general description of the constituent school districts, including, but not limited to, the board(s) of education, school buildings, enrollment, grade levels by school district, and financial information. The financial information shall include, but not be limited to, revenues and appropriations, ratables, borrowing margins, general fund and debt service fund tax levies, and State aid;
4. – 6. (No change.)
7. A comparison of the estimated State aid and property tax impact for the proposed new school district and the sum of State aid and property taxes for the constituent school districts as currently authorized by statute. The [Executive County Superintendent] **executive county superintendent** may consider alternative approaches to the allocation of property taxes and State aid if such approach results in the least financial disruption to the constituent **school** districts. If [such] an alternative approach [is proposed] that is not currently authorized by statute **is proposed**, [such] **the** alternative approach shall not be implemented unless and until [the] statutory authorization for [such an] **the** alternative approach is duly enacted;
8. A description of the new district board of education as currently authorized by statute, including a description of the constituent [school] districts' boards of **education**. The [Executive County Superintendent] **executive county superintendent** may consider an alternative approach to the new district board of

education. If [such] an alternative approach [is proposed] that is not currently authorized by statute **is proposed**, [such] **the** alternative approach shall not be implemented unless and until [the] statutory authorization for [such an] **the** alternative approach is duly enacted;

9. District-specific issues and concerns, including, but not limited to, building ownership by the **school** district that is currently not operating a school, potential loss of Federal [impact] **Impact** aid or other special revenue sources, and new transportation concerns. If the **school** district that is currently not operating a school owns a building(s), a description of the building(s) and plan for the building to be transferred to the municipality in which the **school** district that is currently not operating a school is located, unless a deed restriction on [said] **the** building(s) indicates otherwise;
10. The process to liquidate all remaining assets and close the fiscal books of the **school** district that is no longer operating a school, including arranging for the final audit. All remaining cash and fund balances after completion of [this] **the** liquidation process shall be transferred to the municipal government of the **school** district no longer operating a school; and
11. (No change.)

#### 6A:23A-2.5 Plan for **school** district consolidation to create regional school districts

- (a) The [Executive County Superintendent] **executive county superintendent**, in consultation with the [Advisory Committee] **advisory committee**, shall study the consolidation of [local public] school districts within the county, other than county school districts and [other then] **school districts operating** preschool or kindergarten through grade 12 [operating] schools [districts in the county], into one or more all-purpose

regional school districts. The study shall **focus**, to the greatest extent practicable, [focus] on the consolidation of [existing local public] school districts that receive students [from school districts] on a tuition basis with [those] **the** sending school districts, and the consolidation of limited-purpose regional school districts that receive students from constituent municipalities to create enlarged all-purpose regional school districts. The study may also consider [public] school district models of “alternative approaches” from consolidating or sharing administrative or management services between **school** districts where creation of an all-purpose regional **school** district is not feasible or is not the most cost-effective option. If [such an] **a proposed** alternative approach [of consolidating or sharing administrative or management services between districts is proposed that] is not currently authorized by statute, and the plan with the alternative approach is approved by the Commissioner pursuant to (b) below, the proposal shall not be submitted to the voters in a special election pursuant to N.J.S.A. 18A:7-8, unless and until statutory authorization for [such] **the** alternative approach is duly enacted.

(b) Based on the study required in (a) above, the [Executive County Superintendent] **executive county superintendent** shall submit to the Commissioner a plan to achieve this purpose no later than March 15, 2010, pursuant to N.J.S.A. 18A:7-8[(h)].**h**. The plan shall contain, but not be limited to, the following issues:

1. A general description of the proposed all-purpose regional school district(s) [or school districts], including the names of the constituent [local public] school districts, school buildings and grade levels by school district, and the area of the total proposed regional school district;
2. The proposed structure of the new **district** board of education of the proposed all-purpose regional **school** district, if applicable, that ensures representation from all constituent communities;

3. An analysis of administrative staffing, collective bargaining agreements, and compensation guides of the constituent school districts and recommendations and guidance for the proposed regional school district, including, but not limited to:
  - i. The existing administrative organization structures of each constituent [local public] school district;
  - ii. – iii. (No change.)
  - iv. A summary report showing each constituent [local public] school district's first step and last step of the salary guides for the current and last year of each school district's current bargaining agreement(s), showing the lowest and highest starting salaries among the salary guides and the lowest and highest top salaries among the salary guides for the current and last year of each school district's current bargaining agreement(s), the length of the guide, each school district's current average teacher salary and average years of service, and any provisions for longevity pay;
  - v. (No change.)
  - vi. A recommended framework to assign, recruit, interview, and employ administrative staff in accordance with the positions on the recommended administrative organization chart in accordance with N.J.S.A. 18A:6-31.3 through 31.7; and
  - vii. A recommended framework to assign, recruit, interview, and employ other teaching staff members and other staff in accordance with N.J.S.A. 18A:6-31.3 through 31.7;
4. An analysis of each proposed constituent [public] school district's educational program and recommendations and guidance for establishing the educational program of the proposed regional school district;
5. An analysis of potential opportunities for greater effectiveness and efficiency,

including, but not limited to:

- i. Consolidation of special education programs and services consistent with the requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1400 et seq., State statutes and regulations (examples: more efficient inclusive practices, returning out-of-district placements, staff consolidation, and maximization of special education class sizes to legal limits);
  - ii. Maximization of [pupil] **student** transportation cost savings and other efficiencies through coordinated bell schedules, tiered bus routes, and other efficiencies created by the consolidation of transportation management services;
  - iii. – iv. (No change.)
  - v. Other areas of consolidation and economies of scale such as staff development, curriculum development, health services, guidance services, media services, extra- and co-curricular activities, and **plant** operation and maintenance [of plant];
6. An analysis of [socio-economic] **socioeconomic** and demographic information, including, but not limited to:
- i. Current and projected enrollment data for the succeeding five school years by location, school, and grade, and for the proposed regional school district as a whole;
  - ii. Enrollment data by location, school, and grade showing the **student population's** current racial composition [of the student population] and the resulting racial composition for the proposed regional school district as a whole;
  - iii. Enrollment data showing the school food service eligibility status (free,

reduced, or paid) of the student population by location, school, and grade, and for the proposed regional school district as a whole; and

- vi. Attendance areas by school building, grade, [and] current and projected enrollment of the constituent school districts, and recommended grade configurations and attendance areas for each existing and proposed school building, if applicable, of the proposed regional school district;
7. A summary of the advantages and disadvantages **for each constituent school district** of forming an all-purpose regional **school** district [for each constituent school district];
8. A recommendation by the [Executive County Superintendent] **executive county superintendent** regarding the formation of the proposed regional school district;
9. If the recommendation of the [Executive County Superintendent] **executive county superintendent** is to form a regional school district, the following additional information shall be included in the plan:
  - i. – ii. (No change.)
  - iii. A comprehensive financial analysis of current and projected spending, local community wealth, debt limit, and current debt burden, including, but not limited to:
    - (1) (No change.)
    - (2) The aggregate equalized valuation, average equalized valuation, and equalized valuation per pupil of each constituent school district or, if a constituent school district is a regional school district, of each municipality of the regional school district;
    - (3) The aggregate income, average household income, and aggregate income per pupil of each constituent [local public] school district or, if a constituent school district is a regional school district, of

each municipality of the regional school district;

- (4) The borrowing margin of each constituent [local public] school district or, if a regional school district, each municipality of the regional school district, and the projected borrowing margin of the proposed regional school district as determined in accordance with N.J.S.A. 18A:24-1 et seq.;
- (5) A schedule showing for each constituent [local public] school district, or if a regional school district, its municipalities, the original and current debt principal balance(s) and remaining debt service schedule(s) by debt issuance, and percentage of each constituent school district's debt principal **relative** to the aggregate debt principal of all proposed constituent school districts;
- (6) The individual and aggregate historical and replacement costs as of June 30 of the school year prior to the year in which the plan is issued of school buildings and additions, grounds, furnishings, and equipment of each constituent school district and for the proposed regional school district, as a whole; and
- (7) The individual and aggregate projected additional costs as of June 30 of the school year prior to the year in which the plan is issued contained in each constituent school district's approved [Long-Range Facilities Plan] **LRFP** of school buildings and additions, grounds, furnishings, and equipment of each constituent school district and for the proposed regional school district, as a whole; and

- iv. A [Long-Range Facilities Plan] **LRFP** for the regional school district, if new schools and/or additions are recommended that are not currently

reflected in the existing plans of the constituent school districts; and

10. If the recommendation of the [Executive County Superintendent] **executive county superintendent** also includes an alternative approach for consolidating or sharing administrative or management services, the information in (b)1 through 8 above, as applicable, related to the alternative approach(es) shall be included in the plan.

#### 6A:23A-2.6 Transportation efficiency study

- (a) Each [Executive County Superintendent] **executive county superintendent** shall complete a study of pupil transportation services in the county no later than July 12, 2009, pursuant to N.J.S.A. 18A:7F-57. The **study's** purpose [of the study] shall be to determine ways to provide [pupil] **student** transportation services in a more cost-effective and efficient manner. The study shall be transmitted upon completion to the Commissioner and to the Legislature pursuant to N.J.S.A. 52:14-19.1.
- (b) For the study of pupil transportation services pursuant to (a) above, the [Executive County Superintendent will] **executive county superintendent shall** examine ways to promote coordination and regionalization of [pupil] **student** transportation services of [public] school districts and nonpublic schools, including, but not limited to:
  1. The coordination of bus routes, bell schedules, and school calendars within the county for both public and nonpublic schools;
  2. Staggering bell schedules [in order] to implement a tiered system of busing within the school district and with adjoining school districts;
  3. – 6. (No change.)
  7. Improving cooperation between [local] **district** boards of education and nonpublic school administrators leading to more efficient and effective student

transportation services; and

8. (No change.)

#### 6A:23A-2.7 Shared special education services

(a) The [Executive County Superintendent] **executive county superintendent** shall promote and facilitate the sharing of special education services consistent with Individuals with Disabilities Education Act, P.L. 105-17, (IDEA) requirements as follows:

1. Coordinate with the Department to maintain a real time Statewide and [district-wide] **districtwide** database that tracks the types and capacity of special education programs being implemented by each [local] school district and the number of students enrolled in each program to identify program availability and needs;
2. Coordinate with the Department to maintain a Statewide and [district-wide] **districtwide** list of all special education students served in out-of-district programs and a list of all public and private entities approved to receive special education students that includes pertinent information such as audit results and tuition charges;
3. Serve as a referral source by maintaining information on placement options available in other [local] school districts and their tuition rates for school districts that do not have appropriate in-district programs for individual special education students;
  - i. When school personnel serving on an IEP team are considering that a student's IEP be implemented in a special class program that is not available in-district, they shall inform the [Executive County Superintendent] **executive county superintendent** of the **student's** age

[of the student] and the class type [that they are considering] **being considered.**

- ii. The [Executive County Superintendent] **executive county superintendent** shall identify whether [such] special class programs are available in other [local] **school** districts and if there are vacancies. The [Executive County Superintendent] **executive county superintendent** shall inform the district of any available in-district programs for [the consideration of] the IEP team's **consideration.**
- iii. Prior to making a determination regarding the student's placement, the school district shall convene a meeting of the IEP team to consider all placement options, including placements identified by the [Executive County Superintendent] **executive county superintendent**, and shall identify the appropriate placement in the least restrictive environment according to [the requirements of] N.J.A.C. 6A:14.
- iv. After an IEP team determines a placement other than one of the placement options identified by the [Executive County Superintendent] **executive county superintendent**, the school district shall provide a written explanation as to why the placement option selected was the appropriate one for the purpose of identifying program gaps and needs within [local public] **school district** programs;
4. Conduct regional planning, identify the program needs of the county, and work with school districts in the development of in-district special education program options;
5. Identify special class programs within the **county's** school districts [of the county] serving students with like IEPs that may be appropriately consolidated within legally permissible class size limits within one school or school district;

6. Maintain a list of appropriately licensed and/or certified professionals or appropriate county entities, and their fees, available to provide related services such as speech, physical therapy, or occupational therapy, on an as-needed basis;
7. Maintain a list of appropriately licensed or certified professionals or appropriate county entities, and their fees, able to participate or provide appropriately licensed and/or certified professionals to participate on or supplement [local] school district child study teams;
8. With consideration of school districts' size, classification rates, types of classifications, caseloads, geographic proximity, staffing, budget constraints, or other available information, investigate the feasibility of two or more school districts sharing of special education staff members, including a director, child study teams, and related services providers, and make a formal written recommendation, as appropriate;
9. – 10. (No change.)

## SUBCHAPTER 3 ADMINISTRATOR AND DISTRICT BOARD OF EDUCATION

### MEMBER ACCOUNTABILITY

6A:23A-3.1 Review of employment contracts for superintendents, assistant superintendents, and school business administrators

- (a) The [Executive County Superintendent] **executive county superintendent** shall review and approve, for all superintendents, superintendents reappointed pursuant to N.J.S.A. 18A:17-20.1, deputy superintendents, assistant superintendents, and [school business administrators] **SBA**s, including any interim, acting, or person otherwise serving in these positions, in school districts, [county vocational school districts] **CVSD**s, [county special

services school districts] **CSSSDs**, and other **school** districts, except [charters] **charter schools**, within the county under the supervision of the [Executive County

Superintendent] **executive county superintendent**:

1. (No change.)
  2. Renegotiations, extensions, amendments, or other alterations of the terms of existing employment contracts that have been previously approved by the [Executive County Superintendent] **executive county superintendent**; and
  3. (No change.)
- (b) In counties where there is no [Executive County Superintendent] **executive county superintendent**, an [Executive County Superintendent] **executive county superintendent** from another county shall be designated by the Commissioner to review and approve all [above] contracts **in (a) above**.
- (c) The contract review and approval shall take place prior to any required public notice and hearing pursuant to N.J.S.A. 18A:11-11 and prior to the **district board of education** approval and execution of [those] **the** contracts to ensure compliance with all applicable laws, including, but not limited to, N.J.S.A. 18A:30-3.5, 18A:30-9, 18A:17-15.1, and 18A:11-12.
1. The public notice and public hearing required pursuant to N.J.S.A. 18A:11-11 [is] **shall be** applicable to a **district** board of education that renegotiates, extends, amends, or otherwise alters the terms of an existing contract with a superintendent [of schools], deputy superintendent, assistant superintendent, or [school business administrator] **SBA**. It [does] **shall** not apply to new contracts, [which includes] **including** contracts that replace expired contracts for existing employees in one of [these] positions **in (a) above**, whether tenured or not tenured. Nothing [precludes] **shall preclude** a **district** board of education from issuing a public notice and/or holding a public hearing on new contracts, including new contracts

that replace expired contracts for existing tenured and non-tenured employees.

- (d) In connection with the [Executive County Superintendent's] **executive county superintendent's** review of the contract, the **district** board of education shall provide the [Executive County Superintendent] **executive county superintendent** with a detailed statement setting forth the total cost of the contract for each applicable year, including salary, longevity (if applicable), benefits, and all other emoluments.
- (e) The contract review and approval shall be consistent with the following additional standards:
1. Contracts for each class of administrative position shall be comparable with the salary, benefits, and other emoluments contained in the contracts of similarly credentialed and experienced administrators in other **school** districts in the region with similar enrollment, academic achievement levels and challenges, and grade span.
  2. No contract for a superintendent, [or] **including** a superintendent reappointed pursuant to N.J.S.A. 18A:17-20.1[, including] **and** any contract for an interim superintendent, acting superintendent, or person otherwise serving as superintendent, with the exception of any contract for a superintendent at a [county vocational school district] **CVSD**, [a] jointure commission, [a county special services school district] **CSSSD**, or an educational services commission, shall include an annual salary in excess of the maximum salary amount plus, if applicable, additional **school** district salary increment(s), [and/or] a high school salary increment, **and/or additional administrative position salary increment**. **All additional administrative position salary increments are subject to review and approval by the executive county superintendent upon consideration of written submissions from the district board of education, which shall include justification that serving in the additional position is cost efficient and**

**operationally feasible for the school district, as well as job descriptions outlining both positions. This increment is limited to one additional administrative position.**

3. No contract for a superintendent who is to be paid on a per diem basis shall include a per diem payment amount that exceeds 1/260th of the maximum salary amount plus, if applicable, **an additional school district salary increment(s), [and/or] a high school salary increment, and/or additional administrative position salary increment.** This paragraph shall be construed consistent with any tenure rights acquired pursuant to N.J.S.A. 18A:6-10 et seq.
- [3.] 4. No contract shall include provisions [that are] inconsistent with the travel requirements pursuant to N.J.S.A. 18A:11-12 and N.J.A.C. 6A:23A-7, including, but not limited to, the provisions for mileage reimbursement and reimbursement for meals and lodging in New Jersey. Any contractual provision that is inconsistent with law [is superceded] **shall be superseded** by the law.
- [4.] 5. No contract shall include provisions for the reimbursement or payment of employee contributions that are either required by law or by a contract in effect in the **school** district with other teaching staff members, such as payment of the employee's State or Federal taxes, or of the employee's contributions to FICA, Medicare, State pensions and annuities (TPAF), life insurance, disability insurance (if offered), and health benefit costs.
- [5.] 6. No contract shall contain a payment as a condition of separation from service that is deemed by the [Executive County Superintendent] **executive county superintendent** to be prohibited or excessive in nature. The payment cannot exceed the lesser of the calculation of three months' pay for every year remaining on the contract with proration for partial years, not to exceed 12 months, or the remaining salary amount due under the contract.

[6.] **7.** No contract shall include benefits that supplement or duplicate benefits that are otherwise available to the employee by operation of law, an existing group plan, or other means; for example, an annuity or life insurance plan that supplements or duplicates a plan already made available to the employee. Notwithstanding the provisions of this section, a contract may contain an annuity where [those] benefits are already contained in the existing contract between that employee and the **school** district.

[7.] **8.** Contractual provisions regarding accumulation of sick leave and supplemental compensation for accumulated sick leave shall be consistent with N.J.S.A. 18A:30-3.5. Supplemental payment for accumulated sick leave shall be payable only at the time of retirement and shall not be paid to the individual's estate or beneficiaries in the event of the individual's death prior to retirement. Pursuant to N.J.S.A. 18A:30-3.2, a new **district** board of education contract may include credit of unused sick leave days in accordance with the new **district** board of education's policy on sick leave credit for all employees.

[8.] **9.** Contractual provisions regarding accumulation of unused vacation leave and supplemental compensation for accumulated unused vacation leave shall be consistent with N.J.S.A. 18A:30-9. Contractual provisions for payments of accumulated vacation leave prior to separation can be included but only for leave accumulated prior to June 8, 2007, and remaining unused at the time of payment. Supplemental payments for unused vacation leave accrued consistent with the provisions of N.J.S.A. 18A:30-9 after June 8, 2007, as well as unused vacation leave accumulated prior to June 8, 2007, that has not been paid, shall be payable at the time of separation and may be paid to the individual's estate or beneficiaries in the event of the individual's death prior to separation;

[9.] **10.**(No change.)

[10.] **11.** No provision for a merit bonus shall be made except where payment is contingent upon achievement of quantitative merit criterion and/or qualitative merit criterion:

- i. (No change.)
- ii. The [Executive County Superintendent] **executive county superintendent** shall approve or disapprove the selection of quantitative merit and/or qualitative merit criteria and the data that forms the basis of measuring the achievement of quantitative merit and/or qualitative merit criteria.
- iii. (No change.)
- iv. The [local] **district** board of education shall submit **to the executive county superintendent** a resolution [to the Executive County Superintendent] certifying that a quantitative merit criterion or a qualitative merit criterion has been satisfied and shall await [a] confirmation of the satisfaction of that criterion from the [Executive County Superintendent] **executive county superintendent** prior to payment of any merit bonus.

11. and 12. recodified as **12. and 13.** (No change in text.)

[13.] **14.** No contract shall include a provision for a monthly allowance except for a reasonable car allowance. A reasonable car allowance [cannot] **shall not** exceed the monthly cost of the average monthly miles traveled for business purposes multiplied by the allowable mileage reimbursement pursuant to applicable law and regulation and New Jersey Office of Management and Budget (NJOMB) circulars. If such allowance is included, the employee cannot be reimbursed for business travel mileage nor assigned permanently a car for official **school** district business. Any provision of a car for official **school** district business [must] **shall** conform with N.J.A.C. 6A:23A-6.12 and **shall** be supported by detailed

justification. No contract [can] **shall** include a provision of a dedicated driver or chauffeur.

[14.] **15.** All superintendent contracts shall include the required provision pursuant to N.J.S.A. 18A:17-[51]**15.1**, which states that in the event the superintendent's certificate is revoked, the contract is null and void.

[15.] **16.** No contract shall include a provision for additional compensation upon the acquisition of a graduate degree unless the graduate degree is conferred by a [duly] **regionally** accredited [institution of higher education] **college or university** as defined in N.J.A.C. 6A:9-2.1. No contract shall include a provision for assistance, [or] tuition reimbursement, or [for] additional compensation[,] for graduate school coursework[,] unless [such] **the** coursework culminates in the acquisition of a graduate degree conferred by a [duly] **regionally** accredited institution [of higher education] **college or university** as defined in N.J.A.C. 6A:9-2.1.

(f) Any [actions] **action(s)** by the [Executive County Superintendent] **executive county superintendent** undertaken pursuant to this subchapter may be appealed to the Commissioner pursuant to [the procedures set forth at] N.J.A.C. 6A:3, **Controversies and Disputes**.

#### 6A:23A-3.2 Required actions relative to early termination of superintendent

- (a) (No change.)
- (b) Early termination of employment agreements shall only be for involuntary separation of the superintendent where the district board of education documents [that] the separation agreement is in the best interests of the **school** district's students and/or [district's] operations.

- (c) No payment of compensation as a condition of separation shall be made when [such] **the** separation is the result of:
1. – 2. (No change.)
  3. Documented cause such as gross mismanagement, purposeful waste, or fraud;
  4. - 5. (No change.)
- (d) - (e) (No change.)
- (f) Early termination agreements shall not include the value of [any] accrued, unused sick days except as permitted by N.J.S.A. 18A:30-3.5.
- (g) Early termination agreements containing compensation for separation cannot exceed the lesser of the calculation of three months' pay for every year remaining on the contract with proration for partial years, not to exceed 12 months, or the remaining salary amount due under the contract, except as noted in [(g)1 below] **the following**:
1. The value of [any] accrued, unused vacation days shall not exceed the sum of accrued, unused vacation days as of June 8, 2007, unused vacation days accrued in the school year in which the separation agreement is entered, and unused vacation days accrued in the year preceding the school year in which the separation agreement is entered, to the extent permitted by N.J.S.A. 18A:30-9, provided payment for accrued, unused vacation days is an express provision of the existing contract.
- (h) No early termination of employment agreement shall include extended payment, [or] payment for retroactive salary increases, bonuses, overtime, longevity, accrued vacation, or other time benefit, or any other benefit neither expressly contained in the employment agreement being terminated early nor earned according to performance or other criteria established in the agreement.

The State Board of Examiners shall review the certification of the **school district's** superintendent and SBA, [of the district] pursuant to N.J.S.A. 18A:6-38.2, when the appointment of a State monitor, pursuant to N.J.S.A. 18A:7A-55, is authorized.

#### 6A:23A-3.4 Noncompliance with GAAP, review of certification of a SBA

The Commissioner, pursuant to N.J.S.A. 18A:6-38.3, shall recommend to the State Board of Examiners that it review the certification of the **school** district's SBA when any school district's accounting system and financial reports are not in compliance with GAAP [within one year of March 15, 2007].

### SUBCHAPTER 4 SCHOOL DISTRICT FISCAL ACCOUNTABILITY

#### 6A:23A-4.1 Additional powers of Commissioner to achieve fiscal accountability

- (a) The Commissioner may appoint an external entity to perform a compliance audit of a **school** district's general fund spending upon identification that the **school** district may be spending State education funds for purposes that are not in compliance with State education laws and regulations.
- (b) (No change.)
- (c) The Commissioner may use the audit report as evidence for the appointment of a State [fiscal] monitor pursuant to N.J.S.A. 18A:7A-55.
- (d) The **school** district shall reimburse the Department the total cost of the compliance audit [where] **if** the audit determined State aid spending was not in compliance with State education law and regulation.

#### 6A:23A-4.2 Compliance with requirements for income tax

- (a) [SBAs] **The SBA** or any other person designated by the **district** board of education shall certify to the **New Jersey** Department of the Treasury on a form provided by the Department of the Treasury that all documentation prepared for income tax related purposes, in regard to superintendents, assistant superintendents, and SBAs, complies fully with [the requirements of] Federal and State laws and regulations regarding the types of compensation [which] **that** are required to be reported.
- (b) The personal use of a school district vehicle and/or use of driver services shall be taxable to the employee as a non-cash fringe benefit pursuant to the IRS Code. "Personal use" includes commuting to and from work, as well as personal travel. Pursuant to N.J.A.C. 6A:23A-3.1 and 6.12, a school district [cannot] **shall not** assign a vehicle permanently to an individual for the primary purpose of commuting nor [can] **shall** a **school** district provide a dedicated driver or chauffeur. Incidental personal use, however, [is] **shall be** permitted and shall be taxable pursuant to the IRS Code.
1. – 6. (No change.)
- (c) (No change.)

#### 6A:23A-4.3 Annual audit to assure income tax reporting compliance

The annual audit conducted pursuant to N.J.S.A. 18A:23-1 shall include test measures to assure [that] **the** documentation prepared for income tax related purposes complies fully with [the requirements of] Federal and State laws and regulations regarding the compensation [which] **that** is required to be reported.

6A:23A-4.4 Repeat annual audit recommendations; action required

- (a) [Districts] **School districts** that had repeat audit findings in the Auditor's Management Report submitted with the CAFR in any year shall **submit**, within 30 days of the CAFR submission, [submit] to the [Executive County Superintendent] **executive county superintendent** or State [fiscal] monitor, as applicable, a specific corrective action plan for addressing the repeat audit findings noted in the Auditor's Management Report. The corrective action plan shall include the following:
1. (No change.)
  2. Corrective actions taken or to be taken and the dates or projected dates of [such] **the** actions;
  3. Internal controls put in place or to be put in place to prevent another repeat of the recommendation and the dates or projected dates of **their** implementation [of such controls]; and
  4. (No change.)

SUBCHAPTER 5 ADDITIONAL MEASURES TO ENSURE EFFECTIVE AND EFFICIENT EXPENDITURES OF DISTRICT FUNDS

6A:23A-5.1 Order to show cause to withhold or recover State aid due to excessive, unreasonable, ineffective, or inefficient expenditures

- (a) If the Department [of Education] identifies ineffective or inefficient expenditure(s) by a school district or [county vocational school district] **CVSD**, including, but not limited to, the practices prohibited in N.J.A.C. 6A:23A-5.2 through 5.9, the Commissioner shall **provide**, except as otherwise provided in (h) below, [provide] the school district or

[county vocational school district] **CVSD** the opportunity to be heard as to why the amount of the ineffective or inefficient expenditure(s) shall not be withheld from State aid or refunded to the Department.

