

Notice of Proposal Regarding N.J.A.C. 6A:13A, Elements of High Quality Preschool Programs

The following is the accessible version of the notice of proposal for proposed amendments at N.J.A.C. 6A:13A. The notice includes two sections – [summary](#) and [text of the proposed amendments](#).

Education

Commissioner of Education

Elements of High-Quality Preschool Programs

Proposed Amendments: N.J.A.C. 6A:13A-1, 2, 3, 4, 5.1, 5.2, 5.3, 5.5, 6, 7, 8, 9, 10, and 11

Proposed Repeal: N.J.A.C. 6A:13A-5.4

Authorized By: Angelica Allen-McMillan, Ed.D., Acting Commissioner, Department of Education.

Authority: P.L. 2007, c. 260.

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

Proposal Number: PRN 2021-084.

Submit written comments by November 6, 2021, to:

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The agency proposal follows:

Summary

The Department of Education (Department) proposes to amend N.J.A.C. 6A:13A, Elements of High Quality Preschool Programs, to clarify the chapter’s provisions and school

district responsibilities. The Department is committed to ensuring that school districts implement and maintain high-quality preschool programs for eligible three- and four-year-old children in the State, pursuant to P.L. 2007, c. 260, N.J.S.A. 18A:7F-43 et seq. The Department is also committed to ensuring consistency in the school districts' provision of preschool education in both existing and new preschool programs, while accounting for the diversity and the needs of school communities.

The proposed amendments will ensure that State-funded preschool programs in school districts, including programs offered by contracted private providers and local Head Start agencies, maintain the elements essential for the implementation of a high-quality preschool program, such as specific staff roles and responsibilities, transition services, and preschool intervention and referral services.

Unless otherwise specified, all proposed amendments are for grammatical or stylistic improvement, or to update New Jersey Administrative Code cross-references, cross-references to Federal regulations, or links to documents available on the Department's website.

Subchapter 1. General Provisions for a High Quality Preschool Program

N.J.A.C. 6A:13A-1.1 Purpose and Applicability of Rules

This section sets forth the purpose and applicability of the chapter.

The Department proposes, at N.J.A.C. 6A:13A-1.1(b), to delete “[t]hese rules shall supercede N.J.A.C. 6A:10 and 6A:10A, where inconsistencies occur.” N.J.A.C. 6A:10 previously contained programmatic and fiscal standards related to preschool through grade 12 instruction in former *Abbott* districts. In its current form as educator evaluation rules, N.J.A.C. 6A:10 is inapplicable to Chapter 13A. N.J.A.C. 6A:10A, Standards-Driven Instruction and Literacy and Increasing Efficiency in Abbott School Districts, has expired.

The Department proposes to amend N.J.A.C. 6A:13A-1.1(c), which requires the district board of education to ensure the inclusion of preschool children with disabilities in general education settings to the maximum extent possible. The Department proposes to add “as set forth at N.J.A.C. 6A:14-4.2(a)1” at the end to include a cross-reference to the appropriate regulation in the chapter regarding special education.

N.J.A.C. 6A:13A-1.2 Definitions

This section defines the terms used throughout this chapter.

The Department proposes a definition for “age eligible” to mean a child who turns three or four years old by the enrollment date determined by the district board of education pursuant to N.J.S.A. 18A:38-5 and 6 and 18A:44-1.

The Department proposes to amend the definition for “at-risk children,” which means children who are eligible for preschool programs as defined by age- and income-eligibility pursuant to P.L. 2007, c. 260, section 12(a). The Department proposes to replace “who are eligible for preschool programs as defined by age- and income-eligibility” with “who meet the income eligibility criteria at N.J.S.A. 18A:7F-45.” The Department also proposes to delete “pursuant to P.L. 2007, c. 260, section 12(a)” as the referenced statute defines only income eligibility and not age eligibility.

The Department proposes to amend the definition for “comprehensive curriculum,” which means a preschool curriculum that addresses all domains of learning and is aligned to the New Jersey Preschool Teaching and Learning Standards of Quality. The Department proposes to add “[t]he comprehensive curriculum is articulated in the Department-approved three-year preschool program plan and is implemented within the school day” at the end. The proposed

amendment will clarify that a school district is required to follow the comprehensive curriculum as set forth in its Department-approved three-year preschool program plan.

The Department proposes to amend the definition for “comprehensive preschool educational program,” which means the delivery of the school district’s comprehensive curriculum articulated in the Department-approved five-year preschool program plan that occurs within the school day and that provides the comparable teacher/child contact time in contracted private provider and local Head Start agencies as is provided in-district. The Department proposes to replace “five-year” with “three-year” for the reasons described below in the summary of proposed amendments to the definition for “five-year preschool program plan and annual updates.”

The Department proposes to add a definition for the term “Department” to mean the New Jersey Department of Education.

The Department proposes to amend the definition for “Early Childhood Program Aid (ECPA),” which means State aid described at N.J.A.C. 6A:23-5.4, that was authorized pursuant to repealed N.J.S.A. 18A:7F-16, and was distributed to all school districts with high concentrations of low-income students for the purpose of providing preschool, full-day kindergarten, and other early childhood programs and services. The Department proposes to delete “described at N.J.A.C. 6A:23-5.4,” because N.J.A.C. 6A:23-5.4 has been repealed.

The Department proposes to add a definition for “family worker” to mean a person who promotes preschool student learning and development and supports the needs and well-being of preschool students’ families.

The Department proposes to delete the term and definition for “five-year preschool program plan and annual updates,” which means the school district’s programmatic plan

beginning with the 2009-2010 school year with annual updates, to implement the preschool program, meeting the provisions set forth in this chapter. The Department proposes to replace it with a term and definition for “three-year preschool program plan and annual updates” in the correct alphabetical order. The Department also proposes to amend the definition to replace “programmatic plan beginning with the 2009-2010 school year with annual updates” with “three-year programmatic plan that is updated annually.” It is the Department’s position that five years is too long a time-period for the Department to ensure that school districts are maintaining the standards expected of high-quality preschool programs. Although school districts are required to provide annual updates, the updates are not as comprehensive as the information provided during submission and resubmission of the preschool program plan. Three years will allow the Department to appropriately monitor preschool programs and ensure they meet the chapter’s provisions. The Department further proposes to amend the definition to add “as required and approved by the Department” after “updated annually” so the former language can be deleted throughout the chapter where it appears. The Department also proposes, throughout the chapter, to replace “five-year” with “three-year” in references to the preschool program plan and annual updates.

The Department proposes to amend the definition for “free and/or reduced price meal,” which means a meal served under the program to a child from a household eligible for such benefits under the U.S. Department of Agriculture, Food and Nutrition Service guidelines, pursuant to the eligibility criteria found at 42 U.S.C. §§ 1771 et seq., and §§ 1751 et seq., and the pricing guidelines found at 7 CFR Part 245. The Department proposes to replace “program” with “National School Breakfast or Lunch Program” to specify the referenced programs, which also are defined terms.

The Department proposes to amend the definition for “full-day preschool,” which means a preschool program consisting of a six-hour comprehensive educational program and day in accordance with the school district’s grade-one-through-12 daily school calendar and not exceeding the 10-month academic period. The definition also states at the end that preschool shall be considered a specialized program, pursuant to N.J.S.A. 18A:39-1. The Department proposes to delete the last sentence because the statute relates to the transportation of special populations and is not relevant to the school day.

The Department proposes to add a definition for “Grow NJ Kids” to mean the State’s rating and improvement system designed to assess site-based childcare and early learning programs, provide training and incentives to improve the programs, and communicate the programs’ level of quality to the public. The Department will allow school districts to use Grow NJ Kids as a tool for self-assessment, as set forth at N.J.A.C. 6A:13A-8.1, as proposed for amendment.

The Department proposes to add a definition for “kindergarten entry assessment” to mean a comprehensive measurement of children’s knowledge, skills, and behaviors at the beginning of kindergarten.

The Department proposes to delete the term and definition for “master teacher,” which means a position within a school district for modeling, coaching, observing, and providing feedback to teaching staff in preschool programs. The Department also proposes to replace the deleted term and definition with a definition for “preschool instructional coach” as the proposed term more appropriately reflects the position’s role and duties. The Department further proposes to add “using the reflective cycle” at the end of the definition because coaching is based on

identifying goals, observations, and post conference planning. The Department proposes throughout the chapter to replace “master teacher” with “preschool instructional coach.”

The Department proposes to delete the term and definition for “multidisciplinary team approach,” which means a comprehensive, integrated, and coordinated effort by team members from different specialties, as the term is not used in the chapter. The defined term “consultation model” more adequately captures the meaning of the collaborative method the Department expects of school district personnel in working with preschool children.

