

EDUCATION

COMMISSIONER OF EDUCATION

Fiscal Accountability, Efficiency AND Budgeting Procedures

Proposed Readoption with Amendments N.J.A.C. 6A:23A

Authorized By: Lucille E. Davy, Commissioner, Department of Education

Authority: P.L. 2007, c. 53; P.L. 2007, c. 62; P.L. 2007, c. 63, P.L. 2007, c. 260 and P.L. 2008, c. 37

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

Proposal Number: PRN 2009-188

Public Hearings: Public testimony sessions on these proposed rules will take place at the following dates and locations:

June 18, 2009, 3:00 P.M. to 5:00 P.M.
Middlesex County Vocational School
East Brunswick Campus
112 Rues Lane
East Brunswick, New Jersey 08816-1070

June 19, 2009, 3:00 P.M. to 5:00 P.M.

Kean University
Downs Hall
1000 Morris Avenue
Union, New Jersey 07083

June 22, 2009, 3:00 P.M. to 5:00 P.M.

Oakcrest High School
1824 Dr. Dennis Foreman Drive
Mays Landing, NJ 08330

Submit written comments by August 14, 2009 to

Katherine Attwood
Assistant Commissioner
New Jersey Department of Education
River View Executive Plaza
Building 100, P.O. Box 500
Trenton, New Jersey 08625-0500

The agency proposal follows:

The Department is proposing to readopt with amendments the rules herein of the Financial Accountability, Efficiency and Budgeting chapter at N.J.A.C. 6A:23A. This rulemaking, which readopts, with amendments, the rules of Subchapters 1 through 15 at N.J.A.C. 6A:23A, is necessary as the result of the passage of the School Funding Reform Act, P.L. 2007, c. 260, and several fiscal accountability laws including P.L. 2007, c. 53, which established school efficiency requirements, including travel restrictions; P.L. 2007, c. 62, which established the tax levy cap law; and P.L. 2007, c. 63, which established the position and expanded responsibilities of the Executive County Superintendent positions.

On July 1, 2008, in accordance with the provisions and requirements of 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 - 1 through 15 under the Commissioner's rulemaking authority and the procedures for special adoption. Many of the subchapters in the first phase of emergency rulemaking were reserved for the second phase to enable additional opportunity for discussion, review and comment. The second phase was filed with the Office of Administrative Law on December 18, 2008. This includes provisions and requirements of P.L. 2007, c. 53 and c. 62, as well as additional provisions under P.L. 2007 c. 63 and c. 260. These special adopted rules expire on December 28, 2009, pursuant to N.J.S.A. 52:148-5.1 c, and in accordance with the requirements of P.L. 2008,

c. 37, the Commissioner will hold three regional hearings for public discussion of the proposed rules.

These rules, in conjunction with the recodification and amendment of the finance and business services rules of the State Board as subchapters in the Financial Accountability, Efficiency and Budgeting chapter (to be proposed in June as N.J.A.C. 6A:23A-16 through 22), will ensure improved State monitoring, oversight and authority, and will also ensure adequate resources for district boards of education to successfully meet the State constitution's mandate for a thorough and efficient system of free education. The Department determined to recodify the amended finance and business services rules as subchapters 16 through 22 in the new Financial Accountability, Efficiency and Budgeting chapter at N.J.A.C. 6A:23A so all school finance rules are in one code chapter.

The Department believes the rules proposed for readoption with amendments will impose no unnecessary burdens on, and will allow reasonable latitude for a district board of education and charter school board of trustees to exercise good financial judgment.

As the Department has provided a 60-day comment period in this notice of proposal, this notice is exempted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5. The following summary provides a brief overview of the proposed recodification with amendments:

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. No amendments are proposed to this section.

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

This section defines the language of essential components of this chapter. No amendments are proposed to this section.

Subchapter 2. Executive County Superintendent of Schools

The subchapter provides an overview of the general powers and duties of the Executive County Superintendent, including the procedures for promoting consolidation and sharing of services.

N.J.A.C. 6A:23A-2.1 General powers and duties of Executive County Superintendent

This section provides the authority, N.J.S.A. 18A:7-8, for the general powers and duties of the Executive County Superintendent. No amendments are proposed to this section.