- (b) The proceeding shall be instituted by an [Order to Show Cause] **order to show cause** filed by the petitioner. The filing shall include a statement of factual findings along with a letter memorandum setting forth the basis for the position that the expenditure(s) [were] **was** ineffective or inefficient.
- (c) The respondent(s) to whom the order is directed shall file, within 15 days, a response to the letter memorandum and an answer that meets the filing, service, and format requirements for answers as set forth in N.J.A.C. 6A:3, Controversies and Disputes.
- (d) – (e) (No change.)
- (f) If the Commissioner is hearing the matter directly, upon receipt of the filings set forth above[,] or upon expiration of the time for their submission, the Commissioner shall review the total record before him or her and render a written decision.
- (g) The Commissioner’s decision shall include a determination of whether the expenditure was ineffective or inefficient and, if so, the amount of funds to be withheld from State aid or refunded by the **school** district.
- (h) Nothing shall preclude the Commissioner from immediately and summarily withholding State aid, consistent with N.J.S.A. 18A:55-2, if, at any time, it is determined [that] the fiscal practices, actions, or expenditures of a school official, **district board of education** member, **district board of education**, or any other party under the Commissioner’s jurisdiction are in violation of any statute, regulation, rule, or directive of the State Board of Education or Commissioner [of Education].

6A:23A-5.2 Public relations and professional services; **district board of education** policies; efficiency

(a) Each **district board of education of a** school district and [county vocational school district board] **CVSD** shall establish by policy(**ies**) [or policies] a strategy(**ies**) [or strategies in order] to minimize the cost of public relations as defined in N.J.A.C. 6A:23A-9.3(c)[14], and professional services. The policy(**ies**) [or policies] shall include, to the extent practical and cost effective, but need not be limited to, the following provisions:

1. A maximum dollar limit, established annually prior to budget preparation, for public relations, as defined in N.J.A.C. 6A:23A-9.3(c)[14], and each type of professional service, with appropriate notification to the **district** board of education if it becomes necessary to exceed the maximum. Upon such notification, the **district** board of education may adopt a dollar increase in the maximum amount through formal **district board of education** action;
2. Establishment of procedures to ensure the prudent use of legal services by employees and **district** board of education members and the tracking of the use of those services.
3. [Districts] **School districts** with legal costs that exceed 130 percent of the Statewide average per pupil amount should establish the following procedures and, if not established, provide evidence [that such] **the** procedures would not result in a reduction of costs:
  - i. (No change.)
  - ii. Criteria or guidance to prevent the use of legal counsel unnecessarily for management decisions or readily available information contained in **school** district materials such as policies, administrative regulations, or guidance available through professional source materials;

- iii. A provision that requests for legal advice shall be made in writing and shall be maintained on file in the **school** district offices and a process to determine whether the request warrants legal advice or if legal advice is necessary; and
    - iv. A provision to maintain a log of all legal counsel contact, including name of legal counsel contacted, date of contact, issue discussed, and length of contact. Legal bills shall be compared to the contact log and any variances shall be investigated and resolved;
  4. A provision that requires [that] contracts for legal services **to** comply with payment requirements and restrictions pursuant to N.J.S.A. 18A:19-1 et seq. and as follows:
    - i. – iii. (No change.)
    - iv. Payment shall [only] be **only** for services actually provided;
  5. Professional services contracts are issued in a deliberative and efficient manner that ensures the **school** district receives the highest quality services at a fair and competitive price or through a shared service arrangement. This may include, but is not limited to, issuance of such contracts through a request for proposals (RFP) based on cost and other specified factors or other comparable process; and
  6. Professional services contracts are limited to non-recurring or specialized work for which the **school** district does not possess adequate in-house resources or in-house expertise to conduct.
- (b) School districts and [county vocational school districts are prohibited from contracting] **CVSDs shall not contract** with legal counsel or [using] **use** in-house legal counsel to pursue any affirmative claim or cause of action on behalf of **school** district administrators and/or any individual **district board of education** member(s) for any claim or cause of

action in which the damages to be awarded would benefit an individual rather than the **school** district as a whole.

- (c) School district and [county vocational school district] **CVSD** publications shall be produced and distributed in the most cost-efficient manner possible that will enable the **school** district to inform and educate the target community. The use of expensive materials or production techniques where lower cost methods are available and appropriate, such as the use of multi-color glossy publications instead of suitable, less expensive alternatives, [is] **shall be** prohibited.
- (d) School districts and [county vocational school districts are prohibited from distributing] **CVSDs shall not distribute**, via mass mailings or other means to the **school** district community at large, publications that include the picture(s) of any [members of the] district board of education **member(s)** within 90 days before any election in which any **district board of education** member is seeking any elective office or any election relating to **school** district operations held in the **school** district. Moreover, any publication(s) distributed by the district board of education via mass mailings or other means to the **school** district community at large within 60 days before any election in which any **district board of education** member is seeking any elective office or any relating to **school** district operations held in the district [must] **shall** be submitted to the [Executive County Superintendent] **executive county superintendent** for review prior to distribution to ensure [that the] public funds are being expended in a reasonable and cost-effective manner.
- (e) Public relations activities, such as booths at Statewide conferences, marketing activities and celebrations for opening schools and community events, and TV productions that are not part of the instructional program or do not provide, in a cost-effective way, information about **school** district or **district board of education** operations to the public, that are excessive in nature are prohibited. All activities involving promotional efforts to

advance a particular position on school elections or any referenda [are] **shall be** prohibited.

- (f) Nothing in this section shall preclude **a district** board(s) of education from accepting donations or volunteer services from community members, local private education foundations, and local business owners to conduct or assist in public relations services.

Examples include, but are not limited to:

1. Providing **school** district flyers, newsletters, or other materials containing **school** district related information of public concern to local businesses, public meeting places, or other local organizations to display or make available for dissemination;
2. Making **school** district related information of public concern available to local newspapers to publish related articles; and
3. Utilizing volunteer[ed] services of local community members, **school** district employees, members of parent organizations, or local businesses with expertise in related areas such as printing, advertising, publishing, or journalism.

#### 6A:23A-5.3 Failure to maximize Special Education Medicaid Initiative (SEMI)

- (a) Every school district and [county vocational school district] **CVSD**, with the exception of any **school** district that obtains a waiver of [the] **this section's** requirements [of N.J.A.C. 6A:23A-5.3] pursuant to [the procedures set forth at] (b) below, shall take appropriate steps to maximize its revenue from the Special Education Medicaid Initiative (SEMI) [Program] **program** by following the policies and procedures to maximize participation in the program as set forth in (d) below and to comply with all program requirements as set forth in (e) below.
- (b) School districts and [county vocational school districts] **CVSDs** may seek, in the prebudget year, a waiver of [the] **this section's** requirements [of N.J.A.C. 6A:23A-5.3]

upon demonstration that for the subsequent school year: the **school** district projects, based on reliable evidence, that it will have 40 or fewer Medicaid-eligible classified students[; or the district demonstrates that efforts to participate in SEMI would not provide a cost benefit to the district, based on the projection of the district's available SEMI reimbursement for the budget year as set forth in (c) below].

[1. For the 2008-09 school year, the waiver request must be submitted to the Executive County Superintendent by September 1, 2008. The Executive County Superintendent shall promptly review the request and render a decision no later than September 30, 2008.]

[2.] **1.** [Beginning with the 2009-2010 school year, the] **The** application for a waiver of the requirements of this section shall be made to the [Executive County Superintendent] **executive county superintendent** no less than 45 days prior to the submission of the **school** district's proposed budget for the school year to which the waiver request applies. The [Executive County Superintendent] **executive county superintendent** shall notify the **school** district of the decision on the waiver application within 20 days of receipt of the waiver request. If the waiver is not granted, the **school** district shall submit **to the executive county superintendent** a SEMI action plan [to the Executive County Superintendent] as required by (f) below as part of its annual **school** district budget submission, or **shall** demonstrate to the [Executive County Superintendent] **executive county superintendent** that the **school** district has achieved maximum participation in the SEMI program in the prebudget year.

(c) As part of the annual budget information, the Department shall provide each school district and [county vocational school district] **CVSD** with a projection of available SEMI reimbursement for the budget year, as determined by [State] **the New Jersey** Department of **the** Treasury's third-party administrator for SEMI. [The projection shall be based on

the following: the number of Medicaid-eligible students; assumption of 20 services per eligible students per year; one IEP meeting per eligible student per year; and applicable SEMI reimbursement rates.]

1. [Beginning with the 2009-2010 school year, the] **The school** district shall recognize as revenue in its annual **school** district budget no less than 90 percent of said projection.
  2. A school district or [county vocational school district] **CVSD** may seek approval from the [Executive County Superintendent] **executive county superintendent** to use its own projection of SEMI reimbursement upon demonstration [that] the numbers it used in calculating the projection are more accurate than the projection provided.
- (d) Each school district or [county vocational school district] **CVSD** shall strive to achieve maximum participation in the SEMI program. For purposes of this section, “maximum participation” means obtaining a 90 percent return rate of parental consent forms for all SEMI eligible students. [Districts] **School districts** shall enter all students following their evaluations into the third-party system **as determined by the New Jersey Department of the Treasury** to identify the **school** district’s universe of eligible students. This [can] **may** be done without parental consent.
- (e) [Districts] **School districts** participating in the SEMI reimbursement program shall comply with program requirements as follows:
1. Each [school] district **board of education** or [county vocational school district] **CVSD board of education** shall implement a policy concerning the effective and efficient administration of the SEMI reimbursement program consistent with the requirements of this section. A complete listing of requirements and information are available at the SEMI/MAC website

[<http://www.state.nj.us/treasury/administration/SemiMac.htm>]

2. Any service submitted to Medicaid for reimbursement shall be rendered by a Medicaid qualified practitioner, or rendered by a provider under the supervision of a Medicaid qualified practitioner. The following outlines the required documentation for each related service provider:
  - i. Nurses – copy of license (Department [of Education (DOE)] certification is not required for SEMI);
  - ii. Occupational Therapist – copy of license and [DOE] **Department** certification;
  - iii. Physical Therapist - copy of license and [DOE] **Department** certification;
  - iv. Psychologist – copy of [DOE] **Department** certification;
  - v. Social Worker - copy of [DOE] **Department** certification; [and]
  - vi. [Speech Therapist] **Speech-language specialist:**
    - (1) A copy of DOE certification and American Speech-Language-Hearing Association (ASHA) certification;
    - (2) A copy of DOE certification and past or present license (on or after January 1, 1993); or
    - (3) A copy of DOE certification and documentation that the equivalent educational requirements and work experience necessary for ASHA certification have been met.]
    - (1) **Qualification and documentation for provision of evaluation services shall include:**
      - (A) **Copy of licensed physician’s orders, which shall be maintained with the student’s IEP; or**
      - (B) **Copy of New Jersey license as a speech-language pathologist and Department certification as a speech-**

language specialist (N.J.A.C. 6A:9B-14.6) for the individual whose signature appears on the IEP; or

(C) Copy of documentation that identifies the referral of speech services included in or with the student's IEP.

(2) Qualification for provision of related services shall include:

(A) Copy of Department certification or endorsement issued and an American Speech-Language-Hearing Association (ASHA) Certificate of Clinical Competence; or

(B) Copy of Department certification or endorsement and a valid license authorized by the State Audiology and Speech-Language Pathology Advisory Committee in accordance with N.J.S.A. 45:3B-1 et seq.

vii. Audiologist – copy of license issued by the State Audiology and Speech-Language Pathology Advisory Committee in accordance with N.J.S.A. 45:3B-1 et seq.

3. Practitioners who are not Medicaid qualified can deliver services under the direction of Medicaid qualified practitioners. These include **only** certified occupational therapist assistants (COTAs), physical therapist assistants (PTAs) [and], [speech correctionists] **speech-language specialists who do not meet the qualifications at (e)2vi(2)(A) or (B) above, and licensed practical nurses (LPNs).**
4. Any direct therapy or other related service shall be prescribed in the related services section of the student's [Individualized Education Plan (IIEP)] prior to submitting a claim to Medicaid for reimbursement. Delivery of nursing services and dispensing of medication [must] **shall** be referenced in the IEP and supported

by physicians' orders or prescriptions[. These documents must], **which shall** be maintained on file. Supporting documentation to be maintained by the **school** district shall be the cover/signature page, related services section of the IEP, therapy logs, and the evaluations and assessments conducted by the Medicaid-qualified practitioners.

5. Entities where the **school** district has placed SEMI-eligible students shall take steps to enable **school** districts to maximize participation, including either logging the eligible services provided directly through the [vendor] **third-party system as determined by the New Jersey Department of the Treasury** or the sending **school** district, as mutually agreed upon with the **school** district, and obtaining SEMI provider qualification certifications. Every out-of-district placement [must] **shall** provide copies of SEMI provider qualifications, certifications and licenses.

This paragraph applies to the following out-of-district placement options:

- i. – iv. (No change.)
- v. Department [of Education] regional day schools; and
- vi. Special [Service School Districts] **services school districts.**

6. **Each school district that does not have an approved waiver pursuant to (b) above shall comply with the program requirements to assure the year-end cost settlement of SEMI claims is properly calculated with the standardized submission of quarterly and annual cost data, as well as staff pool lists transmitted directly through the third-party system as determined by the New Jersey Department of the Treasury.**
7. **To retain reimbursement, each school district that does not have an approved waiver pursuant to (b) above shall ensure compliance with the necessary components of the cost settlement requirements, which include completion of the online questionnaire -- Random Moment Time Study**

**(RMTS) -- by staff provided directly through the third-party system as determined by the New Jersey Department of the Treasury.**

- [6.] **8.** All supporting documentation for a Medicaid claim shall be maintained on file and available for audit or State review for at least seven years from the date of service. Supporting documentation shall include provider certification (current and historical for each provider), provider service logs, licenses and certifications, physician authorizations for nursing services, parental consent forms, attendance records, and copies of the student's IEP.
- (f) Each [district that has less than 90 percent participation of SEMI eligible students in the 2007-2008 school year or has failed to comply with all program requirements set forth in (e) above, shall demonstrate a good faith effort to achieve maximum participation and to maximize available SEMI revenue during the 2008-2009 school year by submitting a SEMI plan to the Executive County Superintendent for review and approval by September 1, 2008. In subsequent years, each] **school** district that has less than 90 percent participation of SEMI eligible students in the prebudget year or that has failed to comply with all program requirements set forth in (e) above shall submit a SEMI action plan to the [Executive County Superintendent] **executive county superintendent** for review and approval as part of the **school** district's proposed budget submission.
- (g) The SEMI action plan shall include the following components:
1. Procedures for obtaining parental consent forms, [including the Parental Consent Best Practices which] **such as the parental consent best practices that** are available from the Department.
  2. Establishment of a benchmark for the [2008-2009 school] year **of implementation** or for the first year [that] the **school** district does not have an approved waiver pursuant to [the provisions of] (b) above, whichever is applicable, for obtaining maximum participation of all SEMI eligible students by

the start of the subsequent school year.

- i. The benchmarks for the [2008-2009 school] **first year of implementation** or for the first year [that] the **school** district does not have an approved waiver pursuant to (b) above, whichever is applicable, for achieving maximum participation shall **close**, at a minimum, [close] the gap between current participation and maximum participation by 50 percent by the beginning of the subsequent school year; and
  - ii. The benchmarks shall be based on the percentage of parental consent forms collected from eligible students. The number of parental consent forms shall reflect one parental consent form **or one document noting parental refusal** for each eligible student. [This should include documentation of parental refusal to give consent];
3. Procedures to ensure [that] all IEP meetings are documented in the third-party administrator's system. IEPs are [only] claimable **only** if a Medicaid qualified practitioner is present **and it is documented that a health-related service is discussed**;
4. Procedures to ensure [that] all SEMI eligible services, including services provided by entities where the **school** district has placed SEMI eligible students, are documented in the third-party administrator's system;
5. Procedures to ensure [that] a valid IEP is on file and the IEP date is on file in the third-party administrator's system for each SEMI eligible student for whom parental consent has been obtained; and
6. Procedures to ensure [that] service providers used by the **school** district and entities where the **school** district has placed SEMI eligible students have valid licenses and certifications documenting SEMI provider qualifications on file in the third-party administrator's system.

- (h) [Districts] **School districts** that did not achieve 90 percent participation or achieve their approved benchmarks in the SEMI program for a given budget year and cannot demonstrate [that] they fully implemented their Department-approved SEMI action plan required under (f) and (g) above shall be subject to review for the withholding of State aid by the Commissioner pursuant to N.J.S.A. 18A:55-3 in an amount equal to the SEMI revenue projection based on their approved benchmark for the budget year, if applicable, less actual SEMI reimbursements for the budget year. The State aid deduction shall be made in the second subsequent year after the budget year.

#### 6A:23A-5.4 Violation of public school contracts law

- (a) Pursuant to the authority granted the Commissioner under N.J.S.A. 18A:55-2 and 18A:7F-60, the Commissioner shall subject to review for the withholding of State funds any school district or [county vocational school district which] **CVSD that** fails to obey the provisions of the Public School Contracts Law, N.J.S.A. 18A:18A-1 et seq.
- (b) The amount of funds withheld shall equal the amount of the contract awarded in violation of [the provisions of] N.J.S.A. 18A:18A-1 et seq., except for violations related to the award of contracts under the extraordinary unspecifiable services (EUS) provision, which shall be governed by [the provisions of] N.J.S.A. 18A:18A-46.1.

#### 6A:23A-5.5 Expenditure and internal control auditing

- (a) Pursuant to a phase-in schedule to be determined by the Commissioner, a school district or [county vocational school district] **CVSD board of education** that receives 50 percent or more of its general fund budget in State aid during the 2008-2009 school year shall engage an independent certified public accountant or independent certified public

accounting firm, other than the accountant or firm that performs the annual audit pursuant to N.J.S.A. 18A:23-1 et seq., to conduct a valid sampling of expenditures made during the most recently completed school year that the **school** district received 50 percent or more of its general fund budget in State aid. The purpose of the audit is to determine the educational value and/or reasonableness of [said] expenditures and to conduct a sampling of internal controls sufficient to determine the adequacy of the **school** district's internal control structure. In establishing the phase-in schedule for the audits, the Commissioner shall take into account the time period that has elapsed since any other expenditure and/or comprehensive internal control audit beyond the CAFR[,] has been conducted in the **school** district, the **school** district's performance on the fiscal management section of the most recent NJQSAC evaluation, and any other factors [determined to be] **the Commissioner determines** are relevant [by the Commissioner].

- (b) A [school] district **board of education** or [county vocational school district] **CVSD** board [not subject to (a) above but] **of education** that receives 50 percent or more of its general fund budget in State aid in [a] **any** school year subsequent to 2008-2009 shall engage an independent certified public accountant or independent certified public accounting firm, other than the accountant or firm that performs the annual audit pursuant to N.J.S.A. 18A:23-1 et seq., to conduct a valid sampling of expenditures made during the school year in which it received 50 percent or more of its general fund budget in State aid to determine the educational value and/or reasonableness of said expenditures and to conduct a sampling of internal controls sufficient to determine the adequacy of the **school** district's internal control structure.
- (c) For a **school** district[s] receiving between 50 and 75 percent of its general fund budget in State aid in the seventh year following the audit required by (a) [or (b)] above, an audit shall be conducted once every seven years:
- (d) For a **school** district[s that receive] **receiving** greater than 75 percent of its general fund

budget in State aid in the fourth year following the audit required by (a) [or (b)] above, an audit shall be conducted once every four years.

- (e) The cost of the [required] audit **required** under this section shall be considered to be outside the calculation of the per pupil administrative cost limit pursuant to N.J.S.A. 18A:7F-5.

6A:23A-5.6 [District] **School district** response to Office of Fiscal Accountability and Compliance (OFAC) investigation report

- (a) Any school district or [county vocational school district] **CVSD** that has been subject to an audit or investigation by the Department's Office of Fiscal Accountability and Compliance (OFAC) shall discuss the findings of the audit or investigation at a public meeting of the district board of education no later than 30 days after receipt of the findings.
- (b) Within 30 days of the public meeting required in (a) above, the district board of education shall adopt a resolution certifying [that] the findings were discussed in a public board meeting and approving a corrective action plan to address the issues raised in the findings. This resolution shall be submitted to OFAC within 10 days of adoption by the **district** board of education.
- (c) The findings of the OFAC audit or investigation and the **district** board of education's corrective action plan shall be posted on the **school** district's [web site] **website**, if one exists.

6A:23A-5.7 Verification of payroll check distribution

- (a) [Beginning with the 2008-2009 school year, at] **At** least once every three years, between

the months of September through May, school districts, and [county vocational school districts] **CVSDs** shall require each **school** district employee to report to a central location(s), [and] produce picture identification, and sign for release of his or her paycheck or direct deposit voucher. The **school** district may exclude per diem substitutes from the required verification.

- (b) Picture identification shall be in the form of a **school** district issued identification card, valid drivers' license, official passport, or other picture identification issued by a state, county, or other local government agency.
- (c) The [Chief School Administrator] **chief school administrator** shall designate an appropriately qualified staff member to match the picture identification to the position control roster maintained by the office of personnel or human resources prior to release of the pay check or direct deposit voucher.

[1. If the district elects to conduct the payroll verification prior to the district's required implementation of the position control roster pursuant to N.J.A.C. 6A:23A-6.8, the district may use a similar and suitable office of personnel or human resource generated listing of employees.]

- (d) Where no appropriate identification can be produced, the school business administrator shall withhold paychecks or stop direct deposits until [such time that] the payee/district employee [can] produces appropriate identification or until an investigation and corrective action is concluded, as appropriate to the circumstances.
- (e) Upon completion of the payroll check distribution verification procedures set forth in this section, the chief school administrator shall submit a certification of compliance, in a form prescribed by the Department, to the [Executive County Superintendent] **executive county superintendent**. Verification of the **school** district's compliance with the provisions of this section [will] **shall** be required as part of the annual audit.

6A:23A-5.8 [Board] **District board** of education expenditures for non-employee activities, meals, and refreshments

(a) The words and terms used in this section shall have the following meanings, unless the context clearly indicates otherwise:

1. “Activities” means events or functions provided or held for the benefit of students, dignitaries, and other “non-**school** district” employees (for example, parents) [which] **that** are paid from public funds.
2. “Dignitary” means a notable or prominent public figure; a high-level official; or [one] **an individual** who holds a position of honor. A dignitary, for purposes of this section, is not a school district employee or **district** board of education member.

(b) Allowable expenditures for non-employee [school] district **board of education** or [county vocational school district] **CVSD** board of education activities shall include:

1. All reasonable costs, including light meals and refreshments, directly related to activities that benefit students and are part of the instructional program, including expenditures for field trips and extracurricular programs that are not solely for entertainment. Nothing in this subsection shall preclude **district** boards of education from using student activity funds or accepting donations to support student activities that are solely for student entertainment;
2. All reasonable costs directly related to activities of dignitaries and other [“non-**school** district[”] employees [(for example, parents)], including light meals, [and] refreshments, and any other directly related expense. It is expected that expenditures for this purpose will be minimal and infrequent;
3. (No change.)
4. Expenditures related to **school** district employees to the extent [such] **the**

employees are essential to the conduct of the activity.

- (c) A [school] district **board of education** and [county vocational school district] **CVSD board of education** shall **take**, at a minimum, [take] **the following** actions regarding student activities [as follows]:
1. – 3. (No change.)
- (d) Pursuant to N.J.S.A. 18A:11-12 and [State of] New Jersey Department of **the** Treasury, Office of Management and Budget Circulars [08-19-OMB and 06-14-OMB] for **“Travel Regulations” and “Entertainment, Meals, and Refreshments” and this subchapter**, the following costs shall not be permitted using public funding:
1. Receptions, dinners, or other social functions held for or honoring any **school district** employee(s) [or group of employees of the district] (for example, breakfast, luncheon, dinner, or reception for retirees or award recipients). This does not prohibit **school** districts from honoring employees without a social function or using public funds to support reasonable costs of employee recognition awards (for example, teacher of the year awards, years of service awards). Use of public funds for reasonable costs of employee awards [is] **shall be** a local discretionary expenditure;
  2. Meals or refreshments served to guests at any athletic event(s) or other games or contests; and
  3. (No change.)
- (e) Documentation required to support activities, meals, and refreshments at **school** district events shall [be] **include**:
1. (No change.)
  2. The purpose/justification of the activity, expressed in terms of the **school district’s** goal(s) or objective(s) [of the district];
  3. (No change.)

4. The names and titles of **district board of education** members or employees included in the group.

6A:23A-5.9 Out-of-State and high-cost travel events

- (a) (No change.)
- (b) Out-of-State travel events shall be limited to the fewest number of **district board of education** members or affected employees needed to acquire and present the content offered to all **district board of education** members or staff, as applicable, at the conclusion of the event. Lodging may [only] be provided **only** if the event occurs on two or more consecutive days and [where] **if** home-to-event commute exceeds 50 miles.
- (c) [Where] **When** a travel event has a total cost that exceeds \$5,000, regardless of the number of attendees, or [where] **when** more than five individuals from the **school** district are to attend a travel event out-of-State, the school district or [county vocational school district] **CVSD** shall obtain [the] prior written approval of the [Executive County Superintendent] **executive county superintendent**. The [Executive County Superintendent] **executive county superintendent** shall promptly review the request and render a written decision within 10 [working] **business** days.
- (d) For all employee and **district board of education** member travel events out of the country, regardless of cost or number of attendees, the school district or [county vocational school district] **CVSD** shall obtain [the] prior written approval of the [Executive County Superintendent] **executive county superintendent**. Such requests [must] **shall** be supported by detailed justification. The [Executive County Superintendent] **executive county superintendent** shall promptly review the request and render a written decision within 10 [working] **business** days. It is expected that approvals will be rare.

## SUBCHAPTER 6 CONDITIONS FOR THE RECEIPT OF STATE AID

### 6A:23A-6.1 Conditions precedent to disbursement of State aid

- (a) The Commissioner shall not disburse any State aid to a school district or [county vocational school district] **CVSD** that fails to comply with the standards set forth at N.J.S.A. 18A:55-3 and the requirements concerning nepotism, contributions to **district board of education** members and contract awards, and internal controls set forth in this subchapter.
- (b) Pursuant to N.J.S.A. 18A:55-3, as a condition of State aid, a **school** district shall:
1. Examine, no less than once every three years, all available group options for every insurance policy held by the **school** district, including self-insurance plan administered by the New Jersey School Boards Association (NJSBA) Insurance Group on behalf of **school** districts, and shall participate in the most cost effective plan. This shall include review of annual claims data and other experience rating information, as applicable;
  2. Take steps to maximize the **school** district's participation in the Federal Universal Service Program (E-rate) and the ACT telecommunications program offered through the New Jersey Association of School Business Officials;
  3. Participate in the Alliance for Competitive Energy Services (ACES) Program offered through the NJSBA, unless the school district is able to demonstrate to the [commissioner] **Commissioner** that it receives goods or services at a cost less than or equal to the cost achieved by participants of the program based on an analysis of the prior two years;
  4. Take appropriate steps to maximize the [local public] school district's

participation in the Special Education Medicaid Initiative (SEMI) [Program]

**program**, pursuant to N.J.A.C. 6A:23A-5.3; and

5. Refinance all outstanding debt in accordance with [the provisions of] N.J.S.A. 18A:24-61.1 et seq. for which a three percent net present value savings threshold is achievable. This provision shall also be monitored by the [Executive County Superintendent] **executive county superintendent** or State [Monitor] **monitor**, if applicable, pursuant to N.J.A.C. 6A:23A-9.11.