The Department proposes to amend the definition for “One-Year Preschool Operational Plan,” which means the one-year operational plan that school districts that received ECPA in 2007-2008 may submit to the Department by May 30, 2008, to request approval to expand their preschool programs in the 2008-2009 school year. The Department proposes to add “annually” before “submit” and to replace “May 30, 2008,” with “November 15” and “2008-2009” with “following,” respectively, because school districts are required to submit the plan annually and to align the definition with the proposed amendments at recodified N.J.A.C. 6A:13A-3.1(f).

The Department proposes to amend the definition for “performance-based assessment,” which means an ongoing assessment of all learning outcomes in each domain identified in the Preschool Standards designed to measure individual preschool children’s progress and connected to the school district’s preschool curriculum. The Department proposes to add “[t]he performance-based assessment is tailored to the school district’s preschool curriculum and” before “designed.” The Department also proposes to delete “and connected to the school district’s preschool curriculum” for clarity.

The Department proposes to amend the definition for “Preschool Education Aid,” which means State aid provided to district boards of education to implement high-quality preschool

programs for age-eligible general education students, as required by P.L. 2007, c. 260, and described in this chapter. The Department proposes to delete “high-quality” and “as required by P.L. 2007, c. 260 and described in this chapter” because high quality is not quantifiable and the cited statute is not relevant to this section.

The Department proposes to amend the definition for “Preschool Expansion Aid,” which means, in part, the category of State funding used for the increase in the approved preschool costs from 2001-2002 for school districts with *Abbott* status in 2001-2002 to the 2007-2008 budget year for the projected expansion of preschool programs in *Abbott* school districts, as defined in the annual appropriations act. The Department proposes to delete “for school districts with *Abbott* status in 2001-2002” because it is redundant and creates confusion in the definition.

The Department proposes to amend the term “preschool intervention and referral team (PIRT)” to replace “team (PIRT)” with “specialist or PIRS.” The Department also proposes to amend the definition, which means a team of specialists working within a consultation model to help maximize the general education preschool teacher’s ability to support all students who exhibit challenging behaviors, learning difficulties, or other social difficulties, and to decrease the number of referrals to special education. The Department proposes to replace “team of specialists” with “coach” because some school districts have a small student population that allows the intervention and referral functions to be carried out by one specialist; therefore, not every school district requires a team of specialists. The Department also proposes throughout the chapter to replace “preschool intervention and referral team” or “PIRT” with “preschool intervention and referral specialist” or “PIRS.”

The Department proposes to amend the term “preschool program improvement plans” to “improvement plans” and to relocate the term to the correct alphabetical order.

The Department proposes to add a definition for “reflective cycle” to mean a process in which teachers work with coaches to improve teaching practices. Teachers and coaches collaborate in a pre-conference meeting to plan instruction. Once an instructional plan is in place, the coach observes the teacher implementing the plan in the classroom. The coach and teacher hold a post-conference meeting to discuss and reflect on the experience. The goal is to work collaboratively to improve classroom and instructional practice.

The Department proposes to amend the definition for "reliable independent observer," which means an individual approved by the Department as adequately trained in the use of the classroom-quality assessment instrument that is the standard for independent observation of preschool classrooms. The Department proposes to replace “approved by the Department as” with “with a verification letter indicating reliable scores by district-contracted classroom assessment provider and” because the Department does not approve of the independent observers.

The Department proposes to amend the term “self-assessment and validation” to add “system” at the end. The Department also proposes to amend the definition, which means a school district’s analysis of its strengths and weaknesses relative to preschool program implementation, the Department’s validation of the analysis, and the school district’s plans for improvement. The Department proposes to replace “a school district’s analysis of its strengths” with “an annual assessment process conducted districtwide by school districts to provide the Department with an analysis of the school district’s strengths.” The Department also proposes to delete “the Department’s validation of the analysis” and to add “continuous quality” before “improvement.” The proposed amendments will clarify that the Self-Assessment and Validation

System (SAVS) is an annual self-assessment process conducted districtwide and distinguish it from “Grow NJ Kids,” which is site-based.

The Department proposes to amend the definition for “targeted preschool,” which means a specialized preschool program for all at-risk children in school districts other than those school districts required to provide universal preschool. The Department proposes to delete “other than those school districts required to provide universal preschool” because the definition of “universal preschool,” as proposed for amendment, will no longer reference which school districts are required to provide universal preschool.

The Department proposes to delete the term “2008-2009 approved preschool per pupil amount,” which means the amounts established at P.L. 2007, c. 260, because the definition is no longer applicable to the chapter.

The Department proposes to amend the definition for “universal preschool,” which means a specialized preschool program for all age-eligible resident three- and four-year-old children in District Factor Group (DFG) A and B school districts and DFG CD school districts with a concentration of at-risk children equal to or greater than 40 percent. The Department proposes to delete “in District Factor Group (DFG) A and B school districts and DFG CD school districts with a concentration of at-risk children equal to or greater than 40 percent” because the DFG system is no longer used.

The Department proposes to amend the term “universe of eligible three- and four-year-old children,” to replace “three- and four-year-old” with “preschool.” The Department also proposes to amend the definition, which means all three- and four-year children eligible for preschool pursuant to the School Funding Reform Act (P.L. 2007, c. 260) in a public school district to provide universal or targeted preschool program. The Department proposes to replace

“three- and four-year children” with “three- and four-year-old general education children” and to delete “pursuant to the School Funding Reform Act (P.L. 2007, c. 260).” The Department also proposes to replace “in a public school district to provide *universal* or *targeted* preschool program” with “in a public school district that receives Preschool Education Aid.” The proposed amendments will clarify that funding is for general education students and applies only to school districts that receive Preschool Education Aid. Preschool Education Aid is the term for State aid that is designated for ongoing preschool funding. Preschool Expansion Aid, as defined in this chapter, is a funding category that no longer exists, but the reference is maintained because N.J.A.C. 6A:13A-2.1 and other provisions still apply to school districts that received that aid. Expansion aid through the Governor Murphy’s preschool expansion initiative is provided to school districts as a one-time, initial award and is authorized through language in the annual State budget rather than State statute.

Subchapter 2. Eligibility, Enrollment, and the Universe

N.J.A.C. 6A:13A-2.1 Eligibility

The section requires school districts that received Preschool Expansion Aid or educational opportunity aid in the 2007-2008 school year and were required to provide universal preschool, to provide free access to full-day preschool for all three- and four-year old children. These rules also set forth requirements for the school districts that were required to provide universal or targeted preschool by the 2013-2014 school year.

The Department proposes to amend N.J.A.C. 6A:13A-2.1(a), which requires the district board of education in school districts that received Preschool Expansion Aid or educational opportunity aid in the 2007-2008 school year and are required to provide universal preschool to provide free access to full-day preschool for all three- and four-year-old children. The

Department proposes to replace “are required to provide” with “are either required to provide or are providing State-funded.” As some school districts provide universal preschool programs even though they are not required, the proposed amendment will ensure that the rule applies to all school districts that are providing State-funded universal preschool programs.

The Department proposes to delete N.J.A.C. 6A:13A-2.1(b), which states that “[i]n all other school districts required to provide *universal* preschool, the district board of education shall provide free access to full-day preschool for all three- and four-year-old children by the 2013-2014 school year.” The regulation is no longer necessary because N.J.A.C. 6A:13A-2.1(a) addresses universal preschools and the deadline of the 2013-2014 school year has passed.

The Department proposes to amend recodified N.J.A.C. 6A:13A-2.1(b), which requires the district board of education in school districts required to provide targeted preschool, to provide free access to full-day preschool by the 2013-2014 school year for at-risk three- and four-year-old children. The Department proposes to delete “by the 2013-2014 school year” as the deadline has passed.

The Department proposes to amend recodified N.J.A.C. 6A:13A-2.1(e)3, which allows age-eligible, non-resident children of non-resident staff members employed by school districts providing universal preschool to be enrolled in the employing school district’s preschool program if the child’s parent or guardian pays tuition. The Department proposes to add at the end “at a rate that is comparable to the per pupil rate provided in State aid but does not exceed the actual cost per pupil pursuant to N.J.A.C. 6A:23A-17. Preschool Education Aid shall not be used to subsidize or off-set the costs for tuition students.” The proposed amendments will ensure that the tuition for non-resident students is comparable to the per pupil rate provided in State aid and complies with N.J.A.C. 6A:23A-17. The proposed amendment also clarifies that school districts

cannot use Preschool Education Aid to subsidize the tuition of non-resident students, nor can non-resident students displace resident children. The Department proposes the same amendment at recodified N.J.A.C. 6A:13A-2.1(j)3, which applies to school districts providing targeted preschool.