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

This section describes the Executive County Superintendent's responsibility to establish a School District Regionalization and Consolidation of Services Advisory Committee (Advisory Committee) for the purpose of providing advice and consultation to the Executive County Superintendent on the issue of regionalization of school districts or consolidation of school district services. The section further describes the membership of the Advisory Committee and its duties and structure. No amendments are proposed to this section.

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

This section sets forth provisions requiring the Executive County Superintendent to study the consolidation of local public school districts' administrative services, to the extent practical. It describes the components of the study and requires that the Executive County Superintendent make recommendations regarding the feasibility of shared administrative services in the county to the Commissioner. A proposed amendment states that when the Executive County Superintendent recommends the establishment of a new or expanded service provider in the county it is for shared administrative purposes only.

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 those public school districts that are not operating schools. The section describes the required components of the plan. This section is proposed for amendment to ensure that the Executive County Superintendent's recommendation is one that results in the least disruption on educational delivery, district operations and local finances, including the allocation of tax levy and state aid. It provides that the current receiving district will be the presumptive option for consolidation, but lists other factors, such as the sending district's status under the No Child Left Behind Act, whether the district that is not operating a school is currently sending to two different districts, and the long term goal of creating regional local school districts (pre-K or K to grade 12) that must also be considered. Other proposed amendments delineate additional components of the required consolidation plan, including a general description of the constituent communities, including the communities' population, housing trends, and ratables and certain financial information.

This section also requires the Executive County Superintendent to consider the State aid and property tax implications of forming a new district and a proposed amendment provides that the 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 districts. If such an alternative approach is proposed that is not currently authorized by statute, such alternative approach shall not be implemented unless and until the statutory authorization for such an alternative approach is duly enacted.

Proposed amendments in this section would also require the Executive County Superintendent to include in his or her plan a description of the new district board of education as currently authorized by statute, including a description of the constituent school districts boards. The proposed amendment states that the 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, such alternative approach shall not be implemented unless and until the statutory authorization for such an alternative approach is duly enacted.

Proposed amendments to this section also include a requirement that the Executive County Superintendent include in the plan district specific issues and concerns including, but not limited to, building ownership by the district that is currently not operating a school, potential loss of Federal impact aid or other special revenue sources, and new transportation concerns, as well as the process to liquidate all remaining assets and close the fiscal books of the district that is no longer operating a school, including arranging for the final audit and the transfer of files, records, equipment and supplies.

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 Advisory Committee, to study the consolidation of local public school districts within the county, other than county school districts and existing all purpose regional school districts (pre-K or K to grade 12), into one or more all purpose

regional school districts. Based on the study, the Executive County Superintendent is required to 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). The section further delineates the components of the required plan. An amendment is proposed to correct a statutory citation.

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

This section requires the Executive County Superintendent complete a study of pupil transportation services in the county no later than July 12, 2009 pursuant to N.J.S.A. 18A:7F-57. The purpose of the study shall be to determine ways to provide pupil transportation services in a more cost-effective and efficient manner. The section further describes the factors that the Executive County Superintendent should consider in conducting the study. No amendments are proposed in this section.

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. The section requires the Executive County Superintendent to maintain information on placement options in other local school districts for districts that do not have appropriate in-district programs for certain special education children. The section requires that the IEP team inform the Executive County Superintendent if it is considering an out-of-district placement for a child, and the Executive County Superintendent must then inform the team of any available in-district placement options for consideration. A proposed

amendment deletes the requirement that the Executive County Superintendent also inform the IEP team of any available public regional programs for its consideration. Additional amendments are proposed for purposes of consistency and clarity.

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 employees of the district.

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

This section lists the standards for the Executive County Superintendent (ECS) contract review, as well as the provisions for contract review in counties without an ECS. Under the rules proposed for readoption, the Executive County Superintendent will review the contracts to ensure that the proposed salary, benefits and emoluments are reasonable compared with similarly situated administrators. The review shall also ensure that the contract includes provisions for core hours worked and such hours are reasonable and commensurate with salary and job responsibilities, is consistent with the travel requirements and other existing laws such as payment of accumulated sick and vacation leave, and does not provide for reimbursement of legally or contractually required employee costs. The review shall also ensure the contract does not include benefits that are otherwise available by law or existing group plan (for example, annuities or life

insurance plan that supplements or duplicates a plan already made available to the employee) and the contract does not contain provisions for excessive or illegal payments as a condition of separation from service. No amendments are proposed to this section except for a technical amendment at 3.1(e)12 to correct a statute citation.