#### 6A:23A-6.2 Nepotism policy

(a) As a condition of receiving State aid, the [school] district **board of education** or [county vocational school district] **CVSD board of education** shall implement [the] **a nepotism policy**, [established by this subsection by October 1, 2008, except that districts previously subject to N.J.A.C. 6A:10 and 6A:10A shall implement such policy on July 1, 2008. The nepotism policy] **which** shall include the following:

1. (No change.)
2. A provision prohibiting any relative of a [school] **district board of education** member or chief school administrator from being employed in an office or position in [that] **the school** district except [that]:
  - i. A person employed by the **school** district on the effective date of the policy or the date a relative becomes a [school] **district board of education** member or chief school administrator shall not be prohibited from continuing to be employed or to be promoted in the **school** district; and
  - ii. A **school** district may employ a relative of a [school] **district board of education** member or chief school administrator provided [that] the

**school** district has obtained [the] approval from the [Executive County Superintendent of schools] **executive county superintendent**. Such approval shall be granted only upon demonstration by the school district that it conducted a thorough search for candidates and [that] the proposed candidate is the only qualified and available person for the position.

3. A provision prohibiting the chief school administrator from recommending to the [school] **district board of education**, pursuant to N.J.S.A. 18A:27-4.1, [any] **his or her relative or the** relative of a [school] **district board of education** member [or chief school administrator], unless the person is subject to [the] **an** exception in (a)2 above;
4. A provision prohibiting a **school** district administrator from exercising direct or indirect authority, supervision, or control over [a] **his or her** relative [of the administrator]. [Where] **If** it is not feasible to eliminate such a direct or indirect supervisory relationship, appropriate screens and/or alternative supervision and reporting mechanisms [must] **shall** be put in place;
5. A provision prohibiting a **school** district administrator or **district board of education** member [who has a] **whose** relative [who] is a member of the bargaining unit from discussing or voting on the proposed collective bargaining agreement with that unit or from participating in any way in negotiations, including, but not limited to, being a member of the negotiating team; nor should that **school** district administrator be present with the [school] **district board of education** in closed session when negotiation strategies are being discussed; [provided,] however, [that] the administrator may serve as a technical resource to the negotiating team and may provide technical information necessary to the collective bargaining process when no one else in the **school** district can provide such information; and

6. A provision prohibiting a **school** district administrator or **district board of education** member who has an immediate family member who is a member of the same Statewide union in another **school** district from participating in any way in negotiations, including, but not limited to, being a member of the negotiating team or being present with the [school] **district board of education** in closed sessions when negotiation strategies are being discussed, prior to the [school] **district board of education** attaining a tentative memorandum of agreement with the bargaining unit that includes a salary guide and total compensation package; once the tentative memorandum of agreement is established, a **school** district administrator with an immediate family member who is a member of the same Statewide union in another **school** district may fully participate in the process, absent other conflicts. Notwithstanding the above, a **school** district administrator who has an immediate family member who is a member of the same Statewide union in another **school** district may serve as a technical resource to the negotiating team and may provide technical information necessary to the collective bargaining process when no one else in the **school** district can provide such information.

(b) A [school] district **board of education** or [county vocational school district] **CVSD board of education** may exclude per diem substitutes and student employees from its [board] nepotism policy.

#### 6A:23A-6.3 Contributions to **district board of education** members and contract awards

(a) As a condition of receiving State aid, **each** school district[s] and [county vocational school district] **CVSD** shall have policies that comply with the provisions of this section to ensure [that] the **school** district shall maintain honest and ethical relations with vendors

and shall guard against favoritism, improvidence, extravagance, and corruption in its contracting processes and practices. [Such policies shall be adopted by the school district and implemented by October 1, 2008, except that districts previously subject to N.J.A.C. 6A:10 and 6A:10A shall adopt and implement such policies on July 1, 2008.] The terms “business entity” and “interest” as used below are defined as set forth in P.L. 2004, c. 19.

1. No [school] **district** board [will] **of education shall** vote upon or award any contract in the amount of \$17,500 or greater to any business entity [which] **that** has made a contribution reportable by the recipient under P.L. 1973, c. 83 (N.J.S.A. 19:44A-1 et seq.) to a member of the district board of education during the preceding one-year period.
2. Contributions reportable by the recipient under P.L. 1973, c. 83 (N.J.S.A. 19:44A-1 et seq.) to any member of the [school] **district board of education** from any business entity doing business with the **school** district [are] **shall be** prohibited during the term of a contract.
3. When a business entity referred to in (a)2 above is a natural person, a contribution by that person’s spouse or child [that] **who** resides therewith shall be deemed to be a contribution by the business entity. Where a business entity is other than a natural person, a contribution by any person or other business entity having an interest therein shall be deemed to be a contribution by the business entity.
4. (No change.)
5. This subsection shall not apply to a contract when a **school** district emergency requires the immediate delivery of goods or services.
6. With the exception of **school** districts previously subject to the requirements of N.J.A.C. 6A:10-2.1(e), this subsection shall not apply to contributions made prior to the effective date of these rules.

#### 6A:23A-6.4 Internal controls

- (a) As a condition of receiving State aid, each school district and [county vocational school district] **CVSD** shall establish specific policies and procedures on internal controls designed to provide management with reasonable assurance that the **school** district's goals and objectives will be met and [that] meet the requirements of N.J.A.C. 6A:23A-6.5 through 6.13. Internal controls shall promote operational efficiency and effectiveness, provide reliable financial information, safeguard assets and records, encourage adherence to prescribed policies, and comply with law and regulation.
- (b) The **subchapter's** specific internal controls [contained in this subchapter] shall be established together with other internal controls contained in N.J.A.C. 6A and other law and regulations, required by professional standards, and as deemed necessary and appropriate by **school** district management. Any **school** district may submit **to the Commissioner** a written request [to the Commissioner] to approve an alternative system, approach, or process for implementing the internal controls required in this subchapter. The application [must] **shall** include documented evidence, [that includes] **including**, but [is] not limited to, an independent, third-party written assessment that the alternative system, approach, or process will achieve the same safeguards, efficiency, and other purposes as the specified internal control requirement(s).

#### 6A:23A-6.5 Segregation of duties; organization structure

- (a) All school districts and [county vocational school districts] **CVSDs** shall evaluate business processes annually and allocate available resources appropriately in an effort to establish a strong control environment.
- (b) The SBA shall identify processes that [when performed by the same individuals] are a

violation of sound segregation of duties **when performed by the same individuals**. The SBA shall segregate the duties of all such processes among business office staff based on available **school** district resources, assessed vulnerability, and the associated cost-benefit, except as required by (b)1 and 2 below.

1. The functions of human resources and payroll shall be segregated and completed by different employees in all **school** districts.
  2. The functions of purchasing and accounts payable shall be segregated and completed by different employees in all **school** districts.
- (c) [Districts] **School districts** shall include in the Comprehensive Annual Financial Report (CAFR) detailed organizational charts for the central office that tie to the **school** districts' position control logs, including, but not limited to, the business, human resources, and information management functions.

#### 6A:23A-6.6 Standard operating procedures for business functions

- (a) [By December 31, 2009, each] **Each** school district and [county vocational school district] **CVSD** shall establish SOPs for each task or function of the business operations of the **school** district.
- (b) An SOP manual shall include sections on each routine task or function [of] **in** the following areas:
  1. Accounting, including general ledger, accounts payable, accounts receivable, payroll and fixed assets, and year-end procedures for each;
  2. (No change.)
  3. Budget development and administration, including tasks such as authorization of transfers and overtime;
  4. (No change.)

5. Purchasing, including [such] tasks **such** as preparation of requisitions, approval of purchase orders and encumbering of funds, bid and quote requirements[;], and verification of receipt of goods and services;
  6. Facilities, including administration of work, and health and safety;
  7. – 13. (No change.)
- (c) [An] **Each school district and CVSD shall establish an SOP** [shall be established] that ensures office supplies are ordered in appropriate quantities, maintained in appropriate storage facilities, and monitored to keep track of inventory.

6A:23A-6.7 Financial and human resource management systems; access controls

- (a) School districts and [county vocational school districts] **CVSD** with budgets in excess of \$25,000,000 or with more than 300 employees shall maintain an enterprise resource planning (ERP) system [which] **that** integrates all data and processes of an organization into a unified system. An ERP system uses multiple components of computer software and hardware and a unified database to store data for the various system modules to achieve the integration.
- [(b) Districts affected by (a) above that do not currently maintain an ERP system shall fully implement one by the 2010-2011 school year and maintain both the existing system(s) and run a beta test ERP system during the 2009-2010 school year.]
- [(c)] (b) Whenever considering financial systems or the automation of other services or functions, the **school** district shall notify the [Executive County Superintendent] **executive county superintendent** in writing to see if opportunities for a shared service system exist.
- [(d)] (c) Access controls shall be established for key elements of financial systems to ensure [that] a single person does not have the ability to make system edits that would

violate segregation of duties controls.

1. – 4. (No change.)
5. Access to the network and key applications within a **school** district shall be restricted to authorized users through the use of unique user names and passwords.
6. (No change.)

#### 6A:23A-6.8 Personnel tracking and accounting

- (a) [A] **Each** school district and [county vocational school district] **CVSD** shall maintain an accurate, complete, and up-to-date automated position control roster to track the actual number and category of employees and the detailed information for each. [Districts that do not currently maintain a position control roster as defined, or were not previously required to maintain a position control roster, shall fully implement one by December 31, 2009.] The position control roster shall:
  1. Share a common database and be integrated with the **school** district's payroll system;
  2. (No change.)
  3. Ensure [that] the data within the position control roster system includes, at a minimum, the following information:
    - i. The employee's name;
    - ii. The **employee's** date of hire;
    - iii. A permanent position tracking number for [each] **the** employee, including:
      - (1) The expenditure account codes for the general fund consistent with the State prescribed budget, special revenue fund, and enterprise funds;

- (2) – (3) (No change.)
- (4) The assignment position title as follows:
- (A) Superintendent or [Chief School Administrator] **chief school administrator;**
  - (B) Assistant [Superintendent] **superintendent;**
  - (C) School [Business Administrator] **business administrator;**
  - (D) Board [Secretary] **secretary** (when other than (a)3iii(4)(A), (B), or (C) above);
  - (E) (No change.)
  - (F) Vice [Principal] **principal;**
  - (G) – (I) (No change.)
  - (J) Instructional [Coach] **coach** by [Subject Area] **subject area;**
  - (K) Department [Chairperson] **chairperson** by [Subject Area] **subject area;**
  - (L) Certificated [Administrator] **administrator** – [Other] **other;**
  - (M) (No change.)
  - (N) Media [Specialist/Librarian] **specialist/librarian;**
  - (O) School [Nurse] **nurse;**
  - (P) Social [Worker] **worker;**
  - (Q) – (S) (No change.)
  - (T) Therapist – [Speech] **speech;**
  - (U) Certificated [Support Staff] **support staff** – [Other] **other;**
  - (V) Teacher by [Subject Area] **subject area;**
  - (W) Instructional [Assistants] **assistants;**

- (X) Certificated [Instructional] **instructional** – [Other] **other**;
- (Y) (No change.)
- (Z) Other [Aides] **aides**;
- (AA) Maintenance [Worker] **worker**;
- (BB) (No change.)
- (CC) Bus [Driver] **driver**;
- (DD) Vehicle [Mechanic] **mechanic**;
- (EE) Food [Service] **service**; and
- (FF) Other [Non-certificated] **non-certificated**;

iv. – vii. (No change.)

viii. An indication, when available, of whether the employee is retiring in the budget year or not being renewed, including associated costs such as contractual buyouts, severance pay, paid vacation or sick days, etc.;

ix. Each of the following: base salary, step, longevity, guide, stipends by type, overtime, and other extra compensation;

x. The benefits paid by the **school** district, net of employee reimbursements or co-pays, by type of benefit and for FICA and Medicare;

xi. – xii. (No change.)

xiii. The date the position was originally created by the **district board of education**. If the date the position was originally created is not available, this item shall represent the date the person currently filling that position was approved by the **district board of education**.

#### 6A:23A-6.9 Facilities maintenance and repair scheduling and accounting

- (a) Any school district or [county vocational school district] **CVSD** with three or more

**school** district buildings shall have an automated work order system [by July 1, 2010] for prioritizing, performing, and recording all maintenance and repair requests for all **school** district buildings and grounds.

1. The [Superintendent] **superintendent** or designee shall establish [standard operating procedures (SOPs)] for the approval and prioritization of work order requests [which] **that** take into account the health and safety of building occupants[,]; priorities and objectives established annually to carryout the **school** district [Strategic Plan,] **strategic plan**; the need for the work requested[,]; and other factors the **school** district deems appropriate.
2. The work order system shall include the following information for a request for work before work begins, except in an emergency where the work is necessary to correct a situation that poses an imminent threat to the health or safety of students and/or staff:
  - i. – vii. (No change.)
  - viii. The trade(s) needed, such as general maintenance worker; custodian; carpenter; plumber; electrician; heating, ventilation, and air conditioning (HVAC); grounds; roofer; masonry; glazer; other;
  - ix. – x. (No change.)
  - xi. The estimated [man] **labor** hours needed to complete task;
  - xii. – xiii. (No change.)
3. The work order system shall include the following close-out information for each request for work:
  - i. The actual hours worked, by date, for each assigned staff member;
  - ii. The actual hourly rate paid, both regular and over[-]time, for each assigned staff member;
  - iii. The aggregate cost of labor by regular, over[-]time, and total;

iv. – vi. (No change.)

4. Except [where] **when** prohibited by collective bargaining agreement, the SOP shall require for any work[, which] **that** cannot be completed during regular working hours by the needed completion date, an assessment of the cost-benefit of outsourcing any such work in excess of the quote threshold as determined under N.J.S.A. 18A:18A-37.
5. [Where] **If**, according to the assessment, the cost of outsourcing work is less than the in-house estimated cost of labor, at over[-]time rates, and materials for the same work, the work shall be outsourced provided the work can be contracted in accordance with N.J.S.A. 18A:18A-1 et seq., **can be** completed by the projected completion date contained in the prioritized work order system, and does not violate the terms of the collective bargaining agreement for maintenance workers and/or custodians.
6. The SBA, in consultation with the supervisor responsible for this work, shall conduct an analysis of the information in the work order system no later than February 1 of the prebudget year for consideration during budget preparation. The analysis should include productivity of staff as a whole and individually, significant variations between estimated labor time and materials and actual labor time and materials, unusual trends for like projects, and other factors that will improve productivity and efficiency.

6A:23A-6.10 Approval of amounts paid in excess of approved purchase orders; **district board of education** policy

- (a) [A school] **Each** district and [county vocational school district] **CVSD board of education** shall adopt a policy establishing the approval process for any remittance of

payment for invoice amounts greater than the approved purchase order. The policy shall require the SBA to identify[,] and investigate, if necessary, the reason for any increase to a purchase order. If [it is found that such] **the SBA finds** an increase is warranted, [the SBA] **he or she** shall either approve a revision to the original purchase order with the reason noted, approve the issuance of a supplemental purchase order for the difference, or cancel the original purchase order and issue a new purchase order. If [it is found that such] **the SBA finds** an increase is not warranted, the purchase order shall be canceled and the goods returned. In no instance shall an adjustment be made to a purchase order that changes the purpose or vendor of the original purchase order or a bid award price.

(b) Financial systems shall be programmed to:

1. Limit system access so [that] only appropriate business office staff [may] **can** make purchase order adjustments;
2. – 3. (No change.)
4. Reject payments [where] **when** the sum of the invoice amount plus any previous invoices charged to the purchase order exceeds the sum of the original purchase order amount plus any authorized adjustments;
5. – 7. (No change.)

(c) The SBA **on a monthly basis** shall review [on a monthly basis] edit/change reports listing all payments made in excess of the originally approved purchase order amount to ensure [that] all payments made are properly authorized.

#### 6A:23A-6.11 Vehicle tracking, maintenance, and accounting

(a) [The school] **Each** district and [county vocational school district] **CVSD board of education** shall adopt a policy for the management, control, and regulatory supervision of school district vehicles, including, but not limited to, the following:

1. A vehicle inventory control record, including:
  - i. The vehicle make, model, and year;
  - ii. – v. (No change.)
  - vi. The person assigned or the pool, if not individually assigned;
  - vii. – viii. (No change.)
  - ix. The usage category such as regular business, maintenance, security, or pupil transportation;
2. A driving record of the operators of **school** district vehicles, including:
  - i. – vii. (No change.)
3. A record of maintenance, repair, and body work for each **school** district vehicle, including:
  - i. The vehicle make, model, and year;
  - ii. – v. (No change.)
  - vi. The usage category, such as regular business, maintenance, security, or pupil transportation;
  - vii. (No change.)
  - viii. The category of work performed (routine maintenance, repair, or body work);
  - ix. – xiii. (No change.)

6A:23A-6.12 District **board of education** vehicle assignment and use policy

- (a) Each [school] district and [county vocational] **CVSD board of education** shall adopt a policy(ies) [or policies] regarding **school** district vehicle assignment [that will] **to** ensure compliance with this section, in accordance with OMB Circular [08-16-ADM] **“The State Vehicular Assignment and Use Policy”** or any superseding circulars.

- (b) The [Board] **district board of education**, upon the recommendation of the [Superintendent] **superintendent** may authorize, [at its discretion,] by an affirmative vote of [the board's] **its** full membership, the lease, lease-purchase, or purchase and assignment of **school** district vehicles for the conduct of official **school** district business. The vehicles may be assigned either to individuals or to units within the organization for pool use according to the following classifications:
1. Vehicles may be assigned permanently and individually to the superintendent, SBA, head of facilities services, head of security services, or other supervisory employees who, based on their job duties, [may be called upon on a 24-hour, seven-day-a-week basis. No individual assignment shall be made for the primary purpose of commuting.
  2. A unit may be permanently assigned one or more **school** district pool vehicles only if **the unit's** employees [of the unit] will collectively use the vehicle or each vehicle for more than an average of 750 miles per month on official **school** district business. Pool vehicles shall not be used for the purpose of commuting and shall remain at a **school** district facility when not in official use.
- (c) [Board] **District board of education** members or employees may be temporarily assigned a **school** district vehicle for travel events.
- (d) Each [school] district and [county vocational school district] **CVSD board of education** shall ensure [that] an employee, such as the SBA, insurance or risk management staff member, head of facilities **services**, or other appropriate employee is assigned the functions of a **school** district vehicle coordinator.
- (e) Vehicle use logs shall be maintained for all individual and pool assignments [in order] to accurately record all usage of each vehicle, including the driver, mileage, and starting and destination points.
- (f) (No change.)

- (g) All changes to vehicle assignment, whether pool or individual, shall require prior written approval of the [Superintendent] **superintendent** and the authorization of an affirmative majority vote of the full **district board of education**.
- (h) No luxury vehicle, one which exceeds the greater of \$30,000 or any current dollar limit established in Internal Revenue Service (IRS) law or regulation, shall be purchased, lease-purchased, or leased by the **school** district. If a vehicle is assigned to the superintendent, it may be a full-size or intermediate, four-door sedan of the non-luxury class. All other vehicles shall be compact sedans[,] unless special passenger, cargo, equipment, or use requirements make the standard vehicle unsuitable for documented **school** district needs.
- (i) The **school** district vehicle shall be used primarily for business purposes; however, incidental and reasonable personal use [is] **shall be** permitted.
- (j) All damage to **school** district vehicles, regardless of cause, shall be reported within 24 hours to the vehicle coordinator and the employee assigned to file insurance claims.
- (k) No physical alterations shall be made to a vehicle without prior **district board of education** approval.
- (l) Drivers of **school** district vehicles shall possess a valid driver's license to operate a vehicle in New Jersey.
- (m) When a vehicle is due for routine maintenance in accordance with the manufacturer's schedule, the driver of an individually assigned vehicle, or[,] **the vehicle coordinator** in the case of a pool vehicle, [the vehicle coordinator] shall be responsible for ensuring [that] the vehicle receives the scheduled service.
- (n) A driver assigned a **school** district vehicle shall be responsible for the security of the vehicle and its contents.
- (o) Drivers shall be personally responsible for all fines accrued as a result of traffic violations related to operation of **school** district vehicles.

- (p) The driver, or the driver's supervisor[,], if the driver is incapacitated, of a **school** district vehicle involved in an accident resulting in damage to the **school** district vehicle or other vehicle shall file, within 24 hours of the accident, a detailed written report with the vehicle coordinator and the **school** district [staff member] **employee** responsible for [making] **filing** insurance claims.
- (q) Police shall be immediately notified of an accident by the driver, or vehicle coordinator[,], if the driver is incapacitated. A copy of the police report shall be submitted to the vehicle coordinator and the **school** district [staff member] **employee** responsible for [making] **filing** insurance claims as soon as possible.
- (r) If a **school** district vehicle is misused in any of the following ways, the driver's [driving] privileges for **driving school** district vehicles shall be suspended or revoked, and additional disciplinary action shall be taken as appropriate.
1. – 2. (No change.)
  3. Operation of a vehicle [which] **that** the police or insurance company determined was the cause of an accident;
  4. Use of a vehicle for unauthorized use, whether personal use, business use, or commuting;
  5. Violation of these rules or **school** district policy governing the assignment, use, operation, repair, and/or maintenance of vehicles. This includes the failure to submit a vehicle for routine maintenance as called for in the manufacturer's routine maintenance schedule;
  6. (No change.)
  7. Use of a **school** district vehicle by an unauthorized individual while assigned to an employee;
  8. Use of a **school** district vehicle to transport any person or child, other than in the course of their assigned duties and responsibilities; or

9. Use of radar detectors in **school** district vehicles.
- (s) The **district board of education** shall establish a policy for progressive, uniform, and mandatory disciplinary actions to be applied as necessary.

6A:23A-6.13 [Board] **District board of education** travel policy

As a condition of receiving State aid, each [school] district and [county vocational school district] **CVSD board of education** shall establish specific **travel** policies and procedures [on travel] that comply with [the requirements of] N.J.S.A. 18A:11-12 and N.J.A.C. 6A:23A-7.

SUBCHAPTER 7 SCHOOL DISTRICT TRAVEL POLICIES AND PROCEDURES

6A:23A-7.1 School district travel expenditures

- (a) Each school district shall ensure the effective and efficient use of funds by adopting and implementing policies and procedures that are in accordance with N.J.S.A. 18A:11-12 and [State of] New Jersey Department of the Treasury, Office of Management and Budget (**OMB**) Circulars [08-19]**16-11-OMB** and [06-14]**11-09-OMB** [(OMB Circulars)] and any [superceding] **superseding** circulars pertaining to travel, meals, events and entertainment, and the additional requirements set forth in this subchapter. If any [superceding] **superseding** circulars of the Office of Management and Budget conflict with the provisions of these rules, the provisions of the [superceding] **superseding** circulars shall govern.
- (b) The provisions of this subchapter shall apply to charter schools. For purposes of this subchapter, the following shall apply:
  1. (No change.)

2. References to ["school board" or] "**district** board of education" shall also mean a **charter school** board of trustees [of a charter school];
  3. References to "[Superintendent] **superintendent**" shall also mean charter school lead person; and
  4. (No change.)
- (c) Any sections [in the OMB Circulars] of **State travel regulations as established by the OMB presented as OMB Travel, Entertainment, Meals, and Refreshments Circulars**, that conflict with New Jersey school law (N.J.S.A. 18A:1-1 et seq.) shall not be included in the [school] **district board of education** policy nor authorized under this section. This includes, but is not limited to, the authority to issue travel charge cards as allowed under the OMB Circulars, but **which is** not authorized for school districts under New Jersey school law.
- (d) School district travel expenditures shall include, but [are] **shall not be** limited to, all costs for transportation, meals, lodging, and registration or conference fees directly related to participation in the event.
- (e) School district travel expenditures subject to this subchapter shall include costs for all required training and all travel authorized in school district employee contracts and [school] **district board of education** policies. This includes, but is not limited to, required professional development, other [staff] **employee** training and required training for **district board of education** members, and attendance at specific conferences authorized in existing employee contracts, provided [that such] **the** travel meets the **subchapter's** requirements [of this subchapter]. All such expenditures are subject to the **subchapter's** rules [in this subchapter], including, but not limited to, inclusion in the annual travel limit, prior **district board of education** approval, separate tracking **as described at N.J.S.A. 18A:11-12.q**, and per diem reimbursements.

6A:23A-7.2 [Board] **District board of education** policy for travel expenditures

- (a) A [school] district board of education shall implement a policy, including procedures, pertaining to travel expenditures for its employees and **district board of education** members that [are] **is** in accordance with [the provisions of] N.J.S.A. 18A:11-12, this subchapter, and other rules and procedures the **district board of education** deems appropriate.
- (b) The **district board of education** policy pertaining to school district travel expenditures shall incorporate either expressly, in whole or in part, and/or by reference the laws and regulations contained in N.J.S.A. 18A:11-12 and this subchapter.
- (c) [A] **Through its policy and procedures, a district board of education** shall ensure [through its policy and procedures that] all travel by its employees and **district board of education** members is educationally necessary and fiscally prudent[, and]. **A district board of education's travel policy and procedures** shall include the requirement that all school district travel expenditures are:
1. Directly related to and within the scope of the employee's or **district board of education** member's current responsibilities and, for school district employees, the school district's professional development plan, the school [building] professional development plan, and employee's individual professional development plan;
  2. (No change.)
  3. In compliance with State travel payment guidelines as established by the **New Jersey Department of the Treasury, Office of Management and Budget**, and with guidelines established by the Federal Office of Management and Budget; except [that those] **any State or Federal regulations and** guidelines that conflict with the provisions of Title 18A of the New Jersey Statutes shall not be

applicable, including, but not limited to, the authority to issue travel charge cards.

The **district** board of education shall specify in its travel policy the applicable restrictions and requirements set forth in the State and Federal guidelines, including, but not limited to, types of travel, methods of transportation, mileage allowance, subsistence allowance, and submission of supporting documentation including receipts, checks, or vouchers.

- (d) A **district board of education** shall state in its policy that travel reimbursements will be paid only upon compliance with all provisions of N.J.A.C. 6A:23A-7 and the **district board[s] of education's** procedures and approval requirements. The policy shall state [that] the [school] **district board [will] of education shall** not ratify or approve payments or reimbursements for travel after completion of the travel event, except as provided at N.J.A.C. 6A:23A-7.4(d).
- (e) A **district board of education** shall require [that] a **district board of education member to** recuse himself or herself from voting on travel if the **district board of education member, a member of his or her immediate family, or a business organization in which he or she has an interest[,] has a direct or indirect financial involvement that may reasonably be expected to impair his or her objectivity or independence of judgment.**
- (f) A **district board of education's travel policies** shall [require that] **prohibit a district board of education member [shall not act] from acting** in his or her official capacity in any matter in which he or she or a member of his or her immediate family has a personal involvement that is or creates some benefit to the [school official] **district board of education member** or member of his or her immediate family; or [undertake] **undertaking** any employment or service, whether compensated or not, [which] **that** may reasonably be expected to prejudice his or her independence of judgment in the execution of his or her official duties.