The Department proposes amendments at recodified N.J.A.C. 6A:13A-2.1(g), which requires district boards of education in school districts required to provide targeted preschool to establish proof of income eligibility for each enrolling age-eligible child, as set forth in this chapter, using the Free and Reduced School Meals Household Application criteria. The Department proposes to replace “Free and Reduced School Meals Household Application criteria found at <http://www.state.nj.us/education/finance/fp/psd/cnp/application.pdf>” with “at-risk income documentation required for the Application for State School Aid (ASSA)” as the latter contains the same criteria and is universally used by school districts.

N.J.A.C. 6A:13A-2.2 Enrollment

This section requires the district board of education to obtain enrollment information for every child’s preschool application in a Department-provided format.

The Department proposed to codify the existing provision as N.J.A.C. 6A:13A-2.2(a). The Department proposes amendments to state that a district board of education must obtain enrollment information “through” every child’s preschool application rather than “for” every application, for clarity. The Department also proposes to include a link to the Department’s enrollment form.

The Department proposes new N.J.A.C. 6A:13A-2.2(b) to require a district board of education that offers universal or targeted preschool to ensure that age-eligible children who are domiciled in the school district, eligible to attend the school district’s preschool program, and

seeking enrollment are offered enrollment in the school district's preschool program and are not placed on a waiting list. The proposed new subsection will ensure that age-eligible children who are domiciled in the school district and eligible to attend its preschool program are not denied enrollment in the school district's preschool program.

The Department proposes new N.J.A.C. 6A:13A-2.2(c) to require a district board of education to contract with every willing Head Start program that is able to meet the chapter's requirements for the number of eligible preschool students in the local Head Start catchment area determined by the Federal government. The proposed amendment will maximize funding and provide additional resources to the most at-risk students in the school district.

N.J.A.C. 6A:13A-2.3 Universe

This section describes the Department's methodology for determining the universe of eligible three- and four-year-old children in each school district. The rules also require each school district to document the strategies used to serve at least 90 percent of its universe of eligible three- and four-year-old children. The section further requires school districts to obtain Commissioner approval to use any Preschool Education Aid carry over funds for the school district's preschool program in the subsequent school year and to include justification for any expenditure of funds contrary to that approved by the Department in the school district's five-year plan and/or annual update.

The Department proposes to add "of eligible children" to the heading of the section to more accurately reflect the content.

The Department proposes to amend N.J.A.C. 6A:13A-2.3(a), which requires district boards of education that received Preschool Expansion Aid or educational opportunity aid in the 2007-2008 school year to document the school district's strategies to serve at least 90 percent of

the universe of eligible preschool children in the preschool program plan and/or annual update. The Department proposes to add “[t]he plan shall include annual preschool enrollment targets that coincide with the school district's projected initiation and/or expansion of preschool” to apply to all school districts providing State-funded preschool the requirement contained at N.J.A.C. 6A:13A-2.3(b) for all other school districts.

The Department proposes to amend N.J.A.C. 6A:13A-2.3(d)2, which sets forth that the method by which the universe of eligible preschool children to be served by a school district providing targeted preschool in the next school year is determined as follows: the number of first graders reported on the ASSA is multiplied by two with the result multiplied by the percentage of free and reduced lunch pupils in kindergarten through grade 12. The Department proposes to replace “free and reduced lunch” with “at-risk” to align with current language for eligibility for Preschool Education Aid.

Subchapter 3. Program Planning

N.J.A.C. 6A:13A-3.1 Program Planning

This section sets forth the programmatic requirements for various categories of school districts receiving Preschool Education Aid. The rules also detail the circumstances under which school districts are required to implement preschool expansion.

The Department proposes to delete N.J.A.C. 6A:13A-3.1(a), which requires a district board of education that did not receive any form of preschool aid in the 2007-2008 school year to plan for preschool programs to be fully implemented by the 2013-2014 school year based on Department approval of its five-year preschool program plan and with full Preschool Education Aid provided at the School Funding Reform Act funded per pupil amount determined by the formula. The rule also requires applicable school districts to adhere to all of the chapter’s rules

once the school district receives approval to implement its five-year preschool program plan. The implementation deadline of the 2013-2014 school year has passed and the provision is no longer applicable.

The Department proposes to amend recodified N.J.A.C. 6A:13A-3.1(b)1, which requires the district board of education to serve at least 75 percent of the universe of four-year-old children in a preschool program prior to any application of Preschool Education Aid to first through third grades. The Department proposes to replace “application” with “spending” and “first through third grades” with “kindergarten through grade three,” respectively, because the district board of education is allowed to use Preschool Education Aid for kindergarten if the criteria is met.

The Department proposes to delete existing N.J.A.C. 6A:13A-3.1(c)2, which requires the district board of education to serve all enrolled four-year-old children in a full-day preschool program prior to any application of Preschool Education Aid to kindergarten through grade three. The proposed deletion will align the section with the requirement for district boards of education to serve 75 percent of the universe to apply Preschool Expansion Aid to kindergarten through grade three.

The Department proposes to amend recodified N.J.A.C. 6A:13A-3.1(b)4, which states “[t]he district board of education shall ensure that the preschool program:” to add “with an ECPA-funded program” before “shall.” The proposed amendment will clarify that the rule applies to school districts that receive ECPA funding.

The Department proposes to amend recodified N.J.A.C. 6A:13A-3.1(b)4iv, which requires a district board of education to ensure its preschool program includes transition activities, programs, and services between preschool and kindergarten programs. The

Department proposes to replace “between preschool and kindergarten programs” with “between early intervention and preschool programs, and between preschool and kindergarten programs.” School districts must ensure that preschool programs also help incoming preschool students and their families’ transition from early intervention services, which are provided to children from birth until age three, to the preschool setting, and again, from preschool to kindergarten.

The Department proposes to amend recodified N.J.A.C. 6A:13A-3.1(c), which requires each district board of education with a high concentration of low-income students to maintain full-day kindergarten for all five-year-olds as set forth at recodified N.J.A.C. 6A:13A-3.1(c)1 and 2. The Department proposes to delete “to maintain full-day kindergarten for all five-year-olds” because the requirement is included at recodified N.J.A.C. 6A:13A-13.1(c)1.

The Department proposes to amend recodified N.J.A.C. 6A:13A-3.1(c)1, which requires school districts in which at least 20 percent and less than 40 percent of the student population meets the definition of “at-risk” as defined at P.L. 2007, c. 260, to maintain all existing full-day kindergarten programs. The Department proposes to add at the end “for all five-year-olds as determined by the enrollment date set by each district board of education pursuant to N.J.S.A. 18A:38-5 and 6” because the kindergarten enrollment date determines preschool eligibility.

The Department proposes to amend recodified N.J.A.C. 6A:13A-3.1(c)2, which requires, pursuant to N.J.A.C. 6A:13-3.2, school districts in which 40 percent or more of students are “at-risk” to maintain all existing full-day kindergarten programs with a teacher’s assistant for each classroom and a class size of 21 students. The amended rule will require the school districts to follow the provisions for full-day kindergarten programs in the authorizing rules at N.J.A.C. 6A:13-3.1 and 3.2. The kindergarten provisions at N.J.A.C. 6A:13-3.1 and 3.2 are the same as in the existing rules at N.J.A.C. 6A:13A-3.1.

The Department proposes to amend recodified N.J.A.C. 6A:13A-3.1(f)1 and 2, which require district boards of education providing universal or targeted preschool to submit projected enrollment data for the next school year by the second Friday in November. The rules also require district boards of education providing universal preschool to submit preschool program plans and annual updates by the second Friday in November and set the second Friday in December as the due date for district boards of education providing targeted preschool programs. The Department proposes a specific annual deadline of November 15 for submission of projected enrollment data, program plans, and annual updates by district boards of education providing universal or targeted preschool for year-to-year consistency.

The Department proposes to relocate the first sentence of recodified N.J.A.C. 6A:13A-3.1(g) -- “[t]he Department shall issue a determination approving or disapproving the three-year preschool program plan no later than April 1 of each year” -- to new N.J.A.C. 6A:13A-3.1(h) so the provision is a stand-alone regulation.

The Department proposes to amend recodified N.J.A.C. 6A:13A-3.1(g)2, which requires school districts to provide a rationale for the type of delivery system chosen and, upon request by the Department, a justification for not contracting with every willing and able private provider and local Head Start agency. The Department proposes to replace “upon request from the Department” with “for school districts seeking to change the delivery system or expand the preschool program.” The proposed amendment will require school districts that are seeking to change the delivery system or expand their preschool program to give preference to every willing and able private provider and/or local Head Start agency because a mixed delivery system is the desirable outcome when school districts are changing or expanding their preschool program.