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

This section sets forth the standards for review of early termination agreements pursuant to N.J.S.A 18A:17-20.2a. No amendments are proposed to this section.

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

This section sets forth the requirement that the State Board of Examiners shall review the certification of the superintendent and school business administrator (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. No amendments are proposed to this section.

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

This section sets forth the requirement that 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 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. No amendments are proposed to this section.

Subchapter 4. School District Fiscal Accountability

The subchapter provides the standards and procedures of several school district accountability provisions contained in P.L. 2007, c. 53. No amendments are proposed to this subchapter.

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

This section provides that the Commissioner may appoint an external entity to perform a compliance audit of a district's general fund spending upon identification that the district may be spending State education funds for purposes that are not in compliance with State education laws and rules. It further sets forth the required components of the audit. No amendments are proposed to this section.

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

This section requires that the school business administrator or any other person designated by the board of education shall certify to the 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 are required to be reported. It further describes the tax implications for, and means of reporting, the personal use of a school district vehicle and/or use of driver services by a school district employee. This section remains unchanged.

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

This section requires that the annual audit conducted pursuant to N.J.S.A. 18A:23-1 shall include test measures to assure that documentation prepared for income tax related purposes complies fully with the requirements of Federal and State laws and regulations regarding the compensation which is required to be reported. No amendments are proposed to this section.

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

This section requires that districts that had repeat audit findings in the Auditor's Management Report submitted with the Comprehensive Annual Financial Report (CAFR) in any year shall, within 30 days of the CAFR submission, submit to the 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 section further sets forth the required components of the corrective action plan. This section remains unchanged.

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

This subchapter summarizes the Department's authority provided under the School Funding Reform Act (SFRA) at N.J.S.A. 18A:7F-60 to withhold or recover State aid upon identification of excessive and/or inefficient expenditures.

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 the Department to bring an Order to Show Cause requiring that a school district why State aid should not be withheld based on alleged ineffective or inefficient expenditures. Nothing in these procedures preclude the Commissioner from immediately withholding State aid if determined the district is in violation of any statute, regulation or rule. No amendments are proposed to this section.

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

This section sets forth the requirement that districts establish a public relations and professional services board policy that outlines the district strategies to minimize the cost of these services. The policy must include such items as, setting an annual maximum dollar limit on such services, requiring professional services contracts to be issued in a deliberative manner. A proposed amendment clarifies that “deliberative manner” can include request for proposals. The section further limits professional services contracts to nonrecurring or specialized work. The policy must also include procedures to guide solicitation of contracted legal counsel. A proposed amendment sets forth specific procedures that districts that have legal costs that exceed 130 percent of the Statewide average should follow. The section further provides that districts are prohibited from public relations activities that are excessive in nature and specifically prohibited from printing and distributing publications that include the picture of any member of the

district board within 90 days of any election, in which any board member is seeking any elective office or any election relating to district operations.

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

This section authorizes the Commissioner to withhold State aid if the district is in violation of public bidding laws or if the district did not maximize SEMI or implement its approved SEMI action plan for any given budget year. The rule includes the standards for maximizing SEMI, the required benchmarks and action plan, and the process to request a waiver to the SEMI requirement. A proposed amendment to this section revises the types of documentation required to demonstrate that a speech therapist is a qualified Medicaid provider. The proposed rule requires either a copy of DOE certification and American Speech-Language-Hearing Association (ASHA) certification; a copy of DOE certification and past or present license (on or after January 1, 1993); or a copy of DOE certification and documentation that the equivalent educational requirements and work experience necessary for ASHA certification have been met. Another amendment provides that districts that project 40 or fewer eligible Medicaid students may seek a waiver of the requirements of this section. The current regulation allows districts with 30 Medicaid eligible students to seek a waiver.

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

This section provides that the Commissioner shall subject to review for the withholding of State funds any school district or county vocational school district which fails to obey the provisions of the Public School Contracts Law, N.J.S.A. 18A:18A-1 et seq. A

technical amendment changes the section heading from “Violation of public bidding laws” to “Violation of public school contracts law.”

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

This section requires an internal control and expenditure audit for districts that receive 50 percent or more in state aid. This section remains unchanged.

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

This section requires that any school district or county vocational school district that has been subject to an audit or investigation by the Department’s Office of Fiscal Accountability and Compliance (OFAC) shall 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, shall adopt a resolution certifying discussion of the findings and approving a corrective action plan, and posting the corrective action plan on the district’s website, if one exists. No amendments are proposed to this section.