6A:23A-7.3 Maximum travel budget

- (a) Annually in the prebudget year, each **district board of education** shall establish by [board] resolution[,] a maximum travel expenditure amount for the budget year, which the school district shall not exceed. The [board] resolution shall also include the maximum amount established for the prebudget year and the amount spent to date.
1. (No change.)
  2. A **district board of education** may [elect to] exclude travel expenditures supported by Federal funds from the maximum travel expenditure amount. If Federal funds are excluded from the established maximum amount, the **district board of education** shall include in the resolution the total amount of travel supported by Federal funds from the prior year, prebudget year, and projected for the budget year.
  3. Exclusion of Federal funds from the annual maximum travel budget [does] **shall** not exempt such travel from the requirements applicable to State and local funds.
- (b) A **district board of education** may authorize in its travel policy an annual maximum amount per employee for regular business travel only for which **district board of education** approval is not required.
1. (No change.)
  2. Regular school district business travel as defined in N.J.A.C. 6A:23A-1.2 **shall** include[s] attendance at regularly scheduled in-State county meetings and Department-sponsored or association-sponsored events provided free of charge. It also **shall** include[s] regularly scheduled in-State professional development activities for which the registration fee does not exceed \$ 150.00 per employee or **district board of education** member.

3. Regular school district business travel as authorized in the **district board**[’s] **of education’s** travel policy **shall** require[s] approval of the superintendent prior to obligating the **school** district to pay related expenses and prior to attendance at the travel event.
  - i. The superintendent shall designate an alternate approval authority to approve travel requests in his or her absence when necessary to obtain timely **district board of education** approval.
  - ii. (No change.)

#### 6A:23A-7.4 Travel approval procedures

- (a) All travel requests for employees of the **school** district shall be approved in writing by the superintendent and approved by a majority of the **district board of education’s** full voting membership [of the board], except [where] **if** the **district board of education** has excluded regular business travel from prior approval pursuant to N.J.A.C. 6A:23A-7.3(b), prior to obligating the school district to pay related expenses and prior to attendance at the travel event.
  1. The superintendent shall designate an alternate approval authority to approve travel requests in his or her absence when necessary to obtain timely **district board of education** approval.
  2. (No change.)
- (b) All travel requests for **district board of education** members shall require prior approval by a majority of the **district board of education’s** full voting membership [of the board], except where the **district board of education** has excluded regular business travel from prior approval pursuant to N.J.A.C. 6A:23A-7.3(b), and the travel shall be in compliance with N.J.S.A. 18A:12-24 and [18A:12-]24.1.

- (c) A **district board of education** may approve, at any time prior to the event, travel for multiple months as long as the [board] approval[, as] detailed in **district board of education** minutes[,] itemizes the approval by event, total cost, and number of employees and/or **district board of education** members attending the event. General or blanket pre-approval [is] **shall not be** authorized.
- (d) A **district board of education policy** may[, in its policy,] exclude from the requirements of prior [school] **district board of education** approval any travel caused by or subject to existing contractual provisions, including grants and donations, and other statutory requirements, or Federal regulatory requirements. For the exclusion of prior **district board of education** approval to apply, the required travel event [must] **shall** be detailed, with number of employee(s), **district board of education member(s)**, and total cost in the applicable contract, grant, donation, statute, or Federal regulation.
1. This [does] **shall** not include general grant guidelines or regulations that are permissive but do not require the travel event, unless the specific travel event, number of employee(s), **district board of education member(s)**, and total cost is detailed in the approved grant, donation, or other fund acceptance agreement.
  2. This [does] **shall** not include general contractual provisions in employment contracts for continuing education or professional development, except [where] **if** the **district board of education** has included in its policy[,] a maximum amount per employee for regular business travel that does not require prior **district board of education** approval pursuant to N.J.A.C. 6A:23A-7.3.
- (e) [Where] **If** occasional unforeseen situations arise wherein a travel request cannot obtain prior approval of the **district board of education**, justification shall be included in the text of the travel request.

1. Such requests shall require prior written approval of the superintendent, or designee, and the [Executive County Superintendent] **executive county superintendent**, or designee.
  2. The [Board] **district board of education** shall ratify the request at its next regularly scheduled meeting.
  3. Travel to conferences, conventions, and symposiums [are] **shall not be** considered [to be] emergencies and shall not be approved after the fact.
- (f) **Subsequent to pre-approval by a majority of the full voting membership of the district board of education, reimbursement of prospective employee travel expense shall be pre-approved by the executive county superintendent.**

6A:23A-7.5 Required documentation for travel

- (a) The **district** board [in its] **of education** policy shall specify the type of documentation required to justify the number of employees attending an event and the benefits to be derived from their attendance;
- (b) Neither the superintendent, or designee, nor the **district** board **of education** shall approve a travel request unless it includes the following information:
  1. The name and date(s) of the event;
  2. A list of **district** board **of education** members and/or employees to attend, either by name or title;
  3. (No change.)
  4. A justification and brief statement that includes the primary purpose for the travel, [and] the key issues that will be addressed at the event, and their relevance to improving instruction or the operation of the school district. For training events, **the statement must include** whether the training is [needed] for a certification

required for continued employment, continuing education requirements, requirements of Federal or State law, or other purpose related to the programs and services currently being delivered or soon to be implemented in the school district; or related to school district operations;

5. The account number and funding source--Federal, State, private, or local; and
6. [In the case of] **For** annual events, the total attendance and cost for the previous year.

- (c) [Detailed] **The school district shall maintain on file** documentation [shall be maintained on file in the school district which] **that** demonstrates compliance with the **district board[']s of education's** travel policy, including travel approvals, reports, and receipts for all school district funded expenditures, as appropriate.

#### 6A:23A-7.6 SBA responsibilities regarding accounting for travel

- (a) The SBA or designee shall prepare itemized travel budgets by function and object of expense for each cost center, department, or location maintained in the school district's accounting system, as applicable, as part of the preparation of and documentation for the annual school district budget. The aggregate amount of all travel budgets shall not exceed the **district board of education** approved maximum travel expenditure amount for the budget year as required by N.J.A.C. 6A:23A-7.3.
- (b) The SBA shall maintain separate accounting for school district travel expenditures, as necessary, to ensure compliance with the school district's maximum travel expenditure amount. [This] **The separate accounting tracking system** may include, but need not be limited to, a separate or offline accounting of such expenditures or expanding the school district's accounting system. The tracking system shall be sufficient to demonstrate compliance with the **district board[']s of education's** policy and this subchapter, and

shall be in a detailed format suitable for audit.

- (c) The SBA or designee shall review and approve [all requests for travel expenditure reimbursement submitted for expenses incurred in the course of school district business as to] **the cost and supporting** documentation required by this subchapter **and submitted by the person(s) having incurred travel expense**. The SBA shall not approve or issue payment of travel expenditures or reimbursement requests until all required documentation and information [has been submitted] to support the payment **has been submitted**, and shall not approve any travel expenditure that, when added to already approved travel expenditures, would exceed the **district board of education** approved maximum travel expenditure amount for the budget year.
- (d) The SBA shall be responsible for the adequacy of documentation of transactions processed by [their] **his or her** staff and the retention of [that] **the** documentation to permit audits of [their] **the** records.
- (e) An [employee of the] **district board of education employee**, a **district board of education** member, or **an** organization shall not receive [payment, either] partial or full[,] **payment** for travel and travel-related expenses in advance of the travel, pursuant to N.J.S.A. 18A:19-1 et seq. The payment of travel and travel-related expenses, **including travel-related purchases for which a purchase order is not applicable**, shall be made personally by a school district employee[,] **or district board of education** member and reimbursed at the conclusion of the travel event. [This applies to travel-related purchases for which a purchase order is not applicable.] This section [does] **shall** not preclude the **school** district from paying the vendor directly with the proper use of a purchase order (for example, for registration, airline tickets, hotel).

- (a) Any **district board of education** that violates its established maximum travel expenditure, as set forth in N.J.A.C. 6A:23A-7.3, or that otherwise is not in compliance with the **subchapter's** travel limitations, [set forth in this subchapter] may be subject to sanctions by the Commissioner as authorized pursuant to N.J.S.A. 18A:4-23 and [18A:4-]24, including reduction of State aid in an amount equal to any excess expenditure pursuant to N.J.S.A. 18A:11-12 and 18A:7F-60.
- (b) A person who approves any travel request or reimbursement in violation of the district['s] **board of education** policy or this subchapter shall [be required to] reimburse the school district in an amount equal to three times the cost associated with attending the event, pursuant to N.J.S.A. 18A:11-12.
1. The [board] **travel** policy shall [include the designation of either] **designate** the [Chief School Administrator or School Business Administrator] **chief school administrator, school business administrator**, or [designate] both[,] as the person(s) who [are] **is** the final approval authority for travel and, therefore, subject to this penalty.
- (c) An employee or **district board of education** member who violates the school district's travel policy or these rules shall be required to reimburse the school district in an amount equal to three times the cost associated with attending the event, pursuant to N.J.S.A. 18A:11-12.
- (d) The **district board of education** policy shall include procedures to monitor compliance and application of the penalty upon determination a violation has occurred after **district board of education** payment of the event. If a violation is determined prior to payment or reimbursement of the travel event, the [board] policy may exclude application of any additional penalties.
- (e) The annual audit conducted pursuant to N.J.S.A. 18A:23-1 shall include test procedures to ensure compliance with the district['s] **board of education's** policy and travel

limitations set forth in this section and N.J.S.A. 18A:11-12.

#### 6A:23A-7.8 Prohibited travel reimbursements

(a) A **district** board [shall state in its] **of education's travel** policy [that] **shall state** the following types of expenditures are not eligible for reimbursement:

1. Subsistence reimbursement for one-day trips, except for meals expressly authorized by and in accordance with [the provisions of] N.J.A.C. 6A:23A-7.12;
2. Subsistence reimbursement for overnight travel within the State, except where authorized by the Commissioner in accordance with [the procedures set forth in] N.J.A.C. 6A:23A-7.11;
3. Travel by **district board of education** members or employees whose duties are unrelated to the purpose of the travel event or who are not required to attend to meet continuing education requirements or to comply with law or regulation;
4. Travel by spouses, civil union partners, domestic partners, immediate family members, and other relatives;
5. (No change.)
6. Lunch or refreshments for training sessions and retreats held within the school district, including in-service days and for employee participants traveling from other locations within the school district;
7. (No change.)
8. Charges for laundry, valet service, **and** entertainment;
9. Limousine services[,] and chauffeuring costs to or during the event;
10. Car rentals, either utilized for airport transportation or transportation at a conference, convention, etc., unless absolutely necessary for the conduct of school district business. Justification [must] **shall** accompany any request for car rentals.

If approved, the most economical [scheduling of] car rental is to be used, including the use of subcompacts[,] **and** discounted and special rates. An example of the justified use of a car rental is when an employee is out of [state] **State**, making inspections at various locations, and the use of public transportation is impracticable. When car rental is authorized, the employee shall not be issued an advance payment for the anticipated expense associated with the rental;

11. (No change.)
12. Entertainment costs, including amusement, diversion, [and] social activities, and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities);
13. – 15. (No change.)
16. Souvenirs, memorabilia, promotional items, or gifts;
17. – 18. (No change.)

#### 6A:23A-7.9 Travel methods

- (a) For the purposes of this section, "transportation" means necessary official travel on railroads, airlines, shuttles, buses, taxicabs, school district-owned or leased vehicles, and personal vehicles.
- (b) The purchase or payment of related transportation expenses shall be made by purchase order or personally by a school district employee[,] **or district** board of education member and reimbursed at the conclusion of the travel event. An actual invoice or receipt for each purchase or expense shall be submitted with a claim for reimbursement.
- (c) Pursuant to OMB **Travel** Circulars, the following travel methods requirements **shall** apply:

1. Air and rail tickets shall be purchased via the Internet, if possible, using airline or online travel services such as Travelocity, Expedia, or Hotwire.
2. Air travel shall [only] be authorized **only** when determined that it is necessary and advantageous to conduct school district business.
  - i. – ii. (No change.)
  - iii. No employee or **district board of education** member can earn benefits as a result of school district funded travel. Employees and **district board of education** members [are] **shall be** prohibited from receiving "[Frequent Flyer] **frequent flyer**" or **other** benefits accruing from school district funded travel.
  - iv. Airfare other than economy (that is, [Business] **business** or [First Class] **first class**) shall not be fully reimbursed by the school district except when travel in such classes:
    - (1) – (3) (No change.)
  - v. All airfare other than economy and not covered by the above exceptions purchased by an employee or **district board of education** member shall [only] be reimbursed **only** at the economy rate for the approved destination.
  - vi. – vii. (No change.)
  - viii. [Justification shall be required when actions by a traveler result in additional] **Additional** expenses over and above the authorized travel request[. Sufficient justification] shall be considered only for factors outside the **purchaser's** control [of the purchaser]. [Additional] **The burden of proof shall be placed upon the purchaser and any additional** expenses **incurred** without sufficient justification **and**

**documentation, as determined by the school business administrator,**  
shall not be reimbursed.

ix. Justification shall accompany requests for airline ticket reimbursement when purchased by employees or **district board of education** members contrary to (e)2i through viii above. Sufficient justification shall be considered only for factors outside the **purchaser's** control [of the purchaser]. Noncompliant purchases without sufficient justification shall not be reimbursed. [Reimbursement of purchases with sufficient justification shall be otherwise permitted and reimbursed in accordance with this subchapter.]

3. Rail travel shall [only] be authorized **only** when determined that it is necessary and advantageous to conduct school district business.

i. (No change.)

[ii. When one employee or board member is traveling within the Northeast Corridor, NJ Transit shall be used as the rail option. Use of Amtrak will not be authorized unless it is the only means of travel available.]

[iii.] **ii.** The use of high-speed rail services, such as Acela, shall not be authorized.

[iv. When two or more employees and/or board members are traveling to the same event in the Northeast Corridor (between Boston, MA and Washington, DC), rail travel shall not be authorized. In those cases, the travelers must use a school district vehicle or, if not available, a personally-owned vehicle must be used.]

[v.] **iv.** All rail travel[, including rail travel in the Northeast Corridor, must] **shall** be processed in the same manner as prescribed for air travel in (c)2 above.

4. Use of a school district-owned or -leased vehicle shall be the first means of ground transportation. Use of a personally[-]owned vehicle on a mileage basis

shall not be permitted for official business where a school district[-]owned or leased vehicle is available.

i. Mileage allowance in lieu of actual expenses of transportation shall be allowed at the rate authorized by the annual State Appropriations Act, or a lesser rate at the **district board['s] of education's** discretion for an employee or **district board of education** member traveling by his or her personally[-]owned vehicle on official business.

(1) [In accordance with the OMB Circulars, if] **If** any condition in an existing negotiated contract is in conflict with the **OMB Travel Circulars**, such as the mileage reimbursement rates, the provisions of the **existing** contract [will] **shall** prevail.

ii. – iv. (No change.)

v. All employees and **district board of education** members using privately[-]owned cars in the performance of their duties for the school district shall present a New Jersey Insurance Identification Card indicating that insurance coverage is in full force and effect with companies approved by the State Department of Banking and Insurance. The card shall be made available to the superintendent or designee before authorization to use privately[-]owned cars.

vi. Employees and **district board of education** members who are out-of-State residents [must] **shall** provide appropriate insurance identification in lieu of the New Jersey Insurance Identification Card.

5. School district-owned or -leased vehicles shall be utilized in accordance with N.J.A.C. 6A:23A-6.12.

6. Necessary taxicab charges [are] **shall be** permitted. However, travel to and from airports, downtown areas, and between hotel and event site shall be confined to

regularly scheduled shuttle service, whenever such service is complimentary or is less costly. If shuttle service is not available, taxicabs may be used.

7. (No change.)

#### 6A:23A-7.10 Routing of travel

- (a) Pursuant to **State travel guidelines as established by the New Jersey Department of the Treasury, Office of Management and Budget, and presented in the OMB Travel Circulars:**

1. All travel shall [be by] **follow** the most direct, economical, and usually[-]traveled route. Travel by other routes as a result of official necessity shall [only] be eligible for payment or reimbursement **only** if satisfactorily established in advance of such travel.
2. [In any case where] **If** a person travels by indirect route for personal convenience, the extra expense shall be borne by the individual.
3. Reimbursement for expenses shall be based only on charges that do not exceed what would have been incurred by using the most direct, economical, and usually[-]traveled route.

#### 6A:23A-7.11 Subsistence allowance - overnight travel

- (a) Pursuant to the **State travel guidelines as established by the New Jersey Department of the Treasury, Office of Management and Budget, and presented in the OMB Travel Circulars**, one-day trips that do not involve overnight lodging shall not be eligible for subsistence reimbursement, except for meals expressly authorized by and in accordance with the provisions of N.J.A.C. 6A:23A-7.12.

- (b) Pursuant to the OMB **Travel** Circulars, generally, overnight travel shall not be eligible for subsistence reimbursement if travel is within the State. Overnight travel is permitted if [such travel] **it** is authorized pursuant to (c) below, or is a required component by the entity issuing a grant, donation, or other funding agreement with the **school** district. The specific required overnight in-State travel event [must] **shall** be detailed in the final grant, donation, or other fund acceptance agreement along with **the** number of [employee(s), board member(s)] **authorized travelers** and total cost. All reimbursements [are] **shall be** subject to this subchapter unless the funding acceptance agreement specifies otherwise.
- (c) [The] **Pursuant to the State travel regulations as established by the New Jersey Department of the Treasury, Office of Management and Budget, and presented in the OMB Travel Circular, the** Commissioner shall be authorized to grant waivers for overnight travel for [school] **district board of education** members and school district employees to attend in-State conferences. Such waivers will be granted in only extremely limited circumstances[, where] **when** the sponsoring organization can demonstrate [that] the conference is broad and multi-disciplinary in scope, incorporates content offerings from numerous specialty areas, and includes important professional development opportunities and/or required training. In addition, the sponsoring organization [must] **shall** demonstrate [that] the conference's content, structure, scheduling, and anticipated attendance necessitate that it be held on multiple consecutive days with overnight lodging. When such waivers are granted, individual school districts or individuals [will] **shall** not be required to submit waiver requests for attendance at these conferences.
1. Sponsors of **in-State** conferences may submit to the Commissioner a request for a waiver of this prohibition by providing information regarding the conference as follows:
    - i. – vi. (No change.)
    - vii. A detailed list and description of any activities to be charged to the

participants by the sponsor separate from the registration fee, such as luncheons, [work shops] **workshops**, entertainment, etc., including:

(1) – (2) (No change.)

viii. (No change.)

ix. A brief statement that includes the primary purpose of the event, [and] the key issues that will be addressed at the event, and their relevance to improving instruction or the operation of a school or school district;

x. (No change.)

xi. [In the case of] **For** annual events, total attendance and registration cost for **the** previous year.

(d) If a waiver of the prohibition on overnight travel is granted pursuant to this section, it shall permit reimbursement for travel expenses [for] only [those] **for** individuals whose home-to-convention commute exceeds 50 miles.

(e) (No change.)

(f) The [US] **United States** General Services Administration publishes a schedule of Federal per diem rates in the Federal Register for approved overnight travel by the event location. The latest Federal per diem rates schedule for lodging, [and] meals, and incidental expenses by location can be found at [www.gsa.gov](http://www.gsa.gov). The following restrictions apply to allowable per diem reimbursements:

1. Allowable per diem reimbursement for lodging, meals, and incidentals shall be actual reasonable costs, not to exceed the Federal per diem rates for the event location. Registration and conference fees are not subject to the [federal] **Federal** per diem rate caps. If the event location is not listed, the maximum per diem allowance shall be [\$ 31.00 for meal/incidental expenses and \$ 60.00 for lodging, or amounts listed in any superceding NJOMB circular] **equal to the standard CONUS per diem rates published by the General Services Administration for**

**meals, incidental expenses, and lodging.**

2. Pursuant to N.J.S.A. 18A:11-12[(o)].**o**, reimbursement for lodging expenses for overnight travel, out-of-State or in-State as authorized by the Commissioner, may exceed the Federal per diem rates if the hotel is the site of the convention, conference, seminar, or meeting and the going rate of the hotel is in excess of Federal per diem rates.
  - i. – ii. (No change.)
3. If the meal is not part of a one-sum fee for a travel event, reimbursement may be approved for the full cost of an official convention meal that the employee or board member attends, when such meal is scheduled as an integral part of the convention or conference proceedings. Receipts shall be submitted [in order] to obtain reimbursement in such situations. The amount of the Federal per diem rate for the corresponding meal shall be deducted from that day's subsistence allowance.
4. The allowance for a meal(s) [or meals,] or incidentals shall not be eligible for reimbursement when included and paid in the registration fee, the cost of lodging, or transportation charge.
5. Receipts shall be required for all hotel and incidental expenses. Meal expenses under the Federal per diem allowance limits [do] **shall** not require receipts pursuant to N.J.S.A. 18A:11-[12o(3)]**12.o(3)**.
6. [In any cases in which] **If** the total per diem reimbursement is greater than the Federal per diem rates, the costs shall be considered excessive in the absence of substantial justification accompanying the travel voucher submitted by the employee or **district board of education** member. In such cases, receipts shall be submitted for all costs, including meals.
7. Employees and **district board of education** members shall patronize hotels and

motels that offer special rates to government employees unless alternative lodging offers greater cost benefits or is more advantageous to the conduct of school district business.

8. Actual subsistence expenses shall not be reimbursable if paid by the traveler to a member of his **or her** family, to another school district employee, or to a **family** member [of the family] of another school district employee.

6A:23A-7.12 Meal allowance--special conditions--and allowable incidental travel expenditures

- (a) (No change.)
- (b) [Meals during] **A meal allowance may be provided to employees or district board of education members in relation to** one-day, out-of-State trips required for school business purposes [may be authorized] **that do not require an overnight stay. The reimbursement** for breakfast, lunch, and/or dinner [in an amount permitted by NJOMB] **shall not exceed the amounts authorized in State travel regulations as published by the New Jersey Department of the Treasury, Office of Management and Budget, and presented in the OMB Travel Circular.** [The Commissioner shall post the most current rates on the Department website for reference.]
- (c) Lunch for **off-site** training sessions may be authorized for an amount up to \$ 7.00 per person only when it is necessary that employees or **district board of education** members remain at a site other than their school district and there are no viable options for lunch at the off-site location.
  1. Per N.J.S.A. 18A:11-[12a(1)(d)]**12.a(1)(d)**, employee and **district board of education** member retreats shall be held onsite unless there is no school district site available.

2. If lunch is included in a lump-sum registration fee for [the] **an off-site** training session, the full amount is eligible for reimbursement, if reasonable. **Providing lunch for on-site staff meetings and in-service days or for employees who come from other parts of the school district shall not be permitted.** (See **N.J.A.C. 6A:23A-7.12(d).**)
  3. Refreshments for breaks may also be provided at training sessions held at a site other than the school district. [Therefore, providing lunch for staff meetings and in-service days or for staff that come from other parts of the school district shall not be permitted. (See N.J.A.C. 6A:23A-7.12(d).)]
- (d) Subsistence expenses for an employee or **district board of education** member shall not be allowed [at] **within** the school district or within a radius of 10 miles thereof, except for meals expressly authorized by and in accordance with [the provisions of] this section. Non-allowed expenses include, but are not limited to, meals and refreshments for **on-site** staff meetings and in-service days.
- (e) Reimbursement may be approved for the cost of an official luncheon or dinner, up to \$ [7.00] **10.00** and \$ [10.00] **15.00**, respectively, that an employee or **district board of education** member is authorized to attend, [where such a] **if the** meal is scheduled as an integral part of an official proceeding or program related to school district business and the employee's **or board of education member's** responsibilities.
1. School district business above refers to the management operations of the **school** district and does not refer to activities that benefit students and are part of the instructional program. Pursuant to N.J.A.C. 6A:23A-5.8(b)4, all reasonable expenditures related to **school** district employees that are essential to the conduct of a student activity are permitted.

(f) Regular meetings, special meetings, and work sessions of the **district** board of education shall be limited to light meals and refreshments for all **district board of education** members.

1. The meals may be served to employees who are required to attend the event and [where] **if** it is impractical for the employee to commute to and from his or her residence between the end of the work day and the beginning of the event, or [where] **if** the employee is required to remain at the school district to prepare for the event.
2. The school district shall acquire the light meals and refreshments by the solicitation of quotes, if required pursuant to N.J.S.A. 18A:18A-1 et seq.
3. [Where] **If** the school district's food service program can prepare comparable meals at a lower cost, the food service program shall be used.
4. (No change.)
5. The school district shall purchase or prepare food that [are] **is** sufficient to provide each **district board of education** member, dignitary, non-employee speaker, or allowable staff member one meal. Meals should be carefully ordered to avoid [left-overs] **excess**. Unintended left[-]over food should be donated to a charitable shelter or similar facility, if at all possible.

(g) [Allowable] **Reimbursement may be approved for allowable telephone and** incidental travel expenses [are defined as those] that are essential to transacting official business.

1. Charges for telephone calls on official business may be allowed. The voucher [must] **shall** show the dates on which such calls were made, the points between which each call was made, and the cost per call.
2. Employees and **district board of education** members using their personally[-]owned telephone for business may request reimbursement, less Federal Communications Tax. Calls for business are tax exempt and the telephone

company will make allowances for the tax if the employee or **district board of education** member certifies to the telephone company when paying bills for personally[-]owned phones that said calls were business calls.

3. Incidental expenses, **defined as “non-meal tips” by the State travel regulations**, when necessarily incurred by the traveler in connection with the transaction of official business, may be submitted for reimbursement only when the necessity and nature of the expense are clearly and fully explained on the travel voucher and the voucher is approved. Travel vouchers shall be supported by receipts showing the quantity and unit price.

#### 6A:23A-7.13 Records and supporting documents

- (a) All persons authorized to travel on business shall keep a memorandum of expenditures chargeable to the school district, noting each item at the time **and date** the expense is incurred[, together with the date incurred].
- (b) The travel voucher shall be completed by the employee or **district board of education** member to document the details of the travel event. The travel voucher [must] **shall** be signed by the employee or **district board of education** member to certify [to] the validity of the charges for which reimbursement is sought. The form [must] also **shall** bear the signatures of approval officials for processing.
- (c) (No change.)
- (d) In addition to the documentation required for reimbursement, each person authorized to travel shall submit a brief report that includes the primary purpose for the travel, the key issues addressed at the event, and their relevance to improving instruction or the operations of the school district. This report shall be submitted prior to receiving reimbursement.