The Department proposes to delete existing N.J.A.C. 6A:13A-3.1(h)5, which requires school districts providing universal preschool and not currently providing full-day kindergarten to all age-eligible students to have a plan and annual updates for providing full-day kindergarten to every age-eligible student by 2013-2014. The deadline has passed and the provision no longer applies.

Subchapter 4. Program Staffing

N.J.A.C. 6A:13A-4.1 Administrative Oversight

This section sets forth the role and responsibilities of in-district preschool administrators and supervisors of preschool programs. The rules also require a dedicated in-district early childhood supervisor at a ratio of one for every 750 enrolled preschool children minus students enrolled in school district stand-alone early childhood education buildings. The section further allows the early childhood supervisor position, if approved by the Department in the school district's five-year preschool program plan, to be contracted through a county or regional educational services commission.

The Department proposes to amend N.J.A.C. 6A:13A-4.1(a)1, which requires each district board of education to ensure in-district early childhood supervisors and administrators of in-district buildings with preschool children hold the appropriate State supervisor or principal certificate, have preschool education experience, and participate in annual training specific to preschool program planning and implementation and the school district's comprehensive preschool curriculum. The Department proposes to replace "New Jersey Supervisor's Certificate or New Jersey Principal's Certificate" with "New Jersey supervisor endorsement or principal certificate" to correct the names of the required credentials. The Department also proposes to require in-district early childhood supervisors and administrators to have at least three years of

preschool education experience to ensure that the supervisors and administrators are not novice professionals in preschool education. The proposed amendment will align the rule with the existing three to five years of preschool teaching experience required of preschool instructional coaches, which are referred to as master teachers under the existing rules. The Department also proposes to add “assessment” as part of the required annual training because preschool supervisors and administrators will be responsible for overseeing implementation and administration of performance-based and classroom assessments and they should have knowledge of the assessment as it pertains to the curriculum.

The Department proposes new N.J.A.C. 6A:13A-4.1(a)1i to require administrators who oversee in-district buildings that include preschool classrooms, but are not stand-alone early childhood education or preschool buildings, and who do not possess at least three years of experience in preschool education, to acquire knowledge of the content and skills relevant to working with preschool-aged children through training, coursework, and/or professional development, as determined and provided for by the school district.

The Department proposes to amend N.J.A.C. 6A:13A-4.1(a)2vi, which requires early childhood supervisors and administrators to facilitate transition initiatives in collaboration with other preschool to kindergarten through third grade administrators. The Department proposes to add “early intervention programs and” after “in collaboration with” to ensure that early childhood supervisors and administrators facilitate transition from early intervention into preschool.

The Department proposes to amend N.J.A.C. 6A:13A-4.1(a)2viii, which requires early childhood supervisors and administrators to oversee the implementation of the comprehensive preschool curriculum. The Department proposes to add “and performance-based assessment” at

the end because preschool supervisors and administrations are responsible for coordinating the curriculum with student learning outcomes.

N.J.A.C. 6A:13A-4.2 Master Teachers

This section sets forth the coaching role and responsibilities of the preschool master teacher position. The rules require school districts opting to contract with a county or regional educational services commission for master teacher services to secure Department approval in the school district's three-year preschool program plan and/or annual update. The section also requires the master teacher to have three to five years of experience teaching in general education preschool.

The Department proposes to replace “master teacher” with “preschool instructional coach” throughout the section.

The Department proposes to amend N.J.A.C. 6A:13A-4.2(a), which, in part, requires the district board of education to provide additional master teachers to assist uncertified or inexperienced teachers, to replace “uncertified or inexperienced” with “novice.” Preschool teachers must be certified, and inexperienced or new teachers are referred to as “novice teachers.”

The Department also proposes to amend N.J.A.C. 6A:13A-4.2(a)1, which allows school districts with fewer than 20 preschool classrooms to combine the preschool master teacher position with another in-district position if all of the chapter’s master teacher qualifications are met. The proposed amendments will prohibit the preschool instructional coach from also being a classroom teacher because a preschool instructional coach cannot balance coaching responsibilities with classroom teaching.

The Department proposes to amend N.J.A.C. 6A:13A-4.2(b)1, which requires a master teacher to hold a bachelor's degree and teacher certification, to add "preschool through grade three (P-3)" before "teacher certification." The Department expects the coaches to have the same relevant experience and content knowledge as the teachers they are coaching, and a P-3 certificate will ensure that the coaches have related experience and content knowledge.

The Department proposes to amend N.J.A.C. 6A:13A-4.2(b)2, which requires master teacher to have three to five years of experience teaching in general education preschool programs. The Department proposes to replace "[t]hree to five years" with "[a]t least three years" since the latter is the minimum requirement.

The Department proposes to relocate N.J.A.C. 6A:13A-4.2(e)5, which requires a master teacher to have Preschool Professional Development Fellow status, as new N.J.A.C. 6A:13A-4.2(b)6.

The Department proposes to amend N.J.A.C. 6A:13A-4.2(e), which sets forth additional qualification(s) that a master teacher must demonstrate. The Department proposes to replace "[i]n addition to the requirements above" with "[i]n addition to the requirements at (b), (c), and (d) above" to clarify which subsections are applicable. N.J.A.C. 6A:13A-4.2(b), (c), and (d) relate to the preschool instructional coach's qualification and experience requirements, while N.J.A.C. 6A:13A-4.2(a) specifies district board of education responsibilities.

The Department proposes to amend N.J.A.C. 6A:13A-4.2(f)1, which requires the responsibilities of master teachers to include modeling, coaching, informally observing using structured observation instruments and providing feedback to teachers in preschool programs to assist with implementation of the comprehensive preschool curriculum and the Preschool Standards. The Department proposes to replace "[m]odeling" with "visiting classrooms regularly

to model” and “teachers” with “teaching staff,” respectively. The Department also proposes to add “based on the reflective cycle” after “preschool programs.” The proposed amendments will ensure that teaching staff are receiving consistent coaching, and the preschool instructional coaches and teaching staff members are co-constructing and implementing classroom improvement plans in areas of curriculum and professional growth.

The Department proposes to amend N.J.A.C. 6A:13A-4.2(f)2, which requires master teachers to provide staff development based on systematic classroom observations consistent with a classroom-quality assessment instrument as defined at N.J.A.C. 6A:13A-5.5. The Department proposes to delete “as defined in N.J.A.C. 6A:13A-5.5” because the term is defined at N.J.A.C. 6A:13A-1.2.

The Department proposes new N.J.A.C. 6A:13A-4.2(f)5 to require preschool instructional coaches to collaborate with the preschool intervention and referral specialists (PIRSs) to ensure systematic curriculum supports in social-emotional development. The proposed requirement will enable preschool instructional coaches to work cohesively with classroom teachers to efficiently address student needs and coordinate services.

N.J.A.C. 6A:13A-4.3 Instructional Staff

This section limits the size of preschool classes to no more than 15 students. The rules also require district boards of education to ensure one appropriately certified teacher and one appropriately qualified teacher assistant are provided for every preschool class of 15 children.

The Department proposes to amend N.J.A.C. 6A:13A-4.3(a), which, in part, requires the district board of education to ensure that one appropriately certified teacher and one appropriately qualified teacher assistant are provided for every preschool class of 15 children.

The Department proposes to add “of a school district that is approved to provide a State-funded

universal preschool program” after “district board of education.” The proposed amendment will clarify that the requirement applies to school districts that receive PEA.

The Department proposes to delete N.J.A.C. 6A:13A-4.3(c) and (d), which require all private provider and local Head Start agency teachers working in certain preschool classrooms who did not hold the appropriate degree and certification to earn both by the start of the 2012 school year and stipulated district board of education responsibilities to ensure teachers earned degrees and were certified by the deadline. The provisions are no longer applicable.

The Department proposes to amend recodified N.J.A.C. 6A:13A-4.3(d), which requires district board of education teacher assistants in school districts or schools supported by Title 1 funding to meet the requirements pursuant to the No Child Left Behind Act of 2001 (NCLB), P.L. 107-110. The Department proposes to add “Title 1” before “requirements” to clarify the requirements that must be met. The Department also proposes to replace the reference to NCLB with “Every Student Succeeds Act, P.L. 114-95” because the latter is the most recent reauthorization of the Federal Elementary and Secondary Education Act of 1965.

N.J.A.C. 6A:13A-4.4 Intervention and Support Services

This section sets forth the role and responsibilities of the preschool intervention and referral team (PIRT).