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

This section requires that districts undertake, once every three years, a payroll verification procedure, and describes the requirements of that procedure. This section remains unchanged.

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

This section describes allowable district expenditures for non-employee activities, meals and refreshments. It further prohibits the use of public funds for such things as receptions, dinners or other social functions held for or honoring any employee or group of employees of the district, meals or refreshments for guests at athletic events, and alcoholic beverages. A technical amendment is proposed to the section, heading.

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

This section sets forth the requirements for reimbursement of district employees for out-of-State and high cost (exceeding \$5,000) travel events. Executive County Superintendent approval is required for all out of country travel, and for travel that exceeds \$5,000 or where more than five individuals from the district are attending an out-of-State event. Further, in-State overnight travel is not reimbursable by the district unless the sponsoring organization receives a waiver from the Commissioner pursuant to N.J.A.C. 6A:23A-7.11. This section remains unchanged.

Subchapter 6. Conditions for the Receipt of State Aid

This subchapter includes specific efficiency and accountability standards and requirements 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 sets forth requirements of N.J.S.A. 18A:55-3 that districts must meet as a condition of receiving State aid. These include examining all available group options for every insurance policy held by the district, including self-insurance plan administered by the New Jersey School Boards Association (NJSBA) Insurance Group on behalf of districts, and participating in the most cost effective plan, taking steps to maximize the 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, participating in the Alliance for Competitive Energy Services (ACES) Program offered through the NJSBA, unless the school district is able to demonstrate to the 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, taking appropriate steps to maximize the local public school district's participation in the Special Education Medicaid Initiative (SEMI) Program pursuant to N.J.A.C. 6A:23A-5.3 and refinancing all outstanding debt in which a three percent net present value savings is achievable. This section remains unchanged.

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

This section requires that as a condition of receiving State aid, each district implement a nepotism policy that includes, among other things, a provision prohibiting the district from employing any relative of a board member or superintendent (existing employees are grandfathered) and prohibiting an employee from supervising or exercising authority over personnel actions of a relative. Because the Department received numerous questions regarding the reappointment of current non-tenured employees, and

promotions, proposed amendments clarify that current employees can be recommended by the chief school administrator for reappointment and that current employees can be promoted under the nepotism policy. Another proposed amendment provides for an exception to the nepotism policy when approval is obtained from the executive county superintendent but provides that 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.

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

This section requires that as a condition of receiving State aid, districts maintain honest and ethical relations with vendors and prohibits such actions as a board voting on a contract over \$17,500 if such contracting entity made a reportable contribution to a member on the board during the proceeding year. This section remains unchanged.

N.J.A.C. 6A:23A-6.4 Internal controls

This section requires a district to implement certain internal controls as a condition of receiving State aid. The specific internal control procedures and systems should be established with other internal controls required in law/regulation and by professional standards deemed necessary. The district may submit a request to approve an alternative system, approach or process than those delineated in these rules. No amendments are proposed to this section.

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

This section requires that as a condition of receiving State aid, districts implement segregation of duties as a component of its internal controls system. This section remains unchanged.

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

This section requires that as a condition of receiving State aid, districts implement certain standard operating procedures for business functions in the district and it delineates the areas that the standard operating procedures should govern. A proposed amendment extends the required implementation date from July 1, 2009 to December 31, 2009.

N.J.A.C. 6A:2A-6.7 Financial and human resource management systems; access controls

This section requires that as a condition of receiving State aid, districts with budgets in excess of \$25 million or with more than 300 employees maintain a financial and human resource management system in districts by the 2010-2011 school year. No amendments are proposed to this section.

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

This section requires that as a condition of receiving State aid, districts 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. A proposed amendment extends the implementation date of this requirement from July 1, 2009 to December 31, 2009, for those districts that do not currently have such a system in place or were not required to have such a system previously.

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

This section requires that as a condition of receiving State aid, districts establish an automated work order system by July 1, 2009 for facilities maintenance and repair in any district with three or more school district buildings. The section further describes the components of the required system. No amendments are proposed to this section.

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

This section requires that as a condition of receiving State aid, districts adopt a board policy establishing the approval process for any remittance of payment for invoice amounts greater than the approved purchase order and sets forth limitations on purchase order adjustments. This section remains unchanged.