- (e) Documentation for requests for travel reimbursement shall show:
1. The date(s) and individual points of travel, number of miles traveled between such points, and kind of conveyance used;
  2. If the distance traveled between [any given] **individual** points is greater than the usual route between [these] **the** points, the reason for the greater distance [must] **shall** be stated;
  3. The hours of the normal work day and actual hours worked [must] **shall** be shown when requesting meal reimbursement for non-overnight travel;
  4. – 6. (No change.)
  7. When lodging is shared jointly, the fact [must] **shall** be stated on the travel voucher;
  8. Where travel is not by the most economical, usually[-]traveled route, the employee or **district board of education** member reimbursement request shall set forth the details of the route, the expenses actually incurred, the hour of departure, the hour of arrival, and an explanation for the use of costlier travel arrangements;
  9. When travel is authorized in the employee's or **district board of education** member's own automobile on a mileage basis, the points between which travel was made, and the distance traveled between each place [must] **shall** be shown. A statement as to ownership of the auto or other conveyance used, as well as a certification that liability insurance is in effect, [must] **shall** be documented;
  10. Reimbursement requests [must] **shall** be supported by other receipts as required;
  11. (No change.)
  12. Reimbursement requests shall be rendered monthly when in excess of \$25.00. Travel for a single travel event [must] **shall** be reported as soon as possible after the trip.

- (f) (No change.)

- (g) Travel mileage reimbursement requests of the just-completed school year that are not submitted by July 30 or the date approved by the **school** district for the closing of books, whichever is earlier, for the just-completed school year shall not be approved or paid.

## SUBCHAPTER 8 ANNUAL BUDGET DEVELOPMENT AND SUBMISSION

### 6A:23A- 8.1 Budget submission; supporting documentation; website publication

- (a) Annually, on or before [March 4] **the due date established in N.J.S.A. 18A:7F-5.c**, each district board of education shall adopt[,] and submit to the [Executive County Superintendent] **executive county superintendent** for approval, together with [such] **Commissioner-prescribed** supporting documentation [as prescribed by the Commissioner], a budget that provides for a thorough and efficient (T&E) education. The Commissioner may adjust the date for the submission of budgets to [confirm] **conform** with the State aid notification date pursuant to N.J.S.A. 18A:7F-[5c]**5.c** or if the Commissioner determines [that] the availability of preliminary aid numbers for the subsequent school year warrants [such] adjustment.
- (b) (No change.)
- (c) The budget as adopted for the school year pursuant to N.J.S.A.18A:7F-5 shall be provided for public inspection on the **school** district's [Internet site] **website**, if one exists, and made available in print in a "user-friendly," plain language budget summary format within 48 hours after the public hearing on the budget.
  - 1. The budget shall be maintained on the **school** district's [Internet site] **website**, if one exists, with a visible link off the main page, for the entire budget year and revised, as applicable, when changed as follows:
    - i. (No change.)

- ii. Upon voter [rejection] **approval** of a separate proposal(s);
  - iii. – iv. (No change.)
2. The Commissioner shall develop and provide through the Department's Internet site "user-friendly," plain language budget summary forms for the use of school districts. Each **school** district shall submit the required budget summary form to the Department [of Education] following the approval of the base budget question by [the] voters or **the** board of school estimate, as applicable, or[, when the base budget question is rejected by the voters,] following municipal action **when the base budget question is rejected by voters; or, pursuant to N.J.S.A. 18A:22-32, following approval by the district board of education for school districts with November elections.** When the base budget question and any separate [question or separate] question(s) are approved by [the] voters or **the** board of school estimate, as applicable, all approved amounts shall be consolidated and reflected in the "user-friendly," plain language budget summary form.
3. The plain language budget summary shall include an abbreviated version of the formal budget adopted by the [school] district **board of education** and [such] statistical information [as] the Commissioner determines to be useful for the public's understanding of the school district's fiscal matters and condition, including, but not [be] limited to, the following information for both the school district's budget year and the prebudget year:
- i. – vii. (No change.)
4. The Department shall make the plain language budget summary available to the public through its [Internet] website in an easily accessible location and in a manner that can be downloaded by the public for comparative purposes using commonly[-]used software.
- (d) Pursuant to N.J.S.A. 18A:7F-5.3, the Commissioner shall require each [local public]

school district, CVSD, and CSSSD to submit as part of the annual budget submission supporting documentation [in regard to the] **regarding** employment contracts of the superintendent, any assistant superintendent(s), the SBA, and any employee with an annual salary that exceeds \$75,000 who is not a member of a collective bargaining unit. The supporting documentation shall include **the following** employment contract information: [as detailed in (d)1 through 4 below.]

1. A detailed statement of the employment contract terms for [these] **the** school employees, including, but not limited to, the duration of the contract, number of annual work days, number of annual vacation days, number of annual sick days, number of annual personal days, number of annual consulting days, and any other contracted non-working days. The statement shall also include an itemization of all forms of compensation provided for under the contract.
2. The annualized cost of all benefits provided to [these] **the** school employees, including, but not limited to, all allowances, bonuses and stipends, and all contributions made by the school district toward[s] the costs of health, dental, life and other types of insurance, medical and reimbursement plans, any reimbursement of the employee share of Federal and/or State taxes or benefits, and retirement and tax sheltered annuity plans [which] **that** exceed the contributions for the costs of [these] **the** items made on behalf of a teaching staff member under a collective bargaining agreement with the **district board of education**.
  - i. – ii. (No change.)
  - [iii. Retirement contributions include, but are not limited to, payment of the employee share of contribution to pension, an annuity, and trust account.]
3. A detailed statement of any benefit(s) provided for in the employment contract with [these] **the** school employees [which] **that** are to be conferred after or upon

the separation from the school district. This includes buyback of vacation days, sick days (if retiring), and any other post-employment benefits.

4. A detailed statement of any form of in-kind or other form of remuneration provided to [these] **the** school employees that is not otherwise included in the employee's salary or benefits. This includes any annual option to buyback vacation time.

(e) The employment contract information in (d) above shall be provided for public inspection, along with the budget as prescribed in (c) above, in an easily accessible location and in a "user-friendly," plain-language format as prescribed by the Commissioner on the [local public] school district's [Internet site] **website**, if one exists, no less than 48 hours after the public hearing on the budget.

1. The employment contract information shall be maintained on the **school** district's [Internet site] **website**, if one exists, with a visible link off the main page, for the entire budget year.
2. The Department shall also post the items in (e) above on its [Internet site] **website** for public inspection after submission by all **school** districts of the final approved **school** district budget.

(f) A district board of education shall submit at the Commissioner's request supplemental information such as documents, contracts, reports, and financial records and statements required by law or regulation, or other information necessary to conduct a review of the school district's annual spending plan. Additional information may include, but need not be limited to:

1. Contracted salaries:
  - i. (No change.)
  - ii. An accurate, complete, and up-to-date position control roster, pursuant to N.J.A.C. 6A:23A-6.8;

- iii. A list of stipend amounts by staff member name, position, and purpose;
2. Health benefits: The school district shall provide the following:
    - i. A summary list by type of coverage and aggregate annual amount for major medical, prescription, dental, and all other benefit costs, including actual costs for the year prior to the prebudget year, and actual or estimated, as available, for the prebudget year and budget year;
    - ii. A summary list by type and category (single, parent and child, or family) by amount for the year prior to the prebudget year, prebudget year, and budget year;
    - iii. – v. (No change.)
  3. Operation and maintenance of plant services:
    - i. A detailed list of actual or scheduled equipment purchases with a cost of \$2,000 or more per unit by the actual or estimated cost of each, as available, for the year prior to the prebudget year, prebudget year as of February 1, and the budget year;
    - ii. The square footage for each building, including administration, schools, temporary classroom units[:], warehouses, bus garages, and other structures;
    - iii. (No change.)
    - iv. A summary of the number of maintenance employees by trade and the cost by regular hours and overtime hours for each of the three years included in the budget: prior year actual, projected [pre-budget] **prebudget** year updated as of February 1, and estimated budget year;
    - v. An analysis of any lease(s) held by the school district for classroom space, office space, and other spaces. The analysis shall include, but not be limited to, the use of the building, square footage, term of the lease,

monthly cost, and the annual cost for each of the three years included in the budget: prior year audited, [pre-budget] **prebudget** year updated as of February 1, and proposed budget; and the school district's long-term plan to obtain **school** district-owned space for these purposes;

4. (No change.)
5. Purchased professional services: A detailed list of all contracts by service type such as auditor, architect, attorney, etc., by actual cost for the year prior to the prebudget year, actual or maximum cost, as available, for the prebudget year, and actual or estimated maximum cost for the budget year;
6. Purchased technical services: A detailed list of all contracts by service type by actual cost for the year prior to the prebudget year, actual or maximum cost, as available, for the prebudget year, and actual or estimated maximum cost for the budget year. Identification of any technical service(s) purchased without public bidding under the extraordinary unspecified services provision pursuant to N.J.S.A. 18A:18A-5;
7. Textbook adoptions:
  - i. A list of any new textbook adoption(s) for the budget year by title, title and date published of series being replaced, and cost;
  - ii. Summary of [text book] **textbook** adoptions expenditures by actual cost for the year prior to the prebudget year, and actual or estimated cost, as available, for the prebudget year and budget year;
8. Equipment purchases: Schedules with descriptions of all actual and scheduled purchases of equipment with a cost of \$2,000 or greater per unit, other than those for [Operation and Maintenance of Plant Services] **operation and maintenance of plant services**, by actual cost for the year prior to the prebudget year, and actual or estimated cost, as available, for the prebudget year and budget year;

9. (No change.)
10. An accounting and analysis of actual salary breakage in the year prior to the prebudget year for replacement of [staff that] **employees who** retired or otherwise left school district employment before or during the year, actual or estimated salary breakage, as available, for the prebudget year for replacement of [staff that] **employees who** retired or otherwise left school district employment or are known to be retiring or otherwise leaving school district employment before the end of the prebudget year, and estimated salary breakage for the budget year for replacement of [staff] **employees** known to be retiring or otherwise leaving school district employment at the end of the prebudget year;
11. – 13. (No change.)

#### 6A:23A-8.2 Public notice and inspection

- (a) Each district board of education, upon submission of its budget application to the [Executive County Superintendent] **executive county superintendent** or by the statutory submission date, whichever is earlier, shall make available upon request for public inspection all budget and supporting documentation contained in the budget application and all other documents listed in N.J.A.C. 6A:23A-8.1 once the budget application has been submitted to the [Executive County Superintendent] **executive county superintendent** for approval. Nothing in this section shall restrict access by the citizens of this State to documents [which] **that** otherwise qualify as public records pursuant to N.J.S.A. 47:1A-1 et seq., or under the common law.
- (b) Notwithstanding any provision of law to the contrary, if a district board of education proposes a budget with a general fund tax levy and equalization aid [which] **that** exceed the school district's adequacy budget, the following statement shall be published,

pursuant to N.J.S.A. 18A:7F-[5d(10)]**5.d(10)**, in the legal notice of public hearing on the budget pursuant to N.J.S.A. 18A:22-28, posted at the public hearing held on the budget pursuant to N.J.S.A. 18A:22-29, and printed on the sample ballot required pursuant to N.J.S.A.19:60-10:

"Your school district has proposed programs and services in addition to the New jersey Student Learning Standards adopted by the State Board of Education. Information on this budget and the programs and services it provides is available from your local school district."

- (c) Additionally, the district board of education shall prepare a narrative statement based on the thoroughness and efficiency standards established pursuant to N.J.S.A. 18A:7F-46 [which] **that** describes in specific detail the reasons why and to the extent that the school district's proposed budget contains spending [which] **that** exceeds the adequacy budget. That statement shall be included with the budget application and other materials for public inspection.

#### 6A:23A-8.3 Administrative cost limits

- (a) Each district board of education shall budget and report administrative costs using the minimum chart of accounts and other reporting directives published and distributed by the Commissioner pursuant to N.J.S.A. 18A:4-14 and N.J.A.C. 6A:[23-2]**23A-16**, which includes, but is not limited to, recording the full salary of the [business administrator] **SBA**, chief school administrator, and principal/vice principal(s) as administrative costs, except as follows:
1. (No change.)
  2. The salary of a chief school administrator, [business administrator] **SBA**, or principal/vice principal shall not be prorated between other functions, except as

otherwise provided in (a)1 above, or to instruction when providing direct classroom instruction as part of the school district's regular curriculum.

- (b) Each district board of education, except for [county vocational school districts] **CVSDs** and [nonoperating] **non-operating** school districts, shall prepare and submit to the executive county superintendent a proposed budget consistent with N.J.S.A. 18A:7F-5, N.J.S.A. 18A:22-1 et seq. and this chapter, in which the advertised per pupil administrative cost does not exceed the lower of the following:
1. – 2. (No change.)
- (c) Each district board of education, pursuant to N.J.S.A. 18A:7F-5, may request approval of the [Executive County Superintendent] **executive county superintendent**, as the Commissioner's designee, to exceed the school district's adjusted, as of February 1, prebudget year per pupil administrative costs up to 2.5 percent or the CPI, whichever is greater, as follows:
1. The district board of education shall submit [such] **the** request to the executive county superintendent in writing no less than two weeks prior to budget submission;
  2. The request [cannot] **shall not** exceed the per pupil administrative cost limits for the school district's region in (b)2 above; and
  3. The district board of education shall include with [such] **the** request documentation that supports the request for factors including, but not limited to:
    - i. – ii. (No change.)
    - iii. Changes to nondiscretionary fixed costs as defined in N.J.A.C. 6A:23A-[1.1]**1.2**; and
    - iv. (No change.)
- (d) Each district board of education subject to (b) above may submit to the [Executive County Superintendent] **executive county superintendent** any shared services

**contractual** agreement(s) and documented costs for the provision of administrative services to other school districts or governmental units. [An Executive County Superintendent] **The executive county superintendent** may [take into consideration such] **consider the** contractual agreements and documented costs in the calculation of total administrative spending in the prebudget and budget year for purposes of determining the district board of education's adherence with the per pupil administrative cost limits.

- (e) Each district board of education subject to (b) above shall submit to the [Executive County Superintendent] **executive county superintendent** a proposed budget in which the advertised per pupil administrative cost is within the per pupil administrative cost limits in (b) above. A district board of education may include as a separate proposal for voter or board of school estimate approval any excess administrative spending above the cost limits only if [such] **the** proposal[s are] **is** consistent with [the requirements at] N.J.A.C. 6A:23A-[12.13]**12.1**.
- (f) Each district board of education subject to (b) above that submits to the [Executive County Superintendent] **executive county superintendent** a proposed budget in which the advertised per pupil administrative cost exceeds the per pupil administrative cost limits in (b) above, and has not received [Executive County Superintendent] **executive county superintendent** approval to exceed this requirement as set forth in (c) above, or has not presented documentation to the [Executive County Superintendent] **executive county superintendent** as set forth in (d) above, [will] **shall** not receive budget approval.
1. The district board of education shall resubmit to the [Executive County Superintendent] **executive county superintendent** a budget that has met the administrative cost limits, through either a reduction in administrative costs and/or submission of a separate proposal for voter or board of school estimate approval of the excess administrative costs, no later than five working days prior

to the school district's last day to advertise for the public hearing.

2. A district board of education that does not resubmit a budget in accordance with (f)1 above within this timeframe:
  - i. Shall lose the authority and decision-making capacity for development of the final administrative budget for advertisement to the voters or board of school estimate and this responsibility shall be shifted to the [Executive County Superintendent,] **executive county superintendent** as the Commissioner's designee. The [Executive County Superintendent will] **executive county superintendent shall** conduct all necessary budgetary reallocations and reductions to meet these requirements; and
  - ii. May be subject to withholding of State aid, pursuant to N.J.S.A. 18A:7F-9.

(g) Each district board of education subject to (b) above that fails to submit to the [Executive County Superintendent] **executive county superintendent** an approvable budget in a second consecutive year or any year thereafter shall be subject to:

1. (No change.)
2. Withholding of State aid, pursuant to N.J.S.A. 18A:7F-9.

#### 6A:23A-8.4 Capital outlay budget

- (a) Pursuant to N.J.A.C. 6A:26-3.7 and 3.12, a district board of education shall obtain approval of the local funding for a non-referendum capital project (school facility project or other capital project) through one of the following methods:
1. (No change.)
  2. Separate voter-approved question, [or] board of school estimate approved resolution, or capital projects review board approved resolution of the expenditure

of local support; or

3. (No change.)
- (b) A district board of education seeking [local] approval **of local funding for a non-referendum capital project** through **appropriations made to** the necessary [line-items] **line items** in the budget pursuant to (a)1 above shall provide the necessary detail in the appropriate supporting documentation **to the budget submission**, pursuant to N.J.S.A. 18A:22-8 and N.J.A.C. 6A:23A-8.1. **For school districts that hold annual elections in November, approval of local funding for a non-referendum capital project shall be obtained through executive county superintendent approval of the base budget.**
- (c) A district board of education shall transfer the local share of school facilities projects budgeted in capital outlay to the capital projects fund, pursuant to N.J.A.C. 6A:26-3.8(a)3.

#### 6A:23A-8.5 Designation of general fund balances

- (a) Each district board of education shall **designate**, at a minimum, [designate] in the original budget certified for taxes an estimate of [unreserved] **undesignated-unassigned** general fund balance at June 30 of the prebudget year in excess of the limitations contained in N.J.S.A. 18A:7F-7, less any excess amount(s) approved by the Commissioner for deposit into a capital reserve account, pursuant to N.J.A.C. 6A:23A-14.1, less any Federal impact aid anticipated to be received in the prebudget year, **less any restricted school bus advertising revenue, pursuant to N.J.S.A. 18A:39-31**, and any general fund balance(s) [reserved] **restricted** by law or regulation or designation.
- (b) – (c) (No change.)

#### 6A:23A-8.6 Appropriation of [unreserved] **unrestricted** debt service fund balance; exception

- (a) A district board of education shall appropriate annually all [unreserved] **unrestricted** debt service fund balances in the budget certified for taxes unless expressly authorized and documented by the voters in a bond referendum, after transfer of unexpended bond proceeds pursuant to N.J.A.C. 6A:26-4.6(c), [or] upon formal Commissioner approval after review of documented authorization by the voters in a public meeting.
- (b) A district board of education shall include in the bond referendum or documented authorization pursuant to (a) above, the specific purpose for maintaining the [unreserved] **unrestricted** debt service fund balance and duration that the [unreserved] **unrestricted** debt service fund balance will be maintained.

SUBCHAPTER 9 EXECUTIVE COUNTY SUPERINTENDENT BUDGET REVIEW  
PROCEDURES

6A:23A-9.1 Executive [County Superintendent] **county superintendent** budget review

- (a) A district board of education shall submit the budget application and all required supporting documentation as prescribed in this section to the [Executive County Superintendent] **executive county superintendent** for review and approval.
- (b) The [Executive County Superintendent] **executive county superintendent**, as designated by the Commissioner, shall review and approve each district board of education's proposed budget prior to its advertisement, except when the Commissioner has granted authority to advertise prior to budget approval. The [Executive County Superintendent] **executive county superintendent** shall [only] approve budgets **only** when:
  1. The base budget portion of the budget application and supporting documentation submitted by the district board of education includes measures to ensure [that]

curriculum and instruction are designed and delivered in a way that all students will have the opportunity to achieve the knowledge and skills defined by the New Jersey Student Learning Standards and that all proposed expenditures are suitable and appropriate for that purpose;

2. (No change.)
3. The base budget is within the applicable regional limit, pursuant to N.J.S.A. 18A:7F-5.

(c) In reaching a determination, the [Executive County Superintendent's] **executive county superintendent's** review shall include, but not be limited to, the following information and records:

1. (No change.)
2. Any progress report or other annual report required by the Commissioner regarding compliance with the quality performance indicators, pursuant to N.J.S.A. 18A:7A-3 et seq.[,] and N.J.A.C. 6A:30;
3. – 4. (No change.)
5. The [comparative spending guide] **Taxpayers' Guide to Education Spending;**
6. The school **performance** report [card];
7. (No change.)
8. The [Comprehensive Maintenance Plan] **comprehensive maintenance plan** pursuant to N.J.A.C. 6A:[26A]**26-20**; and
9. The section of [Long-Range Facilities Plan] **long-range facilities plan** (LRFP), submitted pursuant to N.J.S.A. 18A:7G-4, that includes the capital projects proposed in the budget.

(d) The [Executive County Superintendent] **executive county superintendent** shall order any change(s) in proposed expenditures that [are] **is** found unsuitable, inappropriate, or unreasonable, including administrative spending, pursuant to N.J.S.A. 18A:7F-5.

- (e) The [Executive County Superintendent] **executive county superintendent** shall not approve [any] a base budget unless it includes the required annual maintenance amount, pursuant to N.J.A.C. 6A:[26A]26-20.4.
- (f) The [Executive County Superintendent] **executive county superintendent** shall annually review expenditures of each district board of education, pursuant to N.J.S.A. 18A:7F-5, and shall not predicate budget determinations on past practices. The [Executive County Superintendent] **executive county superintendent** shall direct in the proposed budget, as appropriate, an increase, decrease, or [the] elimination of expenditures contained in the prior year's approved budget.

6A:23A-9.2 Executive [County Superintendent] **county superintendent** budget review and approval; administrative and non-instructional expenses

- (a) [The Executive County Superintendent shall, prior] **Prior** to advertisement by the district board of education, **the executive county superintendent shall:**
  1. Review all budgets of the **school** districts within the county, pursuant to N.J.S.A.18A:7F-5, and may **disapprove**, pursuant to N.J.S.A. 18A:7-[8(l)]**8.l** and [(x)] **x**, [disapprove] a portion of a **school** district's proposed budget if the **school** district has not implemented all potential efficiencies in its administrative operations or if the budget includes excessive non-instructional expenses. In making this determination, the [Executive County Superintendent] **executive county superintendent** will consider, but need not be limited to, a **school** district's failure to meet efficiency standards or failure to implement efficient business practices established [for this purpose], pursuant to N.J.A.C. 6A:23A-9.3. The **school** district shall deduct the disapproved amounts from the budget prior to publication, and shall not transfer funds back into [those accounts during

the budget year] **any general ledger appropriation account that has been reduced pursuant to the review.**

- i. Budget reallocations may be calculated using the presumptive efficient spending levels as defined in **N.J.A.C. 6A:23A-1.2**; and
2. Review and approve separate proposals to be submitted to the voters for additional funds, pursuant to N.J.S.A. 18A:7F-5 or 18A:7F-39, as applicable, provided [that] **the school district**:
  - i. [The district provides] **Provides** written documentation [that] it has made efforts to enter into shared arrangements with other **school** districts, municipalities, counties, and other units of local government for the provision of administrative, business, purchasing, public and nonpublic transportation, and other required **school** district services;
  - ii. [The district certifies] **Certifies** and provides written documentation [that the district] **it** participates in on-going shared arrangements; or
  - iii. [The district certifies] **Certifies** and provides written documentation that entering such shared arrangements would not result in cost savings or would result in additional expenses for the **school** district.

6A:23A-9.3 Efficiency standards for review of administrative and non-instructional expenditures and efficient business practices

- (a) For purposes of [Executive County Superintendent] **executive county superintendent** budget reviews, pursuant to N.J.A.C. 6A:23A-9.1 through 9.5 [and tax levy cap waivers pursuant to N.J.S.A. 18A:7F-39], the standards and requirements set forth in this section shall apply.
- (b) In [making a determination as to] **determining** whether a **school** district has implemented

all potential administrative efficiencies and/or eliminated all excessive non-instructional costs, the [Executive County Superintendent] **executive county superintendent** shall consider the efficiency standards and [Comparative Spending] **Taxpayers' Guide to Education Spending** indicators in (c) below as guidelines and applied based on **school** district-specific circumstances, including, but not limited to, the **school** district's spending relative to its adequacy budget[,] **and** the **school** district's results on NJQSAC and other measures of efficiency and effectiveness. The [Executive County Superintendent] **executive county superintendent** shall also consider the impact on the stability of **school** district operations given the need for long-term planning and budgeting to meet the standards and indicators, **school** district-specific cost factors beyond the **school district's** control [of the district] and any phase-in period needed to implement any [efficiencies] **efficiency(ies)** the [Executive County Superintendent] **executive county superintendent** deems feasible based on the standards and indicators in (c) below.

- (c) Efficient administrative and non-instructional costs **shall** include, but [are] not **be** limited to, the following:
1. (No change.)
  2. Indicators from the [Comparative Spending] **Taxpayers' Guide to Education Spending** for **school** districts' operating type and enrollment range indexed to the budget year by the applicable growth in the [Consumer Price Index (CPI)] as follows:
    - i. (No change.)
    - ii. Support [Services] **services** cost per pupil equal to or less than the State median;
    - iii. Operation and [Maintenance] **maintenance** of [Plant] **plant** cost per pupil equal to or less than the State median;

- iv. A ratio of [Students] **students** to [Administrative Personnel] **administrative personnel** equal to or more than the State average;
  - v. A ratio of [Faculty] **faculty** to [Administrative Personal] **administrative personnel** equal to or more than the State average; and
  - vi. A ratio of [Students] **students** to [Educational Support Personnel] **educational support personnel** equal to or more than the State average;
3. Custodians and janitors on a ratio of one for every 17,500 square feet of building space calculated on a [district-wide] **districtwide** basis;
  4. – 5. (No change.)
  6. [District] **School district** participation in the SHBP or SEHBP that permits employees with other health care coverage to waive health care coverage and may pay consideration [therefore not to exceed 50 percent of the savings resulting from such waiver of health care coverage] **pursuant to N.J.S.A. 52:14-17.31a**;
  7. [Districts] **School districts** with two or more buildings or buildings configured by two or more grade spans (for example, kindergarten through five, six through eight, or nine through 12) that established a tiered system of pupil transportation or demonstrate that doing so would not result in savings or would be more costly. Any **school** district that does not have a tiered system of [pupil] **student** transportation and cannot demonstrate that such a system would not result in savings or would be more costly shall submit to the [Executive County Superintendent on or before December 31, 2009] **executive county superintendent** a plan to establish a tiered system of pupil transportation [no later than the opening of schools for the 2011-2012 school year];
  8. (No change.)
  9. Aides [that are] not mandated by law or required by an IEP, [employed] only when supported by independent research-based evidence that demonstrates the

use of aides is an effective and efficient way of addressing the needs of the particular student population served;

10. (No change.)
11. The **school** district solicits competitive proposals with fee quotes or uses a comparable process to ensure the **school** district receives the highest quality services at a fair and competitive price prior to the award of contracts for professional services;
12. Textbook purchases meet one of the following conditions:
  - i. – iii. (No change.)
  - iv. The current supply of a textbook edition(s) [or editions] is not adequate due to enrollment increases;
13. Library books, magazine subscriptions, video tapes, and DVDs are for educational purposes; and
14. Public relations services [that] are incorporated into the duties of the superintendent, [business administrator] **SBA**, and/or other staff position(s) [or positions] and **are** not provided by a dedicated public relations staff position or contracted service provider. Public relations functions as defined in (c)14i and ii below should not comprise more than 50 percent of the duties of any one staff position.
  - i. For the purpose of this paragraph, public relations services include activities directly relating to promotional efforts that advance a particular position and/or communicate information to the news media and **school** district community at large through [such] means **such** as press releases, press conferences, newsletters, flyers, mass community mailings and emails, television and radio broadcasting, and school-related community events.