The Department proposes to amend N.J.A.C. 6A:13A-4.4(a), which, in part, requires a district board of education to establish one PIRT for every 750 enrolled preschool students and sets forth provisions for school districts with fewer than 750 enrolled preschool students. The Department proposes to delete the references to the PIRT and the associated ratio and, instead, to require all school districts to establish a preschool intervention and referral specialist (PIRS) at a ratio of one for every 20 preschool classrooms, regardless of how many preschool students are

enrolled. The proposed amendment will decrease the ratio from one-to-750 to approximately one-to-300, which will ensure that preschool students and classrooms receive adequate support. The Department also deems the proposed requirement to be a more manageable caseload for PIRS and it will align with the preschool instruction coach to student ratio. The Department also proposes to require school districts with more than 20 preschool classrooms to create a team of specialists, including the PIRS, using a consultative model as part of the intervention and referral services to ensure that students are receiving adequate support in school districts with larger preschool programs.

The Department proposes new N.J.A.C. 6A:13A-4.4(b) to set forth the PIRS requirements for school districts that have fewer than 20 preschool classrooms. The proposed new regulation will allow school districts to combine the PIRS with the school district's existing intervention and referral services, or to combine the preschool instructional coach position with another position within the school district, provided that the preschool instructional coach is not a classroom teacher and all PIRS qualifications established in this chapter are met. The proposed new regulation also will allow school districts to collaborate with one or more school district(s) to share the services of a PIRS or to contract for PIRS with a county or regional educational services commission approved by the State Board to do so. The proposed options are similar to the flexibility provided for the preschool instructional coach position.

The Department proposes to amend recodified N.J.A.C. 6A:13A-4.4(d), which requires the PIRT to include a combination of psychologists, learning disabilities teacher consultants, school social workers, and speech and language specialists. The Department proposes to replace “[t]he PIRT shall include a combination of” with “[t]he PIRS position and/or team may be comprised of preschool teachers” to allow each school district the flexibility to customize the

team based on needs, and also to allow other qualified staff members, such as preschool teachers, to serve as the PIRS or as part of the team of specialists. The Department also proposes to require staff members serving as a PIRS or as part of the team to have knowledge of the school district's curriculum and assessment and to have experience working with preschool-age children or acquire knowledge of the content and skills relevant to working with preschool-aged children through training, coursework, and/or professional development, as determined and provided for by the school district. Specialists working within a school district's preschool program should have an understanding of the enormity and complexity of working with preschool children.

The Department proposes to amend recodified N.J.A.C. 6A:13A-4.4(e)3, which requires the PIRS to provide professional development for instructional staff and administrators to facilitate preschool inclusion. The Department proposes to add "using a classroom quality assessment tool" after "professional development" to ensure that the PIRS utilizes objective and reliable measures to offer professional development. The proposed amendment also will align the provision with the assessment tool used by preschool instructional coaches.

The Department proposes to relocate existing N.J.A.C. 6A:13A-4.4(f), which requires the PIRS to provide support to general education classroom teachers to address the needs of children with challenging behaviors or learning difficulties, as new N.J.A.C. 6A:13A-4.4(e)7, so the duties of the PIRS are in one subsection. The Department also proposes to replace "learning difficulties" with "learning disabilities" to update terminology.

The Department proposes to amend N.J.A.C. 6A:13A-4.4(g), which requires a district board of education to ensure that preschool students are not suspended, long-term or short-term, and are not expelled from school. The Department proposes to add at the end ", except as provided pursuant to the Zero Tolerance for Guns Act, N.J.S.A. 18A:37-7 et seq." because

N.J.S.A. 18A:37-2a.c prohibits preschool students in school districts and charter schools from being suspended or expelled, except as provided under the Zero Tolerance for Guns Act.

N.J.A.C. 6A:13A-4.5 Health and Nutrition

This section sets forth the roles and responsibilities of nurses serving enrolled preschoolers and the school districts' responsibilities pertaining to health services for preschool students, as well as breakfast and lunch program requirements.

The Department proposes to amend N.J.A.C. 6A:13A-4.5(d), which requires district boards of education offering targeted preschool, to ensure all at-risk children in all settings are offered breakfast, lunch, and one snack per day conforming to the 2005 United States Department of Agriculture Dietary Guidelines for Americans. The Department proposes to replace "2005" with "2020-2025" and to update the webpage reference to indicate the current version of the dietary guidelines.

N.J.A.C. 6A:13A-4.6 Family and Community Involvement

This section describes the coordinated system of social services provided to families of enrolled preschool children. The rules also establish the minimum educational requirements for the social worker function and requires one social worker for every 250 to 300 preschool children enrolled at in-district settings. The section also sets forth the minimum educational requirements for the preschool community and parent involvement specialist to include a bachelor's degree in social work or a related field, such as sociology, psychology, or education. The rules further require school districts with fewer than 750 enrolled preschool children that seek to combine the preschool community and parent involvement specialist position with another position to include the proposal in the five-year preschool program plan and/or annual updates.

The Department proposes to amend N.J.A.C. 6A:13A-4.6(b)1, which, in part, requires a school district to provide a social worker holding the appropriate credentials in social work for every 250 to 300 preschool children enrolled at in-district settings. The Department proposes to delete “250 to” before “300.” The Department also proposes to replace “250” with “300” in the provision that allows school districts with fewer than 250 preschool children enrolled at in-district settings to combine the social worker position with another position with the same qualifications. The proposed amendments will make the student-to-social worker ratio a single, consistent number.

The Department proposes to amend N.J.A.C. 6A:13A-4.6(b)1ii, which requires the social worker to coordinate with other available school district resource staff to reach out to families, determine individual family needs, advocate, and obtain appropriate community services. The Department proposes to add “on their behalf” after “advocate” to clarify that the social worker advocates on behalf of the families of preschool students.

The Department proposes to amend N.J.A.C. 6A:13A-4.6(b)2, which requires a contracting private provider or local Head Start agency to provide a family worker for every 45 children and allows the position to be combined with another position when fewer than 45 children are served by the provider or agency. The Department proposes to replace “45 children” with “75 children at a maximum” to align to Head Start’s ratio. For larger providers such as Head Start, the “45 children” threshold has been burdensome and resulted in school districts seeking waivers to allow providers and agencies to provide a family worker for up to 75 children. The waivers routinely are granted pursuant to N.J.A.C. 6A:5, Regulatory Equivalency and Waiver. The Department anticipates that increasing the threshold to 75 children will alleviate the need for school districts to file waiver applications on behalf of providers and agencies.

N.J.A.C. 6A:13A-4.7 District Board of Education Fiscal Accountability and Integrity of Preschool Programs

This section describes the requirements for fiscal accountability and integrity for each school district's preschool program.

The Department proposes to amend N.J.A.C. 6A:13A-4.7(a)4ii, which requires the preschool fiscal specialist to track and report teacher certification information, to require the information to be provided to the Department.

Subchapter 5. Curriculum and Assessment

N.J.A.C. 6A:13A-5.2 Assessment

This section describes the purpose of assessments and requires district boards of education to ensure assessments will occur on an ongoing basis.

The Department proposes to replace the section's heading with the heading of existing N.J.A.C. 6A:13A-5.4, Ongoing performance-based assessment of children. The latter is more reflective of the section's content, as proposed for amendment.

The Department proposes to repeal N.J.A.C. 6A:13A-5.4, which sets forth requirements for preschool classroom teachers in implementing ongoing performance-based assessments of children and relocate the section as N.J.A.C. 6A:13A-5.2(b).

N.J.A.C. 6A:13A-5.3 Screening

This section requires district boards of education to implement a developmentally based early childhood screening assessment and to utilize it for appropriate purposes.

The Department proposed to add “for each child” after “a developmentally based early children screening assessment” to clarify that the screening assessment must be conducted for each child.

N.J.A.C. 6A:13A-5.5 Classroom Quality Assessment

This section includes requirements for the school district's use of a reliable classroom quality assessment instrument, as approved by the Department in the school district's five-year preschool program plan, to assess program quality in each in-district, private provider, and Head Start agency preschool classroom.

The Department proposes to amend recodified N.J.A.C. 6A:13A-5.4(a)4, which allows a district board of education, contracting private provider, or local Head Start agency, to request that the classroom or program be evaluated by a reliable, independent observer approved by the Department if the district board of education determines improvements have not been made according to the established plan and schedule. The Department proposes to add “from the Department” after “may request” and to delete “approved by the Department” because a request can be made for an independent observer, but the individuals are not approved by the Department. The Department also proposes to amend the provision that requires steps to be taken to remove the contracting private provider or local Head Start agency teacher from the classroom or terminate or not renew the preschool program contract between the contracting private provider or local Head Start agency and the district board of education if the reliable independent observer verifies the action plan is not being satisfied in a contracting private provider or local Head Start agency classroom. The Department proposes to replace “steps shall be taken” with “the district board of education shall take steps” to clarify the required action falls under the school district’s responsibilities.