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

This section requires that as a condition of receiving State aid, districts adopt a board policy for the management, control and regulatory supervision of school district vehicles for the management and control of school district vehicles, and sets forth the required components of that policy. No amendments are proposed to this section.

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

This section requires that as a condition of receiving State aid, districts adopt a board policy regarding district vehicle assignment and sets forth the required components of the policy. This section remains unchanged.

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

This section requires that as a condition of receiving State aid, districts adopt a travel policy that complies with the requirements of N.J.S.A. 18A:11-12. A proposed amendment clarifies that the district must comply also with the requirements of 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, in order to ensure the efficient and effective use of public funds.

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

This section sets forth the requirement that districts must comply with the policies and procedures set forth at N.J.S.A. 18A:11-12, as well as the circulars issued by the New Jersey Department of the Treasury, Office of Management and Budget. It further provides that the travel regulations in this subchapter are applicable to charter schools. It also states that school district expenditures regulated by this subchapter include costs for all required training and all travel authorized in school district employee contracts and school board policies. This section remains unchanged.

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

This section requires that each school district board of education implement a policy, including procedures, pertaining to travel expenditures for its employees and board members that are in accordance with the provisions of N.J.S.A. 18A:11-12, this subchapter and other rules and procedures the board deems appropriate. It further sets forth the required components of the policy. This section remains unchanged.

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

This section requires that each school district board of education establish each year by board resolution, a maximum travel expenditure amount for the budget year. It further provides that the board may authorize an annual maximum amount, not to exceed \$1,500 per employee, for regular business travel only for which board approval is not required. This section remains unchanged.

N.J.A.C. 6A:23A-7.4 Travel approval procedures

This section requires that all travel requests for employees of the district shall be approved in writing by the superintendent and approved by a majority of the full voting membership of the board, except where the board has excluded regular business travel from prior approval pursuant to N.J.A.C. 6A:23A-7.3(b), prior to obligating the school district to pay related expenses and prior to attendance at the travel event. It further sets forth required procedures that must be implemented in the district for approval of travel requests. This section remains unchanged.

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

This section requires that the board of education, in its policy, must specify the type of documentation required to justify the number of employees attending an event and the benefits to be derived from their attendance. It further sets forth the types of documentation that the district must require before approving travel requests. Proposed amendments delete the requirements that the agenda/itinerary and a justification of the importance of these individuals attending the event be submitted as documentation and eliminate the requirement that the documentation include a statement as to whether the lodging will be shared. A proposed amendment further combines the requirements of paragraphs (b)3 and 7 with paragraph (b)6 (recodified as (b)4).

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

This section delineates the responsibilities of the school business administrator with respect to preparing travel budgets, accounting for travel expenditures and reviewing and approving requests for travel expenditure reimbursements. This section remains unchanged.

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

This section provides that any board 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 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. It further provides that any person who approves any travel request or reimbursement in violation of the district's policy or this subchapter or 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. This section remains unchanged.

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

This section sets forth the types of school district travel expenditures that are not eligible for reimbursement and requires each district to prohibit reimbursement for such travel expenditures in its travel policy. This section remains unchanged.

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

This section sets forth the allowable methods of travel and the procedures and requirements for different types of travel. This section remains unchanged.

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

This section sets forth the requirement that all travel shall be by the most direct, economical and usually-traveled route. No amendments are proposed to this section.

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

This section provides that one-day trips that do not involve overnight lodging are not 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. It further provides that overnight travel is generally not eligible for subsistence reimbursement if travel is within the State. It provides that the Commissioner can grant waivers for overnight travel to allow district employees and board members to attend in-State conferences, and it sets forth the procedure and requirements that must be met before a waiver will be granted. A proposed amendment states that a sponsoring organization must demonstrate that the conference's scheduling, in addition to its content, structure and anticipated attendance, necessitate that it be held on multiple days with overnight lodging. This section also sets forth the requirements for meal and lodging reimbursement rates applicable when overnight travel is permitted.

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

This section sets forth the conditions under which reimbursement for meals and other incidental expenses incurred during in-State or out-of-State travel will be permitted. It further sets forth the allowable reimbursement amounts for such meals. A proposed amendment provides that where the district seeks to supply light meals or refreshments for board members at board meetings, it shall solicit quotes if required by N.J.S.A. 18A:18A-1 et seq., thus eliminating the three-quote minimum.