- ii. Public relations activities do not include activities such as crisis communications, website maintenance, data collection and dissemination, school operations, and development of the **school** district calendar or handbook.
- (d) The **school** district shall either document [that] it has taken steps to improve administrative efficiency and reduce non-instructional costs through shared service arrangements or demonstrate that doing so would not result in savings or would be more costly.

6A:23A-9.4 Commissioner's authority to direct expenditures to achieve T&E

- (a) [In those instances in which] **If** a district board of education submits a budget with a general fund tax levy and equalization aid set at less than its adequacy budget, the Commissioner may **direct**, when deemed necessary to ensure implementation of the thoroughness and efficiency standards, [direct] additional expenditures, in specific accounts and for specific purposes, up to the **school** district's adequacy budget.
- (b) [In those instances in which] **If** a district board of education submits a budget with a general fund tax levy and equalization aid set at less than its adequacy budget and [which] **the school district** fails to meet the New Jersey Student Learning Standards in [any] **that** school year, the Commissioner shall direct the district board of education to increase expenditures to meet at least the adequacy budget within the next two budget years in a manner that addresses the cause(s) [or causes] of the failure.
- (c) In all cases, including [those] instances in which a **school** district submits a budget with a general fund tax levy and equalization aid above its adequacy budget, the Commissioner may direct [such] budgetary reallocations and programmatic adjustments, or take [such] other measures, as deemed necessary to ensure implementation of the required

thoroughness and efficiency standards.

(d) (No change.)

6A:23A-9.5 Commissioner to ensure achievement of the New Jersey Student Learning Standards; corrective actions

- (a) A district board of education shall be subject to action by the Commissioner, as part of the budget approval process, upon the failure of one or more schools within the **school** district to achieve the New Jersey Student Learning Standards as evidenced by existing Statewide assessment methods or other statutory or regulatory methods of evaluation.
- (b) [In a situation where] **If** the Commissioner deems progressive actions would not be sufficient due to the magnitude of the failure and/or other factors, the Commissioner shall **take**, pursuant to the summary authority granted the Commissioner by N.J.S.A. 18A:7F-6[(b)].**b**, [take] immediate corrective actions as deemed appropriate, including, but not limited to:
1. – 5. (No change.)
  6. Reviewing [of the] terms of future collective bargaining agreements prior to final approval by the district board of education and an assessment of the impact of [such] **the** terms on the **school** district's budget, education program, and the local property tax levy; and
  7. Requiring a district board of education to implement enhanced budget procedures, as deemed appropriate, as follows:
    - i. Consider revenue payable pursuant to N.J.S.A. 18A:7F-43 et [al] **seq.**, School Funding Reform Act of 2008, and all other State, local, and Federal revenue as revenue of the general fund, unless expressly restricted by Federal law or written contract, for the purpose of implementing the

**Commissioner's** directives [of the Commissioner];

- ii. Record appropriations and expenditures by school for classroom instruction, school-level technology, student support services, curriculum development, educational media **services** and **school** library, professional development, security, and school level administration. A district board of education may require other types of expenditures, such as maintenance and custodial and transportation, to be recorded by school [at its discretion];
- iii. Obtain written Commissioner approval on **Commissioner-prescribed** forms [prescribed by the Commissioner] for school-level appropriation transfers necessary during the year to effectuate the **Commissioner's** directives [of the Commissioner]; and
- iv. Obtain written Commissioner approval prior to appropriating for new purposes school-level appropriation balances occurring during the year from salary breakage, unanticipated circumstances, overestimated costs, or other events.
  - (1) Upon [such] approval, a district board of education may **transfer**, in accordance with [the provisions of] N.J.S.A. 18A:22-8.1, [transfer such] **the** appropriation balances between schools or for [district-wide] **districtwide** purposes, except where prohibited by any Federal law that [may] restricts such transfers.
  - (2) A district board of education shall cause any school-level appropriation balances remaining at the end of the year to lapse and be commingled with the general fund balance of the **school** district, except where prohibited by any Federal law that [may restrict such] **restricts** commingling or otherwise required by law

or regulation.

- (c) The Commissioner will report any action taken under N.J.S.A. 18A:7F-[6b]**6.b** to the State Board within 30 days.
- (d) A district board of education may appeal any action(s) taken by the Commissioner under N.J.S.A. 18A:7F-[6b]**6.b** to the Appellate Division of the Superior Court, pursuant to [P.L. 2008, c. 36] **N.J.S.A. 18A:6-9.1**.
- (e) Nothing in this section shall be construed to limit [such] general or specific powers [as are] elsewhere conferred upon the Commissioner pursuant to law.

6A:23A-9.6 Appeal of [Executive County Superintendent] **executive county superintendent**  
budget reductions

- (a) Any formal budgetary action of the [Executive County Superintendent] **executive county superintendent** may be appealed directly to the Commissioner, who shall render a decision within 15 days of the receipt of the appeal. If the Commissioner fails to issue a decision within 15 days of the filing of an appeal, the budgetary action of the [Executive County Superintendent] **executive county superintendent** shall be deemed approved.
- (b) The procedure for appealing a budget reduction(s) made by the [Executive County Superintendent] **executive county superintendent** for administrative inefficiency or excess non-instructional costs shall be as follows:
  - 1. A district board of education in which the general fund tax levy proposed in the base budget has been reduced or a separate proposal(s) has been reduced or rejected shall **submit**, within five business days of the written notice of said action, [submit] to the Commissioner the following information:
    - i. The complete line-item budget as originally submitted to the [Executive County Superintendent] **executive county superintendent** and all

supporting documentation and narrative explanations, including any copies of additional spending proposals;

- ii. [A disk] **An electronic schedule** in Microsoft Excel with a list of the [line-items] **line items** reduced by the [Executive County Superintendent] **executive county superintendent** showing in separate columns:
  - (1) – (6) (No change.)
  - (7) Amount of [Executive County Superintendent] **executive county superintendent** reduction; and
  - (8) Proposed expenditure after [Executive County Superintendent] **executive county superintendent** reduction;
- iii. A copy of the [Executive County Superintendent’s] **executive county superintendent’s** written explanation for each line-item reduction;
- iv. The **school** district’s written itemized argument(s) for the restoration of all or part of each line-item reduction accompanied by [any] available supporting documentation;
- v. The numbers of professional administrative and professional non-instructional staff by line-item account during the current school year and projected staff for the ensuing school year, together with **the** reason(s) for any increase or decrease;
- vi. The numbers of nonprofessional administrative and nonprofessional non-instructional staff by line-item account during the current school year and projected staff for the ensuing school year, together with **the** reason(s) for any increase or decrease;
- vii. Pupil enrollment by grade for the **school** district as of the preceding June 30, the last school day prior to the preceding October 16, and as projected for October of the ensuing school year;

viii. – ix. (No change.)

6A:23A-9.7 Procedures following voter defeat of proposed budget; municipal governing body or board of school estimate action

(a) Procedures following voter defeat of the proposed budget with a general fund tax levy above the **school** district's required local share, **calculated** pursuant to N.J.S.A. 18A:7F- [5b]**5.b**, are as follows:

1. A district board of education in which the general fund tax levy proposed in the base budget has been rejected by [the] voters at the [annual] **April** school election shall **submit**, within two days of the certification of election results, [submit] to the [Executive County Superintendent] **executive county superintendent** and the governing body(**ies**) [or bodies] comprising the **school** district, the following information:

- i. A complete line-item budget listing each item by code and line description, including actual expenditures for the previous school year, actual budgeted amount for the current school year, proposed budgeted amount for the ensuing school year as proposed to [the] voters, the advertised budget for the ensuing school year, and all supporting documentation and narrative explanations, including copies of approved spending proposals, indicating which were approved;
- ii. A copy of the annual progress report, if any, submitted to the Commissioner, pursuant to N.J.S.A. 18A:7A-11 and N.J.A.C. 6A:30;
- iii. A copy of the **school** district's most recent annual audit;
- iv. An explanation of any action(s) to reallocate, direct additional expenditures, and so forth, taken by the Commissioner, or the [Executive

County Superintendent] **executive county superintendent** on behalf of the Commissioner, pursuant to N.J.S.A. 18A:7F-5 through 7, 18A:7F-39, or 18A:7-8, or a statement [to the effect] that no such action(s) [were] **was** taken;

- v. (No change.)
- vi. Pupil enrollment by grade for the **school** district as of the preceding June 30, the last school day prior to the preceding October 16, and as projected for October of the ensuing school year;
- vii. – viii. (No change.)
- ix. Tuition received or paid during the previous school year, anticipated for the current school year, and projected for the ensuing school year;
- x. (No change.)
- xi. Any information required for budget submission to the [Executive County Superintendent] **executive county superintendent** and not specifically enumerated in (a)1i through x above;
- xii. The applicable portions of the [comparative spending guide] **Taxpayers' Guide to Education Spending;**
- xiii. The applicable portions of the school **performance** report [card]; **and**
- [xiv. Pursuant to N.J.S.A. 18A:7F-5(d)9, beginning in 2012-2013, separate questions that were rejected by the voters; and]
- [xv.] **xiv.** (No change in text.)

2. The governing body(**ies**) [or bodies] shall transmit to the district board of education a letter [of receipt] acknowledging the receipt of the information in (a)1 above.

3. The governing body(**ies**) [or bodies] comprising the **school** district, or a formally approved committee thereof, shall **consult**, as soon as immediately practicable,

[consult] with the district board of education, or a formally approved committee thereof, for purposes of determining the amount of general fund tax levy sufficient to ensure provision of a T&E education or to maintain the stability of a **school** district's programs.

4. If either the **district** board of education or municipal governing body, or both, will have a majority present at the meeting, [then] the meeting [must] **shall** be publicly announced and advertised according to the Open Public Meetings Act by the body(ies) with the majority present.
5. On or before May 19, **or the Commissioner-established date if the April school election date is changed pursuant to N.J.S.A. 19:60-1**, the governing body(ies) [or bodies] shall certify to the county board of taxation an amount to be appropriated [for this purpose] **as school district tax levy**, pursuant to N.J.S.A. 18A:22-37. Copies of [such] **the** certification shall be forwarded to the district board of education and [Executive County Superintendent] **executive county superintendent**. The governing body(ies) [or bodies] shall not certify an amount less than the minimum tax levy required to meet the required local share established pursuant to N.J.S.A. 18A:7F-5. The governing body does not have the authority to recommend a reduction in the debt service **fund tax** levy, only the general fund tax levy.
  - i. The general fund tax levy certification, in the form of a resolution, shall be for the sum of the base budget amount and additional amounts approved by [the] voters through separate questions.
  - ii. If the amount [so] certified for the base budget is less than **the amount** proposed to [the] voters by the **district** board of education, the governing body(ies) [or bodies in the form of a resolution] shall present, **in the form of a resolution**, to the district board of education and the [Executive

County Superintendent] **executive county superintendent** a statement of the specific [line-item] **line item** expenditure reductions or increases in budgeted revenues or designated general fund balance recommended by the governing body(**ies**) [or bodies]. The governing body(**ies**) [or bodies] shall also submit [with the statement,] a certification attesting [that the governing body or bodies] **it** has reviewed the budget proposed by the district board of education and [that] it deems the revised budget sufficient for provision of a thorough and efficient system of education.

iii. If the sum of the equalization aid and general fund tax levy resulting from [such] **the review pursuant to (a)5ii above** is at or below the **school** district's adequacy budget, as calculated pursuant to N.J.S.A. 18A:7F-51, the governing body(**ies**) [or bodies] shall concurrently present to the district board of education[,] and to the [Executive County Superintendent,] **executive county superintendent** a specific written explanation [and document] **documenting** by clear and convincing evidence for each line item reduced that it either will not adversely affect the ability of the district board of education to meet the thoroughness and efficiency standards established pursuant to N.J.S.A. 18A:7F-46[,] or will not adversely affect the stability of a district board of education's overall operations given the need for long-term planning and budgeting, as required by N.J.S.A. 18A:7F-[5e(2)]**5.e(2)**.

(b) Procedures following voter defeat of the proposed budget with a general fund tax levy at the **school** district's required local share, **calculated** pursuant to N.J.S.A. 18A:7F-[5b]**5.b**, are as follows:

1. A district board of education in which the general fund tax levy proposed in the base budget has been rejected by [the] voters at the [annual] **April** school election

shall **submit**, within two days of the certification of election results, [submit] to the governing body(**ies**) comprising the **school** district the following information:

- i. A complete line-item budget listing each item by code and line description, including actual expenditures for the previous school year, actual budgeted amount for the current school year, proposed budgeted amount for the ensuing school year as proposed to [the] voters, the advertised budget for the ensuing school year, and all supporting documentation and narrative explanations, including copies of approved spending proposals, indicating which were approved;
  - ii. A copy of the **school** district's most recent annual audit;
  - iii. An explanation of any action(s) to reallocate, direct additional expenditures, and so forth, taken by the Commissioner, or the [Executive County Superintendent] **executive county superintendent** on behalf of the Commissioner, pursuant to N.J.S.A. 18A:7F-5 through 7, 18A:7F-39, or 18A:7-8, or a statement [to the effect] that no such [actions were] **action(s) was taken; and**
  - [iv. Pursuant to N.J.S.A. 18A:7F-5(d)9, beginning in 2012-2013, separate questions that were rejected by the voters; and]
  - [v.] **iv.** Any other documentary materials or records the Commissioner deems appropriate for a specific district board of education.
2. The governing body(**ies**) [or bodies] shall transmit to the district board of education a letter [of receipt] acknowledging the receipt of the information in (a)1 above.
  3. If [either] the board of education or municipal governing body, or both, will have a majority present at the meeting, [then] the meeting [must] **shall** be publicly announced and advertised according to the Open Public Meetings Act by the

body(ies) with the majority present.

4. On or before May 19, **or the Commissioner-established date established if the April school election date is changed pursuant to N.J.S.A. 19:60-1**, the governing body(ies) [or bodies] shall certify to the county board of taxation an amount not less than the required local share established pursuant to N.J.S.A. 18A:7F-[5b]**5.b** for this purpose, pursuant to N.J.S.A. 18A:22-37. Copies of [such] **the** certification shall be forwarded to the district board of education and [Executive County Superintendent] **executive county superintendent**. The governing body(ies) does not have the authority to certify a reduction in the general fund **tax** levy or debt service **fund tax** levy.

- i. The general fund tax levy certification, in the form of a resolution, shall be for the base budget amount [and] plus[, beginning in 2012-13,] any additional amount(s) approved by [the] voters through separate questions.
- ii. The governing body(ies) [or bodies] may include in the resolution a list of recommended line-item reallocations for [the] district board of education consideration.
- iii. If the amount [so] certified for the base budget is less than the required local share, the certification [will] **shall** be considered a failure to certify in accordance with N.J.A.C. 6A:23A-9.8.

(c) Procedures following review of the budget by the board of school estimate [are] **shall be** as follows:

1. [A district board of education, when] **When** submitting its proposed budget to the board of school estimate, **a district board of education** shall also submit to the board of school estimate, the governing body(ies), [or bodies] and the [Executive County Superintendent,] **executive county superintendent** the documents enumerated in (a)1 above.

- i. If the amount of money appropriated by the board of school estimate for general fund purposes for the ensuing year, which [amount may] **shall** not be less than the required local share established pursuant to N.J.S.A. 18A:7F-[5b]**5.b**, is less than the amount proposed by the district board of education, the board of school estimate shall present to the **district** board of education, the governing body(**ies**), [or bodies] and the [Executive County Superintendent,] **executive county superintendent** a statement of the specific line-item reductions made [by the board of school estimate]. The board of school estimate shall submit with the statement a certification that the board of school estimate has reviewed the budget proposed by the **district** board of education and that [it] **the board of school estimate** deems the revised budget sufficient for provision of a thorough and efficient system of education.
2. The governing body of each municipality comprising the **school** district shall appropriate the amount certified by the board of school estimate.
  - i. If the amount of money appropriated by the governing body(**ies**) [or bodies] for general fund purposes for the ensuing year, pursuant to N.J.S.A. 18A:22-17, which [amount may] **shall** not be less than the required local share established pursuant to N.J.S.A. 18A:7F-[5b]**5.b**, is less than the amount certified by the board of school estimate, the governing body(**ies**) [or bodies] shall present to the board of school estimate, the **district** board of education, and the [Executive County Superintendent,] **executive county superintendent** a statement of the specific line-item reductions made by the governing body(**ies**) [or bodies]. The board of school estimate shall submit with the statement a certification that the amount appropriated for school purposes is sufficient

for provision of a thorough and efficient system of education.

- ii. If the sum of the equalization aid and general fund tax levy resulting from board of school estimate review or subsequent governing body certification is at or below the **school** district's adequacy budget, as calculated pursuant to N.J.S.A. 18A:7F-51, the board of school estimate and/or governing body(ies) [or bodies, as the case may be,] shall concurrently present a specific written demonstration as to why such reductions will not adversely affect the ability of the **school** district to provide a thorough and efficient education or the stability of the **school** district given the need for long-term planning and budgeting as required by N.J.S.A. 18A:7F-[5e(2)]**5.e(2)**.

3. If the money appropriated by the governing body(ies) [or bodies] for general fund purposes for the ensuing year, pursuant to N.J.S.A. 18A:22-17, is less than the required local share established pursuant to N.J.S.A. 18A:7F-[5b]**5.b**, the certification [will] **shall** be considered a failure to certify in accordance with N.J.A.C. 6A:23A-9.8.

- (d) [In those instances where] **If** the governing body(ies) [or bodies] or the board of school estimate has certified an amount of tax levy less than [that] **the amount** proposed by the district board of education as a result of reductions eligible for restoration through application to the Commissioner as set forth in N.J.A.C. 6A:23A-9.9, the [Executive County Superintendent] **executive county superintendent** shall schedule a conference between the district board of education, or a formally approved committee thereof, and the governing body(ies) [or bodies] or the board of school estimate,[ as the case may be,] or a formally approved committee thereof, for the purpose of assisting the respective bodies in reaching agreement on the amount of tax levy sufficient to ensure provision of a T&E education consistent with [the requirements of] N.J.S.A. 18A:7F-5 through 63.

1. (No change.)
2. If an agreement is not reached[, where] **and a** tax levy has already been certified pursuant to N.J.S.A. 18A:22-37, the levy [will] **shall** stand as originally certified and application to the Commissioner for restoration of reductions may be made in accordance with [the provisions of this section] **N.J.A.C. 6A:23A-9.9.**
- [3. Paragraphs (d)1 and 2 above shall not apply to any instance where governing body or bodies or board of school estimate reductions are not eligible for restoration through application to the Commissioner as set forth in N.J.A.C. 6A:23A-9.9, in which case the amount certified by the governing body or bodies or the board of school estimate shall remain final without further review or consultation.]

6A:23A-9.8 Municipal governing body failure to certify or agree; Commissioner sets tax levy

Pursuant to N.J.S.A. 18A:22-38, [in those instances where] **if** the governing body(ies) [or bodies] fails to certify by May 19, **or the Commissioner-established date if the April school election date is changed pursuant to N.J.S.A. 19:60-1**, an amount of tax levy for any item rejected at the [annual] **April** school election[,], or [certify] **certifies** different amounts[,], to the county board of taxation, a district board of education shall submit the budget and any reduction(s) recommended, pursuant to N.J.S.A. 18A:7F-[5e(1)]**5.e(1)** or (2), by the governing [bodies] **body(ies)** following voter defeat for review and determination by the Commissioner of the tax levy amount to be certified to the county board of taxation.

6A:23A-9.9 Application for Commissioner restoration of budget reductions

- (a) The requirements for application to the Commissioner for restoration of reductions are as

follows:

1. A district board of education [which] **that** has proposed to [the] voters or the board of school estimate[, as the case may be,] a general fund budget, pursuant to N.J.S.A. 18A:7F-5, with a sum of general fund tax levy and equalization aid in excess of the **school** district's adequacy budget, as calculated pursuant to N.J.S.A. 18A:7F-51, may apply for restoration of reductions made, pursuant to N.J.S.A. 18A:7F-[5e(1)]**5.e(1)**, by the governing body(**ies**) [or bodies] following voter defeat, or by the board of school estimate, only on grounds [that such] **the** reductions will negatively impact [on] the stability of the **school** district given the need for long-term planning and budgeting ("stability grounds")[, and]. **The district board of education** shall document by clear and convincing evidence its need for restoration of each item reduced. In such cases, a district board of education shall not argue that any of the reductions will adversely affect [the district board of education's] **its** ability to meet the thoroughness and efficiency standards established pursuant to N.J.S.A. 18A:7F-46.
  - i. "Stability grounds" as used in the School Funding Reform Act of 2008, N.J.S.A. 18A:7F-43 et al., means reductions [which] **that** would require long-term planning or budgeting and cannot be accomplished within the budget year; [which] **that** would adversely affect the district board of education's ability to operate a school system; and [which] **that** are not a program, service, or other expenditure contained within the efficiency standards established pursuant to N.J.S.A. 18A:7F-46 or [that] are expenditures for items [which] **that** are in excess of those contained in the efficiency standards established pursuant to N.J.S.A. 18A:7F-46.
2. A district board of education [which] **that** has proposed to [the] voters or the board of school estimate[, as the case may be,] a general fund budget, pursuant to

N.J.S.A. 18A:7F-5, with a sum of general fund tax levy and equalization aid at or below the **school** district's adequacy budget, as calculated pursuant to N.J.S.A. 18A:7F-51, may apply for restoration of reductions made, pursuant to N.J.S.A. 18A:7F-[5e(2)]**5.e(2)**, by the governing body(**ies**) [or bodies] following voter defeat, or by the board of school estimate, on grounds [that such] **the** reductions either will adversely affect the district board of education's ability to meet the thoroughness and efficiency standards established pursuant to N.J.S.A. 18A:7F-46 ("T&E grounds"),[,] or will adversely affect the stability of a district board of education's overall operations given the need for long-term planning and budgeting ("stability grounds").

i. "T&E grounds" means [that] the [reduction or] reduction(s) would adversely affect the district board of education's ability to implement programs and services at the level contained in the efficiency standards [in order] to ensure [that] its students achieve the New Jersey Student Learning Standards. [For the 2008-09 school year through the 2010-2011 school year, the efficiency standards are those contained in the report, A Formula for Success: All Children, All Communities dated December 18, 2007 and available on the DOE Website. Beginning in the 2011-2012 school year and thereafter, the efficiency standards shall be established every three years in the Educational Adequacy Report prepared pursuant to N.J.S.A. 18A:7F-46.]

3. Within 10 business days after certification of the general fund tax levy by the governing body(**ies**) [or bodies], or the board of school estimate, a district board of education eligible for restoration pursuant to (a)1 or 2 above may submit to the Commissioner an application for restoration on a form deemed appropriate by the **school** district[, but]. **The district board of education** shall:

- i. Address each line-item reduction made by the governing body(**ies**) [or bodies] or the board of **school** estimate; and
    - ii. Provide a specific written explanation supported by attached documentation, or specific reference to information contained in materials submitted pursuant to N.J.A.C. 6A:23A-9.7(a)1, as to why each reduction will adversely affect the ability of the **school** district to provide a thorough and efficient education or the stability of the **school** district given the need for long-term planning and budgeting, whichever criterion or criteria will apply under (a)1 or 2 above.
  4. A district board of education shall submit an application for restoration to the [appropriate Executive County Superintendent] **executive county superintendent**, and **shall concurrently submit** a copy of the complete application [shall concurrently be submitted] to the governing body(**ies**) [or bodies,] or the board of school estimate[, as the case may be].
  5. Within 10 business days of receipt of the district board of education's application, the governing body(**ies**) [or bodies,] or the board of school estimate[,] may submit to the [Executive County Superintendent any] **executive county superintendent** **its** comments [it may wish to make] on the district board of education's application. A copy of such comments shall concurrently be submitted to the district board of education.
  - [6. For the purposes of determining the grounds on which a district board of education can submit an application to the Commissioner pursuant to (a)1 and 2 above, the calculation of the district's adequacy budget does not include a sending district's required tuition payment or number of students sent.]
- (b) Commissioner review and certification of tax levy, and determination of application for restoration, shall be as follows:

1. Upon receipt of a district board of education's application and the governing body's or board of school estimate's comments thereon, or upon expiration of the time for their submission, the Commissioner will review the materials submitted and issue an order directing [such] restorations or reallocations as he or she deems warranted pursuant to the appropriate standard [as set forth] in N.J.S.A. 18A:7F-5 consistent with the overall intent of the Act. For purposes of assessing budgets for certification of tax levy[,] and assessing applications, the Commissioner may engage the assistance of such Department [of Education] staff as he or she deems appropriate.
2. In addition to application materials and responsive comments, and [those] materials submitted to the [Executive County Superintendent] **executive county superintendent** in accordance with [the requirements of] (a)1 above, the Commissioner[, assessing budgets for certification of tax levy, and assessing applications for restoration,] may consider [such] additional information [as may be] available to him or her through established reporting requirements and Department [of Education] data collection processes[, for example, the Fall Report]. [Additionally, should] **If** the Commissioner or a designee determines during the course of review that further information or explanation is required from a district board of education, [or a] governing body, or board of school estimate, [such] **the** information may be requested at any time during the review process.
3. In the case of budgets subject to Commissioner tax levy certification pursuant to N.J.A.C. 6A:23A-9.8 or applications submitted pursuant to (a) above, the Commissioner may consider enrollment increases or decreases within the **school** district, the history of voter or board of estimate approval or rejection of **school** district budgets, the impact on the local tax levy, whether reductions made will

impact [on] the ability of the **school** district to fulfill its contractual obligations, and the other factors listed in (b)4 below.

4. In determining the impact of reductions on the stability of a **school** district, the Commissioner may consider the following information:
  - i. (No change.)
  - ii. The history of voter approval or rejection of **school** district budgets;
  - iii. (No change.)
  - iv. The ability of the **school** district to fulfill its existing contractual obligations [on the effective date of] **under** N.J.S.A. 18A:7F-43 et seq. and the relationship of contractual obligations [since the effective date of N.J.S.A. 18A:7F-43 et seq.] to Statewide trends in bargaining practices;
  - v. – viii. (No change.)
  - ix. The **school** district's relative standing in the [Comparative Spending] **Taxpayers' Guide to Education Spending** on the indicators for [Total Administration, Administrative Salaries and Benefits, Total Operations and Maintenance of Plant, Board Contributions to the Food Service Program and Extracurricular Costs] **total administration; administrative salaries and benefits; total operations and maintenance of plant; district board of education contributions to the food service program; and extracurricular costs;**
  - x. The **school** district's original budget to actual spending and [undesignated] **unreserved** general fund balance usage and projections trend histories;
  - xi. (No change.)
  - xii. The degree to which a **school** district exceeds [the] **its** adequacy budget; and
  - xiii. Any facts or data [which] **that** would provide evidence of the reduction's

impact.