Subchapter 6. Transition

N.J.A.C. 6A:13A-6.1 Transition

This section requires each district board of education to develop and articulate in its five-year preschool program plan, a process for transition from program entry to kindergarten through grade three. The section also requires the district board of education to include transition initiatives from program entry to kindergarten through grade three in the required five-year preschool program plan and/or annual update.

The Department proposes new N.J.A.C. 6A:13A-6.1(a)2 to require school districts to implement a comprehensive, developmentally appropriate kindergarten entry assessment within the first six to eight weeks of school to measure children's knowledge, skills, and behaviors at the beginning of kindergarten. The proposed regulation will ensure the school district identifies students' needs and tailor the curriculum accordingly.

Subchapter 7. Facilities

N.J.A.C. 6A:13A-7.1 Space Requirements

This section describes the space requirements for contracted private provider and local Head Start agency preschool classrooms, playground, and playground equipment. The section also requires school districts to engage in systematic, long-range facilities planning to ensure adequate facilities exist in the community to meet the elements of high-quality preschool established pursuant to this chapter.

The Department proposes to amend N.J.A.C. 6A:13A-7.1(a), which requires the district board of education to ensure all newly contracted private provider and local Head Start agency preschool classrooms are a minimum of 950 square feet consisting of 750 square feet of usable

space, 150 square feet of storage, and equipment or furnishings that are either built in or not easily movable, and 50 square feet of toilet room. The Department proposes to replace “[t]he district board of education shall ensure, for all newly contracted private provider and local Head Start agency preschool classrooms,” with “[f]or any school district or charter school that received Preschool Education Aid in August 2017 or thereafter, the district board of education or charter school shall ensure all preschool classrooms in-district or in the charter school, as applicable, and at the contracted private provider and local Head Start agency.” The proposed amendment will ensure that all preschool classrooms, including classrooms in-district and in charter schools, meet the space requirements.

The Department proposes new N.J.A.C. 6A:13A-7.1(a)1 to require preschool classrooms that are relocating to a space not previously occupied for preschool to immediately meet the space requirements at N.J.A.C. 6A:13A-7.1(a). The proposed regulation will ensure that all preschool classrooms relocated as of the effective date of the section will meet the space requirements.

The Department proposes new N.J.A.C. 6A:13A-7.1(a)2 to allow a district board of education to seek a waiver of, or equivalency for, the space requirements pursuant to the process at N.J.A.C. 6A:5, Regulatory Equivalency and Waiver.

The Department proposes to amend N.J.A.C. 6A:13A-7.1(c), which states that any changes affecting the physical space or location of contracted private provider or local Head Start agency preschool classrooms require approval from the school district and shall meet the space requirements established at N.J.A.C. 6A:13A-7.1(a) and (b). The Department proposes to replace “require approval from” with “shall be approved prior to relocation or renovation by” to

clarify that the approval must be secured before a change to the physical space or location of contracted private provider or local Head Start agency preschool classroom occurs.

The Department proposes new N.J.A.C. 6A:13A-7.1(d) to require any change(s) affecting the physical space or location of in-district preschool classrooms to be approved by the executive county superintendent and to meet the space requirements at N.J.A.C. 6A:13A-7.1(a) and (b).

The proposed regulation will assist the Department in ensuring that school districts are following the space requirements.

The Department proposes new N.J.A.C. 6A:13A-7.1(f) to prohibit, beginning in the 2027-2028 school year, a district board of education, contracted private provider, or Head Start agency from using temporary classroom units (TCUs) or other similar temporary facilities for preschool classrooms without prior Department approval pursuant to N.J.A.C. 6A:5. The proposed new regulation will ensure that school districts are complying with the appropriate requirements and will enable the Department to keep track of all TCUs being used for preschool classrooms while phasing out the use of TCUs.

Proposed new N.J.A.C. 6A:13A-7.1(f)1 will require a district board of education that receives prior approval to use TCUs or other similar temporary facilities for preschool classrooms to ensure compliance with N.J.A.C. 6A:26, including requirements relating to the use of TCUs or other similar temporary facilities.

Proposed new N.J.A.C. 6A:13A-7.1(f)2 will require a district board of education to provide, upon Department request, information and/or documentation establishing the school district's compliance with N.J.A.C. 6A:26 and the provisions of this chapter.

Proposed new N.J.A.C. 6A:13A-7.1(g) will require any district board of education using TCUs or other similar temporary facilities for preschool classrooms as of the effective date of the

proposed regulation to submit to the Department proof of compliance with N.J.A.C. 6A:26 and a long-range facilities plan for phasing out the use of TCUs or other similar temporary facilities for preschool classrooms by June 30 of the fifth year from the effective date of the rule.

Subchapter 8. Program Evaluation

N.J.A.C. 6A:13A-8.1 Self Assessment and Validation

This section requires each school district to engage a self-assessment and validation system relative to its preschool program to inform the school district of the status of its preschool program.

The Department proposes to amend the section heading to “Self-assessment for continuous quality improvement cycle” because this heading more appropriately defines the section as proposed for amendment.

The Department proposes to amend N.J.A.C. 6A:13A-8.1(a), which requires the district board of education to participate in a self-assessment and validation system to inform the school district of the status of its preschool program implementation using a protocol developed by the Department. The Department proposes to add “process of continuous quality improvement either through the annual” before “self-assessment.” The Department also proposes to add “or Grow NJ Kids” after “validation system” as another self-assessment tool that school districts can use to meet the section’s requirements. The Department further proposes to delete “using a protocol developed by the Department” to ensure a high-quality and consistent method of program evaluation. The Department also proposes to require school districts that utilize Grow NJ Kids to complete the ratings process, which is valid for three years.

The Department proposes to delete N.J.A.C. 6A:13A-8.1(a)1, which requires the self-assessment and validation system to include a detailed, annual self-assessment by the district

board of education of its preschool program to inform the five-year preschool program plan and/or annual update. The provision will no longer be applicable under the Department's proposed amendments at N.J.A.C. 6A:13A-8.1(a).

Subchapter 9. School District Contracts with Private Providers and Local Head Start Agencies for Providing Preschool Services

N.J.A.C. 6A:13A-9.1 Contract

This section describes the process by which school districts contract with private providers and local Head Start agencies. The section also establishes the criteria each private provider and local Head Start agency must adhere to when contracting with the district board of education. The section also requires each private provider and/or local Head Start agency to meet the minimum acceptable score on a reliable classroom-quality assessment instrument as established by the district board of education in the preschool program contract to determine the eligibility of the private provider and/or the local Head Start agency to continue to contract with the school district.

The Department proposes to amend N.J.A.C. 6A:13A-9.1(a), which requires the preschool program contract with private providers and local Head Start agencies to be in a form provided and/or approved by the Department. The Department proposes to amend the regulation to require the district board of education to annually execute the preschool program contract provided and/or approved by the Department with all contracting providers and agencies. The proposed amendments will encompass the provision at existing N.J.A.C. 6A:13A-9.1(c), which is proposed for deletion.

The Department proposes new N.J.A.C. 6A:13A-9.1(a)2i to prohibit the district board of education from requesting a modification of the provision in the Department-approved preschool

program contract that requires the school district to ensure that the educational program offered by the private provider or Head Start agency will comply with all Federal, State, and local laws. The proposed new subparagraph will ensure that programs are meeting all Federal, State, and local laws.

N.J.A.C. 6A:13A-9.4 Termination of a Preschool Program Contract

This section sets forth the rule regarding the school district's termination of a private provider or local Head Start agency preschool program contract. The rule requires the school district to include a timeframe for compliance in any written notice of deficiency to a private provider or local Head Start agency that fails to comply with all terms of the preschool program contract or applicable Federal, State, or local requirements.

The Department proposes to amend N.J.A.C. 6A:13A-9.4(c), which, in part, allows contracting private providers or local Head Start agencies and school districts to appeal to the Commissioner, pursuant to N.J.A.C. 6A:3, a school district's decision to terminate a contract. The Department proposes to replace "and school district shall have the right to" with "may appeal" because the appeal to the Commissioner is about the school district's decision, so including "school districts" in the list of entities that may appeal is inaccurate.

Subchapter 11. Appeals

N.J.A.C. 6A:13A-11.1 Preschool Program Appeals

This section sets forth the appeals process from the Department's decisions pertaining to preschool program plans and/or annual updates and budget applications.