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

This section sets forth the records and supporting documents that must be supplied by each school district employee or board member in order to receive reimbursement for travel expenditures. This section remains unchanged.

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 requirements for submission of budgets by district boards of education, including the requirement for district boards of education to provide the budget and certain employee contract information for public inspection in a “user-friendly” format on the district’s Internet site, if one exists, following the public hearing. The section also requires the Department to make the user friendly budget available through its Internet website. The section remains unchanged.

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

This section describes the requirement for district boards of education to make all budget and supporting documentation available for public inspection after submission to the Executive County Superintendent for approval. This section remains unchanged.

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

This section sets forth the requirement for 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 these parameters. This section remains unchanged.

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

This section establishes the requirements for a district board of education to obtain approval of the local funding in the capital outlay budget. This section remains unchanged.

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

This section establishes the requirement for district boards of education to designate general fund balances in the original budget certified for taxes over a certain amount pursuant to N.J.S.A. 18A:7F-7. This section remains unchanged.

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

This section describes the requirement to appropriate unreserved debt service fund balance in the annual budget certified for taxes. This section remains unchanged.

N.J.A.C. 6A:23A-8.7 Tuition rate adjustment by districts receiving preschool expansion aid or educational opportunity aid in the 2007-08 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. This section remains unchanged.

Subchapter 9. Executive County Superintendent Budget Review Procedures

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

This subchapter outlines the Executive County Superintendent budget review and approval authority to ensure that the budget includes sufficient funds for the provision of the core curriculum content standards and summarizes the Commissioner's authority and procedures to direct reallocations and programmatic adjustments in a district budget to ensure implementation of the required thoroughness and efficiency standards. This section remains unchanged.

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

This section describes the procedures for the Executive County Superintendent review and reduction of excess administration and non-instructional expenditures and the district appeal process for such reductions. The procedures include the Executive County Superintendent detailed examination of district spending practices during the prebudget year for elimination of inefficiencies in the subsequent budget submission. This section remains unchanged.

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

This section establishes the standards for the Executive County Superintendent review of excess administrative and non-instructional expenditures. The standards include reductions based on review of spending compared to indicators in the comparative

spending guide, and reductions based on not meeting specific efficiency standards, such as overtime for any given function greater than 10 percent of regular wages for that function. This section remains unchanged.

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

This section sets forth the Commissioner's authority to direct additional expenditures, budgetary reallocations and programmatic adjustments, or other measures as necessary to ensure the implementation of the required thoroughness and efficiency standards. This section remains unchanged.

N.J.A.C. 6A:23A-9.5 Commissioner's authority to ensure achievement of the Core Curriculum Content Standards; corrective actions

This section establishes the requirements of a district board of education in which one or more schools has failed to achieve the Core Curriculum Content Standards as evidenced by Statewide, statutory, or regulatory methods of evaluation. The section lists possible corrective action to be taken, as deemed appropriate and enhanced budget procedures, if deemed appropriate, if one or more schools within a district fail to achieve the core curriculum content standards. This section remains unchanged.

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

This section sets forth the procedures to appeal any formal budgetary action of the Executive County Superintendent to the Commissioner who shall render a decision within 15 days of the appeal. This section remains unchanged.

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 establishes the procedures for municipal governing body or bodies review of a proposed budget following voter or board of school estimate defeat of a proposed budget. The Department is proposing amendments at N.J.A.C. 6A:23-9.7(a) and a new subsection (b) to identify the specific procedures if the defeated budget is at the district's required local share (minimum tax levy) pursuant to N.J.S.A. 18A:7F-5b. The Department is also proposing amendments at N.J.A.C. 6A:23-9.7(c) to clarify when the governing body or bodies certification is less than the required local share, the certification will be considered a failure to certify in accordance with N.J.A.C. 6A:23A-9.8.

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

This section sets forth the requirement for the Commissioner to review and determine the tax levy amount to be certified to the county board of taxation if the governing body or bodies fail to certify an amount by May 19. This section remains unchanged.

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

This section establishes the procedures for an application to the Commissioner for restoration of a proposed budget that has been reduced by the municipal governing body or bodies following the defeat by the voters or by the board of school estimate of a proposed budget. This section remains unchanged.