5. In directing adjustments to budgets [which] **that** are subject to Commissioner certification, application for restoration, or required review, the Commissioner may reallocate or sustain reductions to surplus where such reallocations or reductions do not decrease surplus below \$250,000 or the minimum amount necessary based on the **school** district's specific circumstances and needs, whichever is greater, notwithstanding that budgeted amounts are within the level permitted by N.J.S.A. 18A:7F-7.

[6. Any reallocations directed as a result of review under this subsection shall be made consistent with the provisions of N.J.S.A. 18A:7F-6e.]

[7.] **6.** [Decisions of the] Commissioner **decisions** issued pursuant to this subchapter are final decisions that may be appealed to the Appellate Division of the Superior Court, pursuant to [P.L. 2008, c. 36] **N.J.S.A. 18A:6-9.1.**

6A:23A-9.10 Executive [County Superintendent] **county superintendent** ongoing budget review

(a) [The Executive County Superintendent shall, subsequent] **Subsequent** to voter or board of school estimate approval, as applicable, but prior to submission of the subsequent school **district** budget, **the executive county superintendent shall:**

1. Reexamine and monitor all **school** district budgets of the **school** districts within the county to identify any potential efficiencies in administrative operations or any excessive non-instructional expense(s) that [were] **was** not identified during the initial budget review or [are] **is** the result of subsequent events or new information. During the reexamination, the [Executive County Superintendent] **executive county superintendent** shall consider the following:

- i. (No change.)
  - ii. The **school** district’s year-end board secretary’s report;
  - iii. The **school** district’s independent annual audits and [Comprehensive Annual Financial Reports] **CAFRs**;
  - iv. Recent evaluations and progress reports of the five key components of **school** district effectiveness under NJQSAC;
  - v. (No change.)
  - vi. Routine **school** district inspections made pursuant to N.J.S.A. 18A:7-8[(a)].a; and
  - vii. Other information or documentation obtained during the performance of the **executive county superintendent’s** duties, [of the Executive County Superintendent] pursuant to N.J.S.A. 18A:7-8; and
2. Notify in writing any **school** district [where] **with identified** administrative [efficiencies] **inefficiencies** and/or excessive non-instructional costs [are identified] of the findings, and **quantify the** amounts by account that shall not be included in the **school** district’s subsequent budget. [and that] **The written notification shall state** transfers shall not be made during the **current** budget year [from those] **to the identified** accounts.

6A:23A-9.11 Year-end financial procedures for [Executive County Superintendent] **executive county superintendent** and [fiscal] **State** monitor

- (a) Within 30 days of receipt of a **school** district’s audited CAFR, the office of the [Executive County Superintendent] **executive county superintendent** or State monitor, where one has been appointed in the **school** district pursuant to N.J.S.A. 18A:7A-55, shall review each school district’s and [county vocational school district’s] **CVSD’s** I-1,

Schedule of Serial Bonds, for compliance with N.J.S.A. 18A:55-3[(e)].e.

1. The [Executive County Superintendent] **executive county superintendent** or State monitor, as applicable, shall notify each school district and [county vocational school district] **CVSD** of any debt that might result in a three percent net present value savings if refinanced and shall document whether the district board of education has passed a resolution to refinance or taken any other action to study the refinancing of such debt; and
  2. The [Executive County Superintendent] **executive county superintendent** or State monitor, as applicable, shall recommend to the Commissioner that he [institute an action pursuant to this subchapter to] **or she** seek the withholding of [state] **State** aid in an amount equal to the projected savings to be achieved through refinancing [in those cases where] **if** no action has been commenced to study refinancing or refinance such debt.
- (b) The office of the [Executive County Superintendent] **executive county superintendent** or State monitor, as applicable, shall annually review each school district's and [county vocational school district's] **CVSD's** audited account payables and encumbrances that are part of the reserve for encumbrances as of June 30 that are in excess of \$5,000.
1. No earlier than October 15 but no later than December 1 of each year, each school district and [county vocational school district] **CVSD** shall submit to the [Executive County Superintendent] **executive county superintendent** or State monitor, as applicable, a detailed list for encumbrances and a detailed list for accounts payable that comprise the aggregate amount of the respective balance sheet accounts reflected in the annual independent audit of the most recently completed fiscal year-end. Each list shall indicate for each item:
    - i. – x. (No change.)
- (c) The [Executive County Superintendent] **executive county superintendent** or State

monitor, as applicable, may request back-up documentation for some or all of the items[, when deemed warranted,] to be reviewed at **school** district offices[,] or [in the case of the Executive County Superintendent, may be] delivered to the **executive county superintendent's** office, [of the Executive County Superintendent] **if applicable**.

- (d) The [Executive County Superintendent] **executive county superintendent** or State monitor, as applicable, may lower the dollar amount of transactions to be reviewed, if[, **deemed warranted** after reviewing [those over] **transactions in excess of \$5,000**[, it is deemed warranted].
- (e) Except for construction projects and other long-term contracts, the reserve for encumbrances or undesignated general fund balance created by cancelled encumbrances, as applicable, shall be reclassified to “designated general fund balance for [tax relief] **appropriation** in the subsequent school year” in the aggregate amount of the following:
  - 1. – 2. (No change.)
- (f) Account payables at year-end shall include [only] amounts **only** for goods or services that have been received or rendered as evidenced by the invoice date on or before June 30 of the audited fiscal year
- (g) Account payables that do not meet the criteria in (f) above shall be treated as encumbrances in accordance with (e) above. Prior-year accounts payables that were actually encumbrances or [undesignated] **unassigned** general fund balance created by cancelled accounts payables/encumbrances, as applicable, shall be reclassified to “[designated] **assigned** general fund balance for tax relief in the subsequent school year” in the aggregate amount of accounts payable at June 30 of the audited fiscal year.

**SUBCHAPTER 10. [SPENDING GROWTH LIMITATION] UNUSED TAX AUTHORITY  
(BANKED CAP)**

6A:23A-[10.3]10.1 Unused [spending] **tax** authority (banked cap)

- (a) [Pursuant to N.J.S.A. 18A:7F-5a, a] **A** district board of education [that increases its net budget between the prebudget year and budget years less than that authorized pursuant to N.J.S.A. 18A:7F-5d may include 50 percent of the unused spending authority, which is the amount of the difference between its actual net budget and its permitted net budget, in either of the next two succeeding budget years] **may increase its adjusted tax levy pursuant to N.J.S.A. 18A:7F-39.e.**
- (b) A district board of education shall comply with [all of] the following [requirements] when including unused [spending] **tax** authority in [either] **any** of the next [two] **three** budget years:
1. Fully exhaust all [spending] **tax** authority authorized pursuant to N.J.S.A. 18A:7F-[5d]38 in the budget prior to including unused [spending] **tax** authority calculated under (a) above in that budget year;
  2. Adopt and submit with the budget application a true copy of a formal **district board of education** resolution [which] **that** contains the need for and the amount of the unused [spending] **tax** authority to be included in the base budget, and a statement that said need must be completed by the end of the budget year and cannot be deferred or incrementally completed over a longer period of time; and
  3. Submit with the budget application a true copy of the minutes of the **district board of education** meeting at which the need for the unused [spending] **tax** authority to be included in the base budget was formally introduced and discussed in public.
- (c) Unused [spending] **tax** authority calculated pursuant to (a) above that is created by merging a passed separate proposal(s) with the base budget shall not be considered

unused [spending] **tax** authority available to a district board of education in the next [two] **three** subsequent budget years.

- (d) A district board of education shall fully utilize unused [spending] **tax** authority from the **earliest** prior [prebudget] year(s) before utilizing unused [spending] **tax** authority from the prebudget year.
- (e) The [Executive County Superintendent] **executive county superintendent** may disapprove use of banked cap, pursuant to N.J.S.A. 18A:7F-5, if he or she determines [that] the district board of education has not implemented all potential efficiencies in the administrative operations of the school district.

## SUBCHAPTER 11 TAX LEVY GROWTH LIMITATION

### 6A:23A-11.1 Adjusted tax levy growth limitation

- (a) A school district shall not adopt a budget with an increase that exceeds the adjusted tax levy growth limitation, **calculated pursuant to N.J.S.A. 18A:7F-38**. The adjusted tax levy growth limitation shall be calculated as the sum of the:
  1. Prebudget year adjusted tax levy, [and] **plus any** adjustment[s] for increases in enrollment **calculated pursuant to N.J.S.A. 18A:7F-38.b**, multiplied by [four] **two** percent [calculated pursuant to N.J.S.A. 18A:7F-38]; and
  2. Adjustments for [a reduction in total unrestricted State aid in the prebudget year calculated pursuant to N.J.S.A. 18A:7F-38,] an increase in health care costs calculated pursuant to **N.J.S.A. 18A:7F-38.d(1) and N.J.A.C. 6A:23A-11.4****11.3**, and [Commissioner approved waivers granted pursuant to N.J.S.A. 18A:7F-39,] **an increase in normal and accrued liability pension contributions Public Employees' Retirement System (PERS) (pension**

**deferral) calculated pursuant to N.J.S.A. 18A:7F-38.d(2).**

[(b) The tax levy growth limitation calculated in (a) shall be reduced by the amount of the State aid increase, if any, that exceeds two percent or the CPI, whichever is greater, for a school district which is spending above adequacy as determined pursuant to N.J.S.A. 18A:7F-47d and has a prebudget year general fund tax levy greater than its local share as calculated pursuant to N.J.S.A. 18A:7F-52.

- i. The CPI shall not exceed four percent;
- ii. If the reduction would bring the school district's spending below adequacy, the amount of the reduction made to the school district's tax levy growth limitation shall not be greater than the amount that brings the school district's spending to adequacy; and
- iii. Any reduction pursuant to this provision shall be a one-time adjustment and shall be restored in the prebudget year adjusted tax levy used to calculate the adjusted tax levy growth limitation for the subsequent budget year.]

[(c)] **(b)** The school district [must] **shall** prove by clear and convincing evidence [that] the anticipated dollar amount of the expenditure for each tax levy adjustment sought is reasonable.

[(d)] **(c)** The adjusted tax levy shall be [adjusted] **increased or decreased**, accordingly, when the responsibility and associated cost of [an] **a school district** activity is transferred to another school district or governmental entity.

#### 6A:23A-11.2 Adjustment for increases in enrollments

(a) For purposes of [this] **the calculation of the adjustment to the tax levy cap for increases in enrollment**, the school district shall use the enrollment projection calculated by the Commissioner for the purpose of State aid calculations for the budget year.

- (b) (No change.)
- (c) A school district may request approval for each unit of weighted resident enrollment to equal one if it can demonstrate [that]:
  1. The calculation in N.J.S.A. 18A:7F-38.**b** would result in an average class size that exceeds **by 10 percent** the facilities efficiency standards established pursuant to N.J.S.A. 18A:7G-1 et al.[, by 10 percent]; and
  2. (No change.)

6A:23A-[11.4]**11.3** Adjustment for an increase in health care costs

- (a) (No change.)
- (b) [The adjustment for an increase in health care costs shall be the amount of the increase between the prebudget and budget years in excess of four percent, except that the sum of four percent and any amount in excess of four percent expressed as a percentage shall not exceed the average percentage increase of the SEHBP for purposes of determining the amount of the adjustment.] **A district board of education may increase its adjusted tax levy pursuant to N.J.S.A. 18A:7F-38.d.**
  1. For the purpose of this calculation, the health care cost for the [budget] **prebudget** year shall equal the projected cost [or actual cost, when available,] of medical and prescription drug insurance [as of February 1] **from the original budget** of the prebudget year.
  2. The average percentage increase of the SEHBP shall be the amount determined annually by the [State of] New Jersey **Department of the Treasury's** Division of Pensions and Benefits.
- (c) Supporting documentation for this adjustment shall be submitted to the [Department] **executive county superintendent** as follows:

1. (No change.)
2. A summary schedule of invoices for the 12 months or four quarters **ended**, as applicable, prior to the [waiver] **fiscal year for which the adjustment** request for medical and prescription drug insurance **is being requested**;
3. (No change.)
4. A summary schedule of medical and prescription drug insurance for the prebudget year and budget year including:
  - i. Plan type (for example, traditional, HMO, or PPO);
  - ii. Cost by coverage category (single, parent and child(ren), or family); and
  - iii. (No change.)
5. Reimbursement required by employees[, if any];
6. A written assurance that health benefit invoices are reviewed at least quarterly or that personnel and payroll systems contain controls to ensure [that] coverage and payments are made only for current eligible employees; and
7. For school districts that do not participate in the SEHBP:
  - i. (No change.)
  - ii. Documentation that the cost of health care insurance and alternative insurers, including group plans and consortiums, were examined at least once in the last three years and the school district participates in the most cost effective plan available pursuant to N.J.S.A.18A:55-[3a]**3.a** given the requirements of the existing collective bargaining agreement(s).

SUBCHAPTER 12 [COMMISSIONER WAIVERS OF] TAX LEVY GROWTH LIMITATION;  
SEPARATE VOTER APPROVAL

6A:23A-[12.13]**12.1** Voter authorization to exceed tax levy limitation; separate proposal(s)

(a) [Notwithstanding N.J.A.C. 6A:23A-12.12(1), a] **A** district board of education may put **to voters** the matter of exceeding the tax levy limitation, [to the local voters] **pursuant to N.J.S.A. 18A:7F-5.d(9) and 39.c.**

1. The proposal(s) [or proposals] to increase the tax levy shall be approved if [60 percent] **a majority** of the people voting at the school election[s] votes in the affirmative[,] or, when applicable, approved by a majority of a quorum of the board of school estimate.
2. A proposal(s) [or proposals] submitted to [the] voters shall not include any program(s) or service(s) necessary for students to achieve the New Jersey Student Learning Standards.
3. A proposal(s) [or proposals] submitted to [the] voters shall not include any capital outlay(s) necessary for health and safety reasons or [which] **that** constitutes eligible costs of a T&E construction project.
4. A proposal(s) [or proposals] submitted to [the] voters shall not include any existing program(s) or service(s) included in the prebudget year except when documented to the **executive county superintendent's** satisfaction [of the Executive County Superintendent] that reallocation is required to maintain or achieve T&E or that such programs and services are not necessary for T&E.
5. A district board of education shall frame each question to request sufficient funds to carry out the specific purpose(s) [or purposes] contained therein. A district board of education shall include in the base budget only [those] funds for purposes that can be implemented without the approval of a separate question.
6. All proposals to increase the tax levy shall include interpretive statements specifically identifying the program purposes for which the proposed funds [shall]

**will** be used and a clear statement on whether approval will affect only the current year or result in a permanent increase in the levy.

7. The [Executive County Superintendent] **executive county superintendent** may prohibit the submission of a separate proposal(s) [or proposals] to [the] voters or board of school estimate if he or she determines [that] the school district has not implemented all potential efficiencies in the administrative operations of the school district, [which] **when the** efficiencies would eliminate the need for the raising of additional general fund tax levy.
8. Any rejection by [the] voters of a school district's separate proposal(s) [or proposals] shall be final and conclusive with no appeal. The [local] municipal governing body(ies) [or bodies] or [the] board of school estimate shall not authorize the raising of additional tax levy upon rejection by [the] voters of a school district's separate proposal(s) [or proposals].
9. (No change.)
10. A district board of education shall use amounts approved by [the local] voters or **the** board of school estimate exclusively for the purpose(s) [or purposes] contained in the associated question.
  - i. If multiple purposes are approved, a **district** board of education may approve a transfer of amounts among purposes, if necessary, as long as all purposes in the statement originally approved by [the local] voters or the board of school estimate can be completed.
11. (No change.)
12. A district board of education shall submit to the Commissioner amounts approved by [the local] voters or **the** board of school estimate as part of the final overall budget certified for taxes.
13. Purposes that were rejected by [the local] voters may be implemented in the

budget year only through a donation or contribution from an external source[,] other than the district board of education[,] and only if [such] implementation will not require any funding by the school district in the budget year and/or subsequent budget years.

- (b) **For purposes of the tax levy certification, pursuant to N.J.S.A. 18A:22-34, school districts that hold their annual election in November shall base the calculation of half the tax levy on the base budget and not include a separate proposal. A school district with a November-approved separate proposal shall recertify the levy, including the approved separate proposal, within 15 days after the proposal's authorization.**

#### SUBCHAPTER 13 BUDGET TRANSFERS[, UNDERESTIMATED SURPLUS] AND DEFICITS

6A:23A-13.1 Commissioner-adjusted tax levies; Commissioner budget reallocations and directives; **and** transfers [and underestimated year-end surplus]

- [(a)] Transfers from line accounts that include [waiver amounts approved by the Commissioner and] expenditures and/or reallocations directed by the Commissioner [are] **shall be** prohibited unless approved in writing by the [Executive County Superintendent] **executive county superintendent** and in accordance with [the provisions of] N.J.S.A. 18A:22-8.1 **and N.J.A.C. 6A:23A-13.3.** [Boards] **District boards of education** shall submit **to the executive county superintendent** written requests for transfers, including the amount to be transferred, the account(s) to be reduced, the account(s) to be increased, the purpose and justification. [Said transfers] **Transfers** shall not be requested or made prior to December 1 of the applicable budget year and shall [only] be approved **only** for

an emergent circumstance(s).

- (b) Where actual audited undesignated general fund balance at the fiscal year-end exceeds the estimated amount reflected in a school district's originally approved budget that contained an adjustment to the tax levy limitation approved by the Commissioner, any excess amount shall be reserved for the offset of Commissioner waiver requests, if any, in the second subsequent year budget and reflected as such in the CAFR for the budget year.]

6A:23A-13.2 Executive [County Superintendent] **county superintendent** reduction of administrative and non-instructional expenses; transfers prohibited

[Whenever] **If** the [Executive County Superintendent shall] **executive county superintendent**, pursuant to N.J.S.A. 18A:7-8, disapproves a portion of a school district's proposed budget because the school district has not implemented all potential efficiencies in its administrative operations or because the budget includes excessive non-instructional expenses, the school district shall not transfer [funds back into those accounts] **appropriations** during the budget year **into the line-item account(s) from which the disapproved amount(s) were removed.**

6A:23A-13.3 Transfers during the budget year

- (a) All transfers shall be executed only by district board of education resolution approved in accordance with law and regulation applicable to the particular circumstances. [and each] **Each** resolution shall indicate the exact amount of the transfer(s) to and from the applicable accounts or fund balance.
- (b) A district board of education may transfer surplus or other unbudgeted or underbudgeted revenue between April 1 and June 30 only upon prior approval [of the transfer] by the

[Executive County Superintendent] **executive county superintendent**, as the Commissioner's designee, pursuant to N.J.S.A. 18A:22-8.1. Requests [must] **shall** be received by June 30. All approved transfer requests [must] **shall** be expended or encumbered for the approved use by June 30[th], or the district board of education shall reserve and designate [such] **the** funds for [tax relief] **appropriation** in the subsequent budget year. To request approval of such transfers, a district board of education shall submit to the [Executive County Superintendent] **executive county superintendent the following:**

1. Documentation of approval of the transfer by a two-thirds affirmative vote of the authorized membership of the [school] **district board of education;**
  2. Certification by [that] **the** same membership that the transfer is necessary to achieve the thoroughness standards for the current year. The certification shall include the purpose, need of transfer, and [include], at a minimum, a list of specific line items to be transferred into and corresponding amounts. Requests to appropriate surplus for textbooks, computers, equipment, or other needs for use and operation for the subsequent school year [is] **shall not be** considered a need for the current year and shall not be approved; and
  3. (No change.)
- (c) Prior to April 1, a district board of education may petition the Commissioner, by a two-thirds affirmative vote of the authorized membership of the [school] **district board of education**, for approval of a transfer of surplus or other unbudgeted or underbudgeted revenue only for an emergent circumstance. [Such] **The** district board of education shall be subject to an on-site inspection by the [Executive County Superintendent] **executive county superintendent** for verification of the emergent circumstance and other supporting documentation. The district board of education shall submit [such] **the district board of education**-approved petition to the [Executive County Superintendent]

**executive county superintendent** for recommendation to the Commissioner. At a minimum, the district board of education shall include **the following** in [such] **its** submission:

1. Certification [that] the transfer is necessary for an emergent circumstance, [that] no other line-item balances are or will be available, and [that] the remaining surplus will enable the district board of education to operate in a fiscally solvent position for the remainder of the budget year;
2. Documentation [that] the emergent circumstance, if not addressed through an appropriation of additional revenue, would render peril to the health and safety of students or staff, and/or force the school district into an operating deficit as a result of the required implementation of the thoroughness standards;
3. (No change.)
4. Evidence of approval of the petition and supporting documentation by a two-thirds affirmative vote of the authorized membership of the [school] **district board of education**.

(d) A district board of education may at any time and without Commissioner approval:

1. Appropriate unbudgeted or underbudgeted State aid for which [the] approval was granted by the Department in the written notification to the district board of education of the additional aid;
2. Appropriate unbudgeted and underbudgeted tuition revenue generated from a school district specific program[, which] **that** is not part of a formal sending-receiving relationship, pursuant to N.J.S.A. 18A:38-19 and 18A:46-21;
3. Appropriate unbudgeted or underbudgeted school transportation revenue generated from a school district's or [Coordinated Transportation Services Agency's] **coordinated transportation services agency's** role as the host provider of school transportation services, pursuant to N.J.S.A. 18A:39-11 and

[18A:39-]11.1;

4. (No change.)
5. Appropriate unbudgeted or underbudgeted Federal revenue; [and]
6. Appropriate surplus generated from any Federal and/or State revenue excluded from the excess surplus calculation in the prebudget year in accordance with the annual audit program[.]; **and**
7. **Appropriate unbudgeted or underbudgeted revenue from school bus advertising or restricted fund balance that has been designated to offset fuel costs associated with the provision of transportation services pursuant to N.J.S.A. 18A:39-31.**

(e) As used in this section, general fund appropriation account means the required advertised appropriation accounts pursuant to N.J.S.A. 18A:22-1 et seq., except where consolidated as follows:

1. Basic skills, bilingual, and special education instruction, including other related and extraordinary services;
2. (No change.)
3. Student support services, including[,] attendance, health, guidance, child study team, and media;
4. – 5. (No change.)

(f) For all transfers from any general fund appropriation account as defined in (e) above, and as amended to include prior year encumbrances carried forward to the current year and revenue appropriated pursuant to (d) above, the district board of education shall obtain [the] approval for such transfers by two-thirds affirmative vote of the authorized membership of the [school] **district board of education**, pursuant to N.J.S.A. 18A:22-8.1.

1. When the total amount of such transfers, on a cumulative basis, exceeds 10

percent of the amount of the account that was included in the school district's budget as certified for taxes, as amended to include prior year encumbrances carried forward to the current year and revenue appropriated pursuant to (d) above, the district board of education shall request in writing approval from the [Executive County Superintendent] **executive county superintendent**, as the Commissioner's designee, by submitting the request and purpose for the transfer using the report pursuant to (i) below.

i. The district board of education may request approval from the [Executive County Superintendent] **executive county superintendent** prior to obtaining the two-thirds affirmative vote of the authorized membership of the [school] **district board of education** for such approval.

ii. A district board of education's written transfer request shall be deemed approved after 10 [working] **business** days of receipt of [such] **the** request by the [Executive County Superintendent] **executive county superintendent** if no [Executive County Superintendent] **executive county superintendent** approval or denial is provided within that timeframe. A district board of education shall maintain **proof in the form of a sent and received email receipt, or other form of** documentation of [the Executive County Superintendent receipt of] **proof of delivery to the executive county superintendent for** all transfer requests deemed approved under this subsection.

2. Prior to any transfer(s) from capital outlay accounts to current expense, except for equipment, a district board of education shall submit [a written request for approval] to the [Executive County Superintendent,] **executive county superintendent a written request for approval** with documentation [that such] **the** transfer is required due to demonstrated hardship.

(g) For all transfers to the advertised appropriation accounts identified as general administration, school administration, central services, [and] **or** administrative information technology [or other support services] that, on a cumulative basis, exceed 10 percent of the amount of the account included in the school district's budget as certified for taxes, amended to include prior year encumbrances carried forward to the current year, a district board of education shall **submit**, prior to [such] **the** transfer, [submit] to the [Executive County Superintendent,] **executive county superintendent a request for approval** in a **Commissioner-prescribed** format [prescribed by the Commissioner, a request for such approval].

1. [Such approval] **Approval** will not be granted, except as provided in (g)2 below, if:

i. (No change.)

ii. The transfer would result in a budget in excess of the administrative cost limits in the applicable budget year, as prescribed in N.J.S.A. 18A:7F-5[(c)].c.

2. Transfers may be approved to support a contractual obligation or one-time increase in spending as justified by district board of education documentation.

Transfers may not be approved if the **school** district did not budget sufficient funds upon review of actual expenditures and historical trends in those accounts.

A district board of education that is granted [such] approval remains subject to the requirements [set forth] in N.J.S.A. 18A:7F-5[(c)].c.

(h) For all transfers to the advertised appropriation accounts identified as capital outlay for a capital outlay project not previously approved by [the] voters or **the** board of school estimate, pursuant to N.J.A.C. 6A:23A-8.4, a district board of education shall **submit**, prior to [such] **the** transfer, [submit] to the [Executive County Superintendent] **executive county superintendent a request for [such] approval**. Approvals are required for

unbudgeted or underbudgeted revenue, including those listed and appropriated pursuant to (d) above, and shall [only] be granted **only** for requests with written documentation that supports the existence of an emergent circumstance, as defined in (c)2 above, and only after an on-site inspection by the [Executive County Superintendent] **executive county superintendent** to verify the emergent circumstance. Transfers to equipment accounts or to supplement a capital outlay project previously approved by [the] voters or **the** board of school estimate, pursuant to N.J.A.C. 6A:23A-8.4, do not require approval by the [Executive County Superintendent] **executive county superintendent**.