The Department proposes to delete the last sentence at N.J.A.C. 6A:13A-11.1(a)2, which, states that the petition must be served upon the Attorney General and provides the appropriate

address. The first sentence at N.J.A.C. 6A:13A-11.1(a)2 references the chapter that governs filing and service of appeals. Therefore, it is unnecessary to repeat the service process in this section.

N.J.A.C. 6A:13A-11.3 Commissioner Review and Decision

This section sets forth the process for the Commissioner's review and decision of appeals.

The Department proposes to amend N.J.A.C. 6A:13A-11.3(a), which requires the Commissioner to review the total record and render a written decision if the Commissioner retains the matter upon receipt of the filings set forth above or expiration of the time for their submission. The Department proposes to replace “set forth above” with “set forth at N.J.A.C. 6A:13A-11.1 and 11.2” to clarify the applicable sections.

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.

Social Impact

The proposed amendments and repeal are intended to ensure that both new and existing preschool programs provide high-quality preschool education to age-eligible children in the State and that the preschool programs are made available to all age-eligible preschool students. The proposed amendments and repeal will clarify school district responsibilities, ensure proper transition of children to and from preschool, and improve accountability measures while offering flexibility to school districts to tailor preschool programs to local needs. The proposed amendments and repeal will also ensure the expansion of preschool programs is being conducted in a consistent and efficient manner, which will have a positive effect on preschool children and their families. Additionally, the proposed amendments to cap kindergarten class sizes at 21

students for certain school districts and increase the staff-to-student ratio will further ensure that students will continue to receive services and support tailored to individual needs, which will have a positive effect on the children's learning and development.

Economic Impact

The proposed amendments and repeal are designed to ensure school districts implement high-quality preschool programs in a cost-effective and efficient manner. The Department does not anticipate any economic impact on school districts or contracted entities as this is a long-standing requirement. Further, there are other reasons for the use of TCUs, including the need for swing space.

Federal Standards Statement

With the exception of one rule, there are no Federal standards or requirements that have an impact on the proposed amendments and repeal. Schools and/or school districts receiving Title 1 funds must follow the applicable rules established through the Every Student Succeeds Act of 2015, for paraprofessionals. Recodified N.J.A.C. 6A:13A-4.3(d) meets, but does not exceed, the Federal mandate.

Jobs Impact

The Department anticipates a potential loss of family worker jobs as a result of the proposed amendments and repeal. However, the Commissioner has routinely approved, during the past six years, school districts' requests to allow their contracted private providers or local Head Start agencies to use the higher ratio. Therefore, the Department does not expect the potential loss to be substantial.

Agriculture Industry Impact

The proposed amendments and repeal will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The proposed amendments and repeal does not impose reporting, recordkeeping, or other compliance requirements on small businesses as defined at N.J.S.A. 52:14B-16 et seq., the Regulatory Flexibility Act. The rules impact New Jersey school districts. School districts may voluntarily contract with private providers and local Head Start agencies to provide preschool programs. Therefore, a regulatory analysis is not required.

Housing Affordability Impact Analysis

The proposed amendments and repeal will have an insignificant impact on the affordability of housing in New Jersey. There is an extreme unlikelihood the proposed amendments and repeal would evoke a change in the average costs associated with housing in the State, as the proposed amendments and repeal set forth operational and programmatic requirements for school districts in providing high-quality preschool educational programs.

Smart Growth Development Impact Analysis

The proposed amendments and repeal will have an insignificant impact on smart growth. There is an extreme unlikelihood the proposed amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the proposed amendments and repeal set forth operational and

programmatic requirements for school districts in providing high-quality preschool educational programs.

Racial and Ethnic Community Criminal Justice and Public Safety Impact Statement

There is an extreme unlikelihood that the proposed amendments and repeal would have an impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State because the proposed amendments and repeal set forth operational and programmatic requirements for school districts in providing high-quality preschool educational programs.

Full text of the rule proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 6A:13A-5.4.

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

Chapter 13A, Elements of [High Quality] **High-Quality** Preschool Programs

Subchapter 1. General Provisions [for a High Quality Preschool Program]

6A:13A-1.1 Purpose and applicability of rules

- (a) State-funded preschool programs in each school district shall include the elements established in this chapter as essential for the implementation of a high-quality preschool program as a condition of receipt of [preschool education aid. This] **Preschool Education Aid, which** shall include, but not be limited to, all positions, supports, services, materials, and supplies. The school district shall ensure that preschool programs

offered in-district and by contracted private providers and local Head Start agencies receiving preschool funding meet all applicable requirements.

- (b) The purpose of [these rules] **this chapter** is to implement high-quality preschool programs pursuant to P.L. 2007, c. 260. [These rules shall supercede N.J.A.C. 6A:10 and 6A:10A, where inconsistencies occur.]
- (c) The district board of education shall ensure the inclusion of preschool children with disabilities in general education settings to the maximum extent possible, **as set forth at N.J.A.C. 6A:14-4.2(a)1.**

6A:13A-1.2 Definitions

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

“Above-scale meal” means a meal served to a child whose household exceeds the eligibility criteria for either free or [reduced price] **reduced-price** meals, pursuant to the definition in this section.

“Age-eligible” means a child who turns three or four years old by the enrollment date determined by the district board of education pursuant to N.J.S.A. 18A:38-5 and 6 and **18A:44-1.**

“At-risk children” means children who [are eligible for preschool programs as defined by age- and] **meet the** income-eligibility [pursuant to P.L. 2007, c. 260, section 12(a)] **criteria at N.J.S.A. 18A:7F-45.**

“Child and Adult Care Food Program” or “CACFP” means the Federally assisted meal program operated in regulated [child care] **childcare** settings.

"[Classroom quality] **Classroom-quality** assessment instrument" means a **Department-approved**, reliable, and valid tool [approved by the Department] with a set of criteria and a rubric for scoring used to evaluate components of classroom quality ranging from the nature of teacher-child interactions to the availability of materials and activities that support early learning and development.

...

“Comprehensive curriculum” means a preschool curriculum that addresses all domains of learning and is aligned to the New Jersey Preschool Teaching and Learning Standards of Quality[, also defined in this section]. **The comprehensive curriculum is articulated in the Department-approved three-year preschool program plan and is implemented within the school day.**

“Comprehensive preschool educational program” means the delivery of the school district’s comprehensive curriculum articulated in the [Department approved five-year] **Department-approved three-year** preschool program plan that occurs within the school day and that provides the comparable teacher/child contact time in contracted private provider and local Head Start agencies as is provided in-district.

...

“Department” means the New Jersey Department of Education.

“[District-wide] **Districtwide**” means the school district’s entire preschool program as implemented across all in-district, contracted private provider, and local Head Start agency settings.

...

“Early Childhood Program Aid” [(ECPA)] **or** “**ECPA**” means State aid [described at N.J.A.C. 6A:23-5.4,] that was authorized pursuant to repealed N.J.S.A. 18A:7F-16, and was distributed to all school districts with high concentrations of low-income students for the purpose of providing preschool, full-day kindergarten, and other early childhood programs and services.

“Early Launch to Learning Initiative” [(ELLI)] **or** “**ELLI**” means competitive awards offered by the Department from 2005-2006 through the 2008-2009 school year to certain school districts.

"English language learner[s]" or "ELL" means a child whose home language is not English or who primarily speaks a language other than English in the home.

“Family worker” means a person who promotes preschool student learning and development and supports the needs and well-being of preschool students’ families to ensure the families’ well-being and to promote the students’ learning and development.

...

[“Five-year preschool program plan and annual updates” means the school district’s programmatic plan beginning with the 2009-2010 school year with annual updates, to implement the preschool program, meeting the provisions set forth in this chapter.]

"Free and/or [reduced price] **reduced-price meal**” means a meal served under the [program] **National School Breakfast or Lunch Program** to a child from a household eligible for such benefits under the U.S. Department of Agriculture, Food and Nutrition Service guidelines,

pursuant to the eligibility criteria found at [24] 42 U.S.C. [§1771] §§ 1771 et seq., and §§ 1751 et seq., and the pricing guidelines found at 7 CFR Part 245.

"Full-day preschool" means a preschool program consisting of a six-hour comprehensive educational program and day in accordance with the school district's [grade one through 12] **grade-one-through-12** daily school calendar and not exceeding the 10-month academic period.

[Preschool shall be considered a specialized program, pursuant to N.J.S.A. 18A:39-1.]

“Grow NJ Kids” means the State’s rating and improvement system designed to assess site-based childcare and early learning programs, provide training and incentives to improve the programs, and communicate the programs’ level of quality to the public.

“Head Start” means a Federally funded national program that promotes school readiness by enhancing the social and cognitive development of children through the provision of educational, health, nutritional, social, and other services to enrolled children and families.