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

This section establishes the procedures for the Executive County Superintendent to reexamine and monitor all district budgets within the county to identify any potential efficiencies in administrative operations or any excessive non-instructional expenditures that were not identified during the initial budget review or are the result of subsequent events or new information. This section remains unchanged.

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

This section establishes procedures for the Executive County Superintendent and fiscal monitor to review the district's audited accounts payables and encumbrances and other financial documents following receipt of the annual audit. This section remains unchanged.

Subchapter 10. 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 proposals until the 2013-14 school year. This section remains unchanged.

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

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

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

This section provides the requirements, after the moratorium period has ended, for district boards of education to utilize unused spending authority saved (“banked”) from one budget year for either of the next two succeeding budget years pursuant to N.J.S.A. 18A:7F-5.a. This section remains unchanged.

Subchapter 11. Tax Levy Growth Limitation

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

This section details the authority and calculation of the tax levy cap on school district budgets applicable through the 2013-14 school year. This section remains unchanged.

N.J.A.C. 6A:23A-11.2 Adjustments for increases in enrollments

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

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

This section details the purpose and calculation for the allowable tax levy cap adjustment for a reduction in unrestricted State aid. This section remains unchanged.

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

This section details the purpose and calculation for the allowable tax levy cap adjustment for an increase in health care costs. This section remains unchanged.

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

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

This section sets forth the Commissioner's authority to approve a waiver to the tax levy cap waiver for extraordinary costs. This section remains unchanged.

N.J.A.C. 6A:23A-12.2 Waivers to address failure to meet the Core Curriculum Content Standards

This section details the procedures to submit a tax levy cap waiver to the Commissioner for failure to meet the core curriculum content standards. This section remains unchanged.

N.J.A.C. 6A:23A-12.3 Waivers for energy cost increase

This section details the procedures to submit a tax levy cap waiver to the Commissioner for energy cost increases. This section remains unchanged.

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

This section details the procedures to submit a tax levy cap waiver to the Commissioner for capital outlay cost increases. This section remains unchanged.

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

This section details the procedures to submit a tax levy cap waiver to the Commissioner for non-recurring general fund revenues. This section remains unchanged.

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

This section details the procedures to submit a tax levy cap waiver to the Commissioner for increases in insurance costs. This section remains unchanged.

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

This section details the procedures to submit a tax levy cap waiver to the Commissioner for increases in transportation costs to service hazardous routes. This section remains unchanged.

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

This section details the procedures to submit a tax levy cap waiver to the Commissioner for increases in special education costs. This section remains unchanged.

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

This section details the procedures to submit a tax levy cap waiver to the Commissioner for increases in tuition costs. This section remains unchanged.

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

This section details the procedures to submit a tax levy cap waiver to the Commissioner for costs associated with opening a new school facility. This section remains unchanged.

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

This section establishes the procedures for the Commissioner to grant additional waivers upon a finding of extraordinary services that result in an unanticipated increase in expenditures for a service essential to the health, safety and welfare of the school children. This section remains unchanged.

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 any budget reallocations up to the total amount of the waiver request. This section remains unchanged.

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

This section establishes the procedures for a district board of education to present a proposal or proposals to increase the tax levy beyond the tax levy cap upon approval of

60 percent of the people voting at the school elections, or a majority of a quorum of the board of school estimate vote in the affirmative. The section also sets forth the requirement for submission of separate proposals. This section remains unchanged.

Subchapter 13. Budget Transfers, Underestimated Surplus and Deficits

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 sets forth regulations for transfers from line accounts that were included in waiver amounts approved by the Commissioner and expenditures and/or reallocations directed by the Commissioner, and directs any excess surplus identified in the annual audit above the original budget approved by the Commissioner for a waiver must be reserved to offset any Commissioner waiver requests in the second subsequent budget year. This section remains unchanged.

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 that the Executive County Superintendent disapproved such spending in a school district's proposed budget. This section remains unchanged.

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 underbudgeted revenue to increase spending, and the transfers of such

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 the requirements for approvals of transfers to administrative accounts and capital outlay accounts, pursuant to the law. This section remains unchanged.

Subchapter 14. Reserve Accounts

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

This section sets forth the procedures to establish and use capital reserve funds. This section remains unchanged.

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

This section sets forth the procedures to establish and use maintenance reserve funds. This section remains unchanged.

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

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

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

This section sets forth the procedures to establish and use a current expense emergency reserve account, debt service reserve account and a tuition reserve account. This section remains unchanged.