- (i) Each district board of education shall maintain a report of current month and year-to-date transfers between general fund appropriation accounts as defined in (e) above, in a **Commissioner-prescribed** format [prescribed by the Commissioner,] or in a format developed locally and approved by the [Executive County Superintendent, and] **executive county superintendent. The district board of education shall** submit [such] **the** report to the [Executive County Superintendent] **executive county superintendent** with any transfer request(s) and in accordance with the submission requirements of the board secretary's and treasurer's financial reports under N.J.A.C. 6A:[23-2.12]**23A-16.10.**

## SUBCHAPTER 14 RESERVE ACCOUNTS

### 6A:23A-14.1 Capital reserve

- (a) A district board of education or board of school estimate may **establish**, at any time, [establish] by board resolution a capital reserve account, pursuant to N.J.S.A. 18A:21-2 and 3[,] and 18A:7G-31.
- (b) A district board of education [is] **shall be** prohibited from using the funds in [such] **the**

capital reserve account for current expenses, pursuant to N.J.S.A. 18A:[22-8.2]21-4, and shall [only] use [such] funds **only to**:

1. [To implement] **Implement** capital projects in the school district's LRFP as required pursuant to N.J.S.A.18A:7G-4[(a)].a and N.J.A.C. 6A:26-2; and
2. [To augment] **Augment** a capital project funded in whole or part by bond proceeds only when:
  - i. The original referendum question separately listed the amount and portion of local share (or portion of total costs of a project receiving debt service aid) to be funded by capital reserve, pursuant to N.J.A.C. 6A:26-3.7 and 3.12; or
  - ii. Voter or board of school estimate approval was received to augment the original approved question by special appropriation in a type I school district, by separate question at a special election, or through the appropriate [line-items] **line items** and supporting documentation in the base budget at the annual school election, pursuant to N.J.A.C. 6A:26-4.4(a)3iii; **or, for school districts that hold annual elections in November, through executive county superintendent approval of the base budget.**

(c) A district board of education may increase the balance in the capital reserve account by:

1. (No change.)
2. Requesting approval from the [Executive County Superintendent] **executive county superintendent**, as the Commissioner's designee, to appropriate any **anticipated** excess unreserved general fund balance, as calculated in the supporting documentation of the proposed budget, into a capital reserve in the proposed budget, pursuant to N.J.S.A. 18A:7F-[7b]7.b, only when the district board of education has:

- i. (No change.)
  - ii. Obtained an approved [long-range facilities plan (JLRFP)] in accordance with N.J.A.C. 6A:26-2.
- (d) A district board of education[, at its option,] may satisfy the withdrawal approval requirements [set forth] in (h) below when funds are deposited into the capital reserve account in the annual budget, pursuant to (c)1 and 2 above, using the designated line item, supporting documentation, and a statement of purpose in the advertised budget. The district board of education shall include in its statement of purpose:
  1. – 3. (No change.)
- (e) A district board of education may request express approval of [the] voters for appropriation of additional amounts into the capital reserve by a separate proposal at [budget time] **the April or November election, as applicable**, or by a special question at one of the four special elections authorized pursuant to N.J.S.A. 19:60-2. A district board of education may request approval of [a] **the board of school estimate for appropriation of additional amounts into a capital reserve by a separate proposal at budget time or by special resolution. The amount expressly approved by [the] voters or the board of school estimate for deposit into a capital reserve may be from surplus or unrestricted local miscellaneous revenue only if [such] the source is delineated in the question and/or special resolution.**
- (f) A district board of education shall not deposit into a capital reserve account audited excess undesignated, unreserved general fund balance. The district board of education shall reserve and designate [such] **the funds in the subsequent year's budget, pursuant to N.J.A.C. 6A:23A-8.5(b).**
- (g) The district board of education shall maintain an amount of funds in the capital reserve account that does not exceed the amount needed to implement the capital projects in a school district's LRFP that are not met by State support.

1. (No change.)
  2. The district board of education shall ensure [that] all excess amount in the capital reserve account identified in the annual audit, required pursuant to N.J.S.A. 18A:23-1 and **Commissioner-developed** procedures [developed by the Commissioner], are reserved and designated in the subsequent year's budget.
- (h) A district board of education may withdraw funds from the capital reserve account at any time as follows:
1. By **district board of education** resolution for the transfer of funds to the line items in the capital outlay major account/fund to fund pre-development or other pre-application costs associated with architects, lawyers, and construction managers for school facilities projects included in the approved LRFP;
    - i. Pursuant to N.J.A.C. 6A:26-4.2(a), a district board of education that used capital reserve [for such] **to fund pre-development or other pre-application** costs in a capital project funded in part or in whole by bond proceeds [has the option to] **may** reimburse the general fund from the capital projects fund after approval of the referendum or resolution;
  2. By **district board of education** resolution for the transfer of funds to the line items in the capital outlay major account/fund to fund the local share less any excess costs of a school facilities project as determined in accordance with N.J.A.C. 6A:26-3 **and approved pursuant to N.J.A.C. 6A:26-3.3**;
  3. By **district board of education** resolution for the transfer of funds to the line items in the capital outlay major account/fund to fund the total costs, less any excess cost(s), of an other capital project **submitted and reviewed in accordance with N.J.A.C. 6A:26-3.11**, which would otherwise be eligible for State support, as determined in accordance with N.J.A.C. 6A:26-3;
  4. By **district board of education** resolution for the transfer of funds to the capital

projects fund, pursuant to N.J.A.C. 6A:26-4, **for a school facilities project approved pursuant to N.J.A.C. 6A:26-3.3**, after receiving voter, board of school estimate, or capital project review board approval, as applicable, **or executive county superintendent approval for a school district that holds the annual school election in November**, of the capital reserve use and specific amount in an approved referendum or resolutions, pursuant to N.J.A.C. 6A:26-3.7;

5. By **district board of education** resolution after receiving voter, board of school estimate, or capital project review board approval, as applicable, **or executive county superintendent approval for a school district that holds the annual school election in November**, except as authorized in N.J.A.C. 6A:26-3.12(c), for the transfer of funds to the line items in the capital outlay major account/fund to fund excess costs of a school facilities project and to fund the total costs for other capital projects that would not otherwise be eligible for State support, as determined in accordance with N.J.A.C. 6A:26, Educational Facilities;
  - i. Voter, board of school estimate, or capital project review board approval, **or executive county superintendent approval for a school district that holds the annual school election in November**, may be obtained through the original budget certified for taxes, in which the district board of education shall include a statement of purpose in the advertised budget, or through [a] **the** board of school estimate's special appropriation process.
  - ii. The district board of education or board of school estimate shall include in the statement of purpose or special question for the capital project:
    - (1) – (3) (No change.)
    - (4) A description/purpose of the capital project, or portion thereof, [which] the excess costs will fund; and
    - (5) (No change.)

- iii. If requesting a withdrawal for multiple capital projects, the district board of education or board of school estimate shall include in the statement of purpose or special question the required information [identified] in (h)4i and ii above separately for each individual capital project.
- iv. The district board of education or board of school estimate shall ensure [that] the amount(s) approved by [the] voters, **the board of school estimate, or the capital project review board, or the executive county superintendent approval for a school district that holds the annual school election in November**, are used exclusively for the purpose(s) [or purposes] contained in the associated statement or question.
- v. For any approved amount(s) that remains unexpended or unencumbered at the end of the school year, the district board of education or board of school estimate shall:
  - (1) Return [such] **the** funds to the capital reserve account;
  - (2) Anticipate [such] **the** funds as part of the designated general fund balance of the subsequent school year budget; or
  - (3) Reserve and designate [such] **the** funds in the second subsequent school year budget;

6. [By] **For the transfer of funds to the line items in the capital outlay major account/fund for the purchase of land by district board of education** resolution, and after receiving Commissioner approval in accordance with N.J.A.C. 6A:26-3.13[.]; and [voter,] board of school estimate **approval pursuant to (b)2ii above** or capital project review board approval [pursuant to (c)2 above and this subsection, for the transfer of funds to the line items in the capital outlay major account/fund for the purchase of land] **in accordance with N.J.A.C. 6A:26-3.1; and voter approval for school districts with April elections, or**

**executive county superintendent approval for a school district that holds the annual school election in November; or**

7. By **district board of education** resolution for the transfer of funds to the debt service account for the purpose of offsetting locally funded principal and interest payments for bonded projects [that are] included in the school district's LRFP.
  8. **By district board of education resolution for the transfer of funds to the general fund for the purpose of funding the Schools Development Authority debt assessment associated with grants the school district received in current or prior years.**
- (i) Notwithstanding (h) above, a district board of education or board of school estimate may **apply**, at any time, [apply] to the Commissioner for approval to withdraw funds from its capital reserve account for uses authorized in (b) above. A district board of education or board of school estimate may make a withdrawal pursuant to this subsection only upon receipt of **the Commissioner's** written approval [of the Commissioner]. To obtain the Commissioner's approval, the district board of education shall establish, to the **Commissioner's** satisfaction, [of the Commissioner] that an emergent condition exists necessitating an immediate withdrawal of capital reserve account funds.
- (j) A district board of education shall administer and account for the capital reserve account as follows:
1. The district board of education shall establish and maintain the capital reserve account in accordance with Generally Accepted Accounting Principles, and shall be subject to annual audit, pursuant to N.J.S.A. 18A:23-1 et seq.;
  2. If the cost to complete an approved school facilities project not funded in whole or part by school bonds exceeds the local share less excess costs, [those] costs up to 10 percent above the local share less excess costs may be withdrawn from capital reserve in accordance with (h)1 above;

3. The district board of education shall transfer to the capital projects account, and account for separately with the corresponding grant, any funds withdrawn for the local share of a school facilities project that is not using school bonds or loan bonds for all or part of the local share that received a grant pursuant to N.J.S.A. 18A:7G-15. For any unexpended transferred capital reserve funds remaining after completion of [such] **the** school facilities project[s], the district board of education shall:

- i. Return [such] **the** funds to the capital reserve account;
- ii. Anticipate [such] **the** funds as part of the designated general fund balance of the subsequent school year's budget; or
- iii. (No change.)

4. (No change.)

5. A district board of education shall establish a separate account in the general fund for bookkeeping purposes only [in order] to account for increases to and withdrawals from the capital reserve account and its balance. The district board of education shall record a capital reserve account on the annual audit's general fund balance sheet as follows:

- i. (No change.)
- ii. Cr: Reserved/**Restricted** Fund Balance--Capital Reserve Account.

(k) Funds in capital reserve accounts in existence prior to July 18, 2000, [are] **shall be** subject to the Educational Facilities Construction and Financing Act (EFCFA), P.L. 2000, c. 72, and this subchapter[, and the]. **The** district board of education shall [only] use [such] **the** funds **only** for the original purpose for which the funds were deposited.

1. If the original purpose is outside the scope of the district board of education's approved LRFP, the district board of education shall account for [such] **the** funds separately in the capital reserve fund and appropriate the funds as revenue for

such purposes in the annual budget certified for taxes. The district board of education shall restore to the capital reserve account, for use pursuant to this subchapter, any unexpended capital outlay appropriations up to the amount of [such] capital reserve funds appropriated. Expenditures [are] **shall be** charged first to unrestricted capital outlay fund sources with capital reserve account appropriations expended last. The district board of education shall not deposit any additional funds into the capital reserve account, pursuant to (c) through (f) above, for [such] pre-July 18, 2000, purposes.

2. If the original purpose is within the scope of the school district's approved LRFP, the district board of education shall make withdrawals pursuant to (h) above[, except that]. **However**, if voter, board of school estimate, or capital project review board approval, **or executive county superintendent approval for a school district that holds the annual school election in November**, of excess costs or an other capital project was obtained when the funds were deposited into the capital reserve account, the district board of education[, by such approval,] shall be deemed to have satisfied the requirement for approval of excess costs or other capital projects in (h)2 above.

#### 6A:23A-14.2 Maintenance reserve

- (a) A district board of education [shall] **may** establish, by resolution, a maintenance reserve account to be used to implement required maintenance of the school district's facilities. The district board of education [is] **shall be** prohibited from using [such] **the** funds for routine or capital maintenance.
- (b) The district board of education shall establish and maintain the maintenance reserve account in accordance with GAAP[, and such]. **The** account [is] **shall be** subject to

annual audit, pursuant to N.J.S.A. 18A:23-1 et seq.

- (c) (No change.)
- (d) A district board of education or board of school estimate, as appropriate, may **withdraw** by resolution [withdraw such] funds from the maintenance reserve account and appropriate **the funds** into the required maintenance account lines at budget time or any time during the year for use on required maintenance activities for a school facility, as reported in the comprehensive maintenance plan pursuant to N.J.A.C. 6A:26A-4.
  - 1. Funds withdrawn from the maintenance reserve account [are] **shall be** restricted to required maintenance appropriations. A district board of education or board of school estimate shall not transfer [such] **the funds** to any other line-item account.
- (e) In any year that maintenance reserve account funds are withdrawn, the district board of education shall restore **to the maintenance reserve account at year-end** any unexpended required maintenance appropriations, up to the amount of maintenance reserve account funds withdrawn[, to the maintenance reserve account at year-end].
- (f) The district board of education shall **transfer**, by resolution, [transfer] to the general fund on an annual basis, **or more frequently**, any interest earned on the investments in the maintenance reserve account. [Such interest may be transferred on a more frequent basis at the discretion of the district board of education.]
- (g) The district board of education shall ensure [that] the maintenance reserve account balance does not, at any time, exceed four percent of the replacement cost of the school district's school facilities for the current year. If the account exceeds this maximum amount at June 30, the district board of education shall reserve and designate [such] **the** excess in the subsequent year's budget.

6A:23A-14.3 Supplementation of capital reserve and maintenance reserve accounts

- (a) A district board of education or board of school estimate, as appropriate, may supplement a capital reserve account through a transfer, by [board] resolution, of any unanticipated revenue and/or unexpended line-item appropriation amounts anticipated at year end for withdrawal in subsequent school years. [Any such] **The** transfer resolution shall be adopted by the **district board of education or board of school estimate** no earlier than June 1 and no later than June 30 of the respective school year.
- (b) A district board of education or board of school estimate, as appropriate, may supplement a maintenance reserve account through a transfer, by [board] resolution, of any unanticipated revenue and/or unexpended line-item appropriation amounts anticipated at year end, for withdrawal in subsequent school years. [Any such] **The** transfer resolution shall be adopted by the **district board of education or board of school estimate** no earlier than June 1 and no later than June 30 of the respective school year.

#### 6A:23A-14.4 Establishment of other reserve accounts

- (a) A district board of education or a board of school estimate, as appropriate, may [through the adoption of a board resolution] establish, **by resolution**, the following reserve accounts:
  - 1. Current expense emergency reserve account.
    - i. The funds in the reserve shall be used to finance unanticipated general fund current expense costs required for T&E. For the purpose of the emergency reserve account, “unanticipated” shall mean reasonably unforeseeable and shall not include additional costs caused by poor planning or error.
    - ii. (No change.)
    - iii. A district board of education may appropriate funds to establish or

supplement the reserve in the school district's annual budget or through a transfer by **district board of education** resolution of any unanticipated revenue and/or unexpended line-item appropriation amounts anticipated at year end. [Any such] **The** transfer resolution shall be adopted by the **district board of education** no earlier than June 1 and no later than June 30 of the respective school year.

iv. Withdrawals from the reserve shall require [the] **Commissioner** approval [of the Commissioner] unless the withdrawal is necessary to meet an increase in total health care costs in excess of four percent, for which the **school** district did not receive an automatic adjustment for health care costs pursuant to N.J.A.C. 6A:23A-[11.4]**11.3**. Total health care costs **shall** include medical insurance and prescription drug insurance costs.

2. Debt service reserve account in the debt service fund for proceeds from the sale of school district property. For the purposes of the debt service reserve account, "property" shall mean land, buildings, and other property that was incidental to the sale of land or a building. The funds in the reserve shall be used by the **school** district first to reduce the outstanding principal amount at the earliest call date or to annually reduce the debt service principal payments. The funds may be used for any outstanding debt obligation(s) [or debt obligations] of the school district. The reserve shall be liquidated within the lesser of five years from its inception or the remaining term on the obligation(s). Any remaining balance shall be used for tax relief.
3. Tuition adjustment reserve account in the general fund for up to 10 percent of the estimated tuition cost in the contract year for an anticipated tuition adjustment in the third year following the contract year. In such case, the district board of education shall:

- i. Establish **by district board of education resolution** the tuition adjustment reserve account at June 30 [by board resolution];
  - ii. Make full appropriation of the reserve for the tuition adjustment in the [third] **second** year following the contract year; **and**
  - [iii. Exclude from the cap calculation the budgeted fund balance and appropriation of the tuition adjustment reserve in the third year following the contract year for such tuition adjustments; and]
  - [iv.] **iii.** Transfer [to the general fund], by **district board of education resolution, to the general fund on an annual basis, or more frequently,** any interest earned on the investments in a tuition adjustment reserve account [on an annual basis]. [Such transfer may be made on a more frequent basis at the discretion of the district board of education.]
- 4. School bus advertising reserve for 50 percent of revenue from school bus advertising to offset transportation fuel costs, pursuant to N.J.S.A. 18A:39-31.**
- 5. Federal Impact Aid reserves in the general fund, pursuant to N.J.S.A. 18A:7F-41.c(3).**

SUBCHAPTER 15 STATE AID CALCULATIONS AND AID ADJUSTMENTS FOR  
CHARTER SCHOOLS

6A:23A-15.1 Definitions

The following words and terms[, as used in this subchapter,] shall have the following meanings **when used in this subchapter**, unless the context clearly indicates otherwise.

"Average daily enrollment" for the purpose of determining the adjusted State, local, and Federal aid means the sum of the days (present and absent) of all students [are] enrolled in the register(s) of the program for which the aid is being determined divided by the number of days school was actually in session.

"Categorical aid attributable to the student" means security categorical aid attributable to the student and a percentage of the school district's special education categorical aid equal to the percentage of the school district's special education students enrolled in the charter school and, if applicable, 100 percent of preschool education aid **attributable to the student**. Preschool education aid is restricted revenue, which is to be recorded in the special revenue fund[-]20 and is subject to the provisions of N.J.A.C. 6A:13A.

"Certification" means [the endorsement of a person who is employed by a district board of education or a charter school board of trustees to perform duties that are regulated by N.J.A.C. 6A:9B, 6A:11 and 6A:23, and N.J.S.A. 18A:26-2] **as defined in N.J.A.C. 6A:11-1.2**.

"Charter school rate" means an amount equal to 90 percent of the sum of the budget[-]year equalization aid per pupil and the prebudget[-]year general fund tax levy per pupil inflated by the CPI rate most recent to the calculation, pursuant to N.J.S.A.18A:36A-12.

"District of residence" means [the school district in which a charter school facility is physically located; if a charter school is approved with a region of residence comprised of contiguous school districts, that region is the charter school's district of residence] **as defined in N.J.A.C. 6A:11-1.2**.

"Initial recruitment period" means [the period during which there are the first outreach efforts by

a charter school to a cross section of the community for the application, random selection process (if applicable) and enrollment of students for the next school year] **as defined in N.J.A.C.**

**6A:11-1.2.**

"Local share" means [that] **the** percentage of the school district's adequacy budget supported by general fund tax levy.

"Non-resident **school** district" means a school district outside the school district of residence of the charter school.

"Non-resident student" means [a student from a non-resident district attending a charter school] **as defined in N.J.A.C. 6A:11-1.2.**

...

"Projected enrollment(s)" means the estimated total enrollment(s) from both the school district of residence and non-resident **school** district(s) as follows:

1. For the first year, the projected enrollment is based on the enrollment as indicated in the New Jersey Charter School Application;
2. In subsequent years, projected enrollment is based on actual charter school enrollment as of October 15 of the prebudget year, the initial recruitment period that is submitted by January 15, and any approved change of enrollment as specified in the school's charter or an approved amendment.

"Region of residence" means [the contiguous school districts in which a charter school operates and is the charter school's district of residence] **as defined in N.J.A.C. 6A:11-1.2.**

"Resident student" means [a student who resides in the area served by the district board of education that is the same as the school district of residence of the charter school] **as defined in N.J.A.C. 6A:11-1.2.**

"School year" means [July 1 to June 30 of any given academic year. If operating with an extended school year, this term means an alternate fiscal year beginning no later than September 1 and ending no later than August 31 of any given academic year] **as defined in N.J.A.C. 6A:11-1.2.**

...

6A:23A-15.2 Per pupil calculations, notification, and caps

- (a) (No change.)
- (b) The per pupil amount comprises local share as defined in (b)1 below and State share as defined in (b)2 below.
  - 1. The local share per pupil is [that] **the** part of the per pupil amount that includes the general fund tax levy of the school district of residence's or nonresident district(s)' budget(s).
  - 2. The State share per pupil is [that] **the** part of the per pupil amount that includes the equalization aid portion of the school district of residence's or nonresident district(s)' budget(s) or amounts, if any, contained in the annual appropriations act in-lieu-of or to supplement equalization aid for the corresponding fiscal year.
- (c) On or before March 30 of each year, a charter school board of trustees shall submit to the Commissioner a budget [summary, budget narrative and cash flow statement] **in the**

**State-mandated format** for the following fiscal year, all of which are based on the most recent enrollment projections provided to the charter school by the Commissioner.

6A:23A-15.3 Enrollment counts, payment process, and aid adjustments

- (a) [In order to] **To** enroll in a charter school, the student [must] first **shall** be registered in the school district in which [the student] **he or she** resides. For any student who applies for enrollment in a charter school, [a] **the** district board of education in which the charter school applicant resides shall process the **student's** registration [of the student] for the subsequent school year upon submission of the registration forms. A district board of education shall process in a timely manner all such registrations, including the assessment of residency and the subsequent transfer to the charter school, and shall identify the specific categorical aid for which each student qualifies.
- (b) [In the subsequent school year, actual] **Actual** average daily enrollment in a charter school shall not exceed the enrollment as specified in the school's charter and approved by the Commissioner.
- (c) A district board of education shall pay to a charter school[,] aid the school district receives for categorical programs, pursuant to N.J.S.A. 18A:36A-[12b]**12.b**. [Such] **The** aid shall be paid to a charter school in the amount that is attributable to each resident student enrolled in [that] **the** charter school.
- (d) A district board of education that receives preschool education aid, pursuant to [the provisions of] N.J.S.A. 18A:7F-54, shall pay to a charter school the amount of [that] **preschool education** aid attributable to a resident student attending [that] **the** charter school [where] **if**:
  - 1. The charter school has a concentration of at-risk pupils, as defined in N.J.S.A. 18A:7F-45, that is equal to or greater than 40 percent; and

2. The resident student is receiving appropriate services to be funded through [that type of] **preschool education** aid.
- (e) All categorical aid[s] paid to a charter school by a district board of education shall be accounted for in the general fund of the charter school. Preschool aid is restricted and [should] **shall** be accounted for in fund 20.
  - (f) A charter school may apply directly to the Commissioner for aid for high-cost placement[s] for a special education student in accordance with N.J.S.A.18A:7F-[55b]**55.b** and c.
  - (g) A district board of education shall process payment(s) and payment adjustments to a charter school during [any given] **the** school year as follows:
    1. The district of residence and non-resident **school** district(s) shall initiate payments to the charter school based on projected enrollment, as set forth in [N.J.A.C. 6A:23-9.4(a)] **this section**.
    2. The school district of residence and non-resident **school** district(s) shall pay directly to a charter school the local share per pupil at the charter school rate, pursuant to N.J.S.A. 18A:36A-[12b]**12.b**, in 12 equal installments starting July 15 and thereafter on the 15th of each month.
    3. Pursuant to N.J.S.A. 18A:36A-[12b]**12.b**, the **school** district of residence and non-resident **school** district(s) shall pay directly to the charter school [for] the following aid[s] in 20 equal installments on the 9th and 23rd of every month starting with September 9 and ending with June 23, or as established by the Legislature:
      - i. – ii. (No change.)
    4. The charter school shall submit to the resident school district a listing of all students on roll on October 15[th] in a format prescribed by the school district for purposes of determining State aid. Pursuant to the guidelines in the school

register, the charter school shall also submit to the school district copies of all source documents related to the determination of State aid.

5. During the school year, a charter school board of trustees shall conduct an enrollment count on October 15 and the last day of the school year. A charter school board of trustees shall submit each count in a summary school register for the purposes of determining average daily enrollment.

i. The charter school board of trustees shall submit the summary school register to the Commissioner no later than one week after the two [required] enrollment counts required pursuant to (g)5 above.

(1) All aid paid to the charter school by the school district will be adjusted accordingly from projected enrollment to average daily enrollment on October 15 and the adjustment [will] **shall** be spread evenly over the remaining pay periods in the school year.

(2) A final adjustment [will] **shall** be calculated at year-end to account for changes in the average daily enrollment from October 15 to the end of the school year.

(3) The Commissioner will issue a report for the end-of-year adjustment to both the charter school and the district of residence and non-resident **school** district(s) after the final enrollment count. If there is a reduction in aid, the charter school shall pay the full amount to the school district no later than September 30 of the subsequent school year. If there is an increase in aid, the school district shall pay the full amount to the charter school no later than September 30 of the subsequent school year.

(4) A district board of education and a charter school board of trustees may change the payment provisions, as outlined in (g)2, 3, and 4

above, if mutual agreement can be reached on an alternative payment schedule.

[ii.] (A) Such change in the payment provisions [are only] **shall be effective only** for the stated school year.

[iii.] (B) Such change in the payment provisions **shall** require the written approval [through board resolutions] of both the **charter school** board of trustees [of the charter school] and the district board of education **through resolutions**. The charter school board of trustees and **the** district board of education shall submit [copies] **to the Commissioner a copy** of [such board resolutions to the Commissioner] **its resolution** on or before July 1 of the school year in which the payment schedule is effective.

6. [In the event] **If** a district board of education falls behind by 15 days in the payment schedule in (g)2, 3, 4, and 5 above, a charter school board of trustees may petition the Commissioner to have the amounts owed to the charter school deducted from the district board of education's State aid and paid directly to the charter school.
7. The **Commissioner may adjust the** payment schedule [may be adjusted by the Commissioner] based on the effective date of the final granting of the charter or based on significant change in enrollment during the school year.

#### 6A:23A-15.4 Procedures for private school placements by charter schools

- (a) Within 15 days of [the] **a charter school's** provision of written notice to [the] **a student's** parent(s) [by a charter school] of a proposed individualized education program

(IEP) or proposed amendment to a [child's] **student's** IEP that provides for **the student's** placement [of the child] in a private day or residential program, the charter school shall also provide **to the school district of residence of the student's parent(s)** written notice of [such] **the** proposed placement [to the school district of residence of the child's parent(s)].

1. The **school** district of residence may immediately request a copy of the student records to determine whether a less-restrictive program [that] can appropriately meet the student's educational needs [exists]. The charter school shall forward a copy of the records without delay. In accordance with N.J.A.C. 6A:32-7.5[(f)10](e)**10**, the charter school shall provide written notification to the parent(s) that a copy of the records [have] **has** been forwarded to the **school** district of residence.

(b) [When] **If** the school district of residence determines to challenge the placement, the school district of residence may **file**, within 30 days of receiving notice of the placement, [file] for a due process hearing against the charter school and **the student's** parent(s) [of the student]. The due process hearing shall be limited in scope to a determination by an administrative law judge as to whether there is a less-restrictive placement that will meet the student's educational needs and, if so, whether the charter school must place the student in [such] **the** program.

1. The request for a due process hearing shall be processed in accordance with [the provisions of] N.J.A.C. 6A:14-2.7 and, if the parties agree, mediation will be offered prior to transmittal of the matter to the Office of Administrative Law for a due process hearing.

2. For purposes of administering the request for a due process hearing, the school district of residence shall be considered the "school district" as [that] **the** term is utilized in N.J.A.C. 6A:14-2.7 and the request shall be processed in accordance

with the regulations applicable to requests for a due process hearing by a school district.

3. All procedural issues that arise with respect to filings by a **school** district of residence for a due process hearing in accordance with [these regulations] **N.J.A.C. 6A:14-2.7** shall be addressed by the administrative law judge assigned to hear the matter.
4. [In the event that] **If** the due process petition is resolved with a determination that the student must be placed in the less-restrictive program sought by the **school** district of residence, the student shall still be considered a student enrolled in the charter school [that] **who** has been placed in [that] **the** program by the charter school. The charter school shall maintain the student's slot in its enrollment and provide all child study team services for the student, including the development of an IEP and the monitoring of the implementation of the student's IEPs.