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

This section sets forth the requirement that all reserve accounts must be in accordance with GAAP and subject to annual audit. This section remains unchanged.

Subchapter 15. State Aid Calculations and Aid Adjustments for Charter Schools

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

This section establishes the definitions of the technical terms used specifically in this subchapter. This section remains unchanged.

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

This section sets forth the requirements of district boards of education and charter school boards of trustees regarding enrollment projections and calculations and payment of per pupil amounts. This section remains unchanged.

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

This section sets forth the requirements for State aid payments from school district to the charter school. The section prescribes the payment requirements and delineates the

responsibilities of the charter school board of trustees and the district board of education in the process. This section remains unchanged.

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

This section sets forth the requirement for charter school to provide written notice to the school district of residence of a placement of a child in a private day or residential program. This section also includes procedures for the school district of residence to challenge the placement. This section remains unchanged.

Social Impact

The rules proposed for readoption with amendments at N.J.A.C. 6A:23A, Fiscal Accountability, Efficiency and Budgeting Procedures, govern essential activities that support the educational process and enhance fiscal accountability. The rules proposed for readoption with amendments are needed based on the passage of the new laws that emphasize increased accountability and efficiency in the school districts, and protect the public interest by ensuring that educational support activities will be conducted both in accordance with law and in a manner that benefits students and the general public. Over \$8 billion of public tax dollars is provided to district boards of education and charter schools boards of trustees Statewide to implement educational programs. The rules proposed for readoption with amendments are essential to promote sound administrative practices and provide for the proper expenditure of funds. They also continue to ensure that district boards of education and charter school boards of

trustees and the public have access to necessary information to make informed policy decisions.

The impact of the rules proposed for readoption with amendments at N.J.A.C. 6A:23A can be measured by the confusion, inconsistent management, and potential mismanagement of public monies, which would result if a district board of education and charter school board of trustees were able to conduct certain essential educational support activities in an inconsistent manner without sound administrative procedures and practices. These rules resolve problems, have a positive impact on educational programs and students, and benefit taxpayers.

Economic Impact

The rules proposed for readoption with amendments will have a positive impact on public schools through their promotion of the proper expenditure of public funds by providing an orderly and efficient method for conducting essential education support activities. They implement the requirements of statutes, and thus costs generated by the regulatory requirements would exist to some degree even if they were not the vehicle for implementing statute.

The rules proposed for readoption with amendments will provide an orderly and efficient method for the conduct of essential district board of education fiscal operations and other administrative support activities. The rules create a positive

economic impact in terms of the degree of protection and accountability that the rules provide for the proper expenditure of public funds.

The rules proposed for readoption with amendments do not require the employment of any additional personnel. They will create an overall positive economic impact in terms of the degree of protection and accountability that the rules provide for the proper expenditure of public funds. The Department anticipates no negative economic impact as a result of these rules proposed for readoption with amendments.

Federal Standards Statement

The rules proposed for readoption with amendments will not be inconsistent with or exceed any Federal requirements or standards as there are no Federal requirements or standards relating to this chapter.

Jobs Impact

The rules proposed for readoption with amendments do not impose requirements that necessitate the employment of additional personnel. Overall, jobs in the State will not increase based on the adoption of N.J.A.C. 6A:23A. The Department does not anticipate any loss of jobs as a result of the rules proposed for readoption with amendments.

Agriculture Industry Impact

The rules proposed for readoption with amendments impact solely upon New Jersey district boards of education and charter school boards of trustees, and there is no agricultural industry impact as a result of these rules.

Regulatory Flexibility Statement

The rules proposed for readoption with amendments impact solely upon New Jersey district boards of education and charter school boards of trustees, and there is no small business (as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.) regulatory impact as a result of these rules.

Smart Growth Impact

The rules proposed for readoption with amendments will have no impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The rules proposed for reoption with amendments will have no impact on the average cost of housing in the State, as the rules concern fiscal accountability, efficiency and budgeting procedures of New Jersey district boards of education and charter school boards of trustees.

Smart Growth Development Impact

The rules proposed for reoption with amendments would not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan, as the rules concern fiscal accountability, efficiency and budgeting procedures of New Jersey district boards of education and charter school boards of trustees.

Full text of the rules proposed for reoption may be found in the New Jersey Administrative Code at N.J.A.C. 6A:23A.

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