“Improvement plans” means the school district’s plans for improvement in areas of relative weakness within its preschool programs as identified through the self-assessment and validation system.

“In-district” means [that] **the** portion of a school district’s preschool program staffed by district board of education employees as opposed to a contracted private provider or local Head Start agency.

“Kindergarten entry assessment” or “KEA” means a comprehensive measurement of children’s knowledge, skills, and behaviors at the beginning of kindergarten.

...

["Master teacher" means a position for modeling, coaching, observing and providing feedback to teaching staff in preschool programs.

“Multidisciplinary team approach” means a comprehensive, integrated and coordinated effort by team members from different specialties.]

...

“New Jersey Preschool Program Implementation Guidelines” means a [New Jersey] Department [of Education] document available at [<http://www.nj.gov/education/ece/dap/>] <http://www.state.nj.us/education/ece/guide/impguidelines.pdf> that provides guidance to school districts, contracted private providers, and local Head Start agencies in planning and implementing high-quality preschool programs for [three- and four-year-old] **age-eligible** children.

“New Jersey Preschool Teaching and Learning Standards of Quality” [(] **or** “Preschool Standards[)]” means the early learning standards and corresponding teaching practices as adopted by the [New Jersey] State Board of Education and located at [www.nj.gov/education/ece/code/expectations] <http://www.state.nj.us/education/ece/guide/standards.pdf>.

“[Newly-contracted] **Newly contracted** classroom” means any private provider or local Head Start agency classroom approved by the Department to serve preschool students in the upcoming school year that was not under contract in the prior school year.

“One-Year Preschool Operational Plan” means the one-year operational plan that school districts[,] that received [Early Childhood Program Aid (ECPA)] **ECPA** in 2007-2008[,] may

annually submit to the [department] **Department** by [May 30, 2008] **November 15** to request approval to expand their preschool programs in the [2008-2009] **following** school year.

“Performance-based assessment” means an ongoing assessment of all learning outcomes in each domain identified in the Preschool Standards. **The performance-based assessment is tailored to the school district’s preschool curriculum and** designed to measure individual preschool children’s progress [and connected to the school district’s preschool curriculum].

“Preschool Education Aid” means State aid provided to district boards of education to implement [high-quality] preschool programs for [age eligible] **age-eligible** general education students [as required by P.L. 2007, c. 260 and described in this chapter].

“Preschool Expansion Aid” means the category of State funding used [for] **during the 2001-2002 through 2007-2008 budget years to** increase [in] the approved preschool costs [from 2001-2002 for school districts with Abbott status in 2001-2002 to the 2007-2008 budget year] for the projected expansion of preschool programs in [Abbott] **former *Abbott*** school districts, as defined in the annual Appropriations Act. For any school district that received initial [Abbott] ***Abbott*** status after 2001-2002, the increase in approved budgeted cost was based on the year [Abbott] ***Abbott*** status was obtained.

“Preschool instructional coach” means a position for modeling, coaching, observing, and providing feedback to teaching staff in preschool programs using the reflective cycle.

“Preschool intervention and referral [team (PIRT)] **specialist” or “PIRS”** means a [team of specialists] **coach** working within a consultation model to help maximize the general education preschool teacher’s ability to support all students who exhibit challenging behaviors, learning

difficulties, or other social difficulties, and to decrease the number of referrals to special education.

“Preschool Professional Development Fellow status” means **the preschool instructional coach’s** successful completion of the Department’s [master teacher] **preschool instructional coach** training course.

...

[“Preschool program improvement plans” means the school district’s plans for improvement in areas of relative weakness identified within their preschool programs through the self-assessment and validation system.]

...

"Private provider" means a [child care] **childcare** center licensed by the Department of Children and Families pursuant to N.J.S.A. 30:5B-1 et seq.

“Reflective cycle” means a process in which teachers work with coaches to improve teaching practices. Teachers and coaches collaborate in a pre-conference meeting to plan instruction.

Once an instructional plan is in place, the coach observes the teacher implementing the plan in the classroom. The coach and teacher hold a post-conference meeting to discuss and reflect on the experience. The goal is to work collaboratively to improve classroom and instructional practice.

"Reliable independent observer" means an individual [approved by the Department as] **with a verification letter indicating reliable scores by the district-contracted classroom assessment provider and** adequately trained in the use of the [classroom quality] **classroom-quality**

assessment instrument [which] **that** is the standard for independent observation of preschool classrooms.

“Self-assessment and validation **system**” or “**SAVS**” means [a school district’s] **an annual assessment process conducted districtwide by school districts to provide the Department with an** analysis of [its] **the school district’s** strengths and weaknesses relative to preschool program implementation[, the Department’s validation of the analysis,] and the school district’s plans for **continuous quality** improvement.

“Targeted [Preschool] **preschool**” means a specialized preschool program for all at-risk children in school districts [other than those school districts required to provide universal preschool].

“**Three-year preschool program plan and annual updates**” means **the school district’s three-year programmatic plan that is updated annually, as required and approved by the Department, to implement a preschool program that meets this chapter’s provisions.**

“Transition” means an organized system of interactions and transactions that takes into account the relationships among home, school, and community as the child moves from preschool to kindergarten through grade three.

[“2008-2009 approved preschool per pupil amount” means the amounts established at P.L. 2007, c. 260.]

“Universal [Preschool] **preschool**” means a specialized preschool program for all age-eligible resident three- and four-year-old children [in District Factor Group (DFG) A and B school districts and DFG CD school districts with a concentration of at-risk children equal to or greater than 40 percent].

“Universe of eligible [three- and four-year-old] **preschool** children” means all three- and four-year-old **general education** children eligible for preschool [pursuant to the School Funding Reform Act (P.L. 2007, c. 260)] in a public school district [providing universal or targeted preschool program] **that receives Preschool Education Aid.**

Subchapter 2. Eligibility, Enrollment, and The Universe of Preschool Students

6A:13A-2.1 Eligibility

- (a) In school districts that received [preschool expansion aid] **Preschool Expansion Aid** or [education] **educational** opportunity aid in the 2007-2008 school year and **in school districts that are either** required to provide [universal] **or are providing State-funded universal** preschool [school], the district board of education shall provide free access to full-day preschool for all three- and four-year-old children.
- [(b) In all other school districts required to provide universal preschool, the district board of education shall provide free access to full-day preschool for all three- and four-year-old children by the 2013-2014 school year.]
- [(c)] **(b)** In school districts required to provide [targeted] **targeted** preschool, the district board of education shall provide free access to full-day preschool [by the 2013-2014 school year] for at-risk three- and four-year-old children.
- [(d)] **(c)** (No change in text.)
- [(e)] **(d)** In school districts required to provide universal preschool, the district board of education **also** may [also]:
1. Offer age-eligible, non-resident, at-risk children who receive [preschool education aid] **Preschool Education Aid**, a full-day preschool program under a [Department approved] **Department-approved** written agreement between

district boards of education to enroll [those] **the** children in [their] **the school district's** preschool program; and/or

2. Offer age-eligible, non-resident children who do not receive [preschool education aid] **Preschool Education Aid** a full-day or part-day preschool program by charging tuition to the parent or guardian.
3. Implementation of [(e)1] **(d)1** and 2 above shall be contingent upon ensuring all age-eligible, resident children are given priority.

[(f)] **(e)** Age-eligible, non-resident children of non-resident staff members employed by school districts providing universal preschool may [only] be enrolled in the staff member's school district preschool program **only** if:

1. (No change.)
2. The child meets the eligibility requirements for universal or targeted preschool, as applicable, in the child's **school** district of residence and a [Department approved] **Department-approved** written agreement exists between the two school districts that includes the transfer of [State approved] **State-approved** per pupil School Funding Reform Act (SFRA) [preschool education aid] **Preschool Education Aid** from the sending district of residence to the **school** district of parental employment; or
3. The child's parent or guardian pays tuition **at a rate that is comparable to the per pupil rate provided in State aid, but does not exceed the actual cost per pupil pursuant to N.J.A.C. 6A:23A-17. Preschool Education Aid shall not be used to subsidize or offset the costs for tuition students.**

[(g)] (f) Implementation of [(f)2] (e)2 and 3 above shall be contingent upon ensuring all age-eligible, resident children are given priority.

[(h)] (g) In school districts required to provide targeted preschool, the district board of education shall establish proof of income eligibility for each enrolling age-eligible child as set forth in this chapter using the [Free and Reduced School Meals Household Application criteria found at <http://www.state.nj.us/education/finance/fp/psd/cnp/application.pdf>] **at-risk income documentation required for the Application for State School Aid (ASSA).**

[(i)] (h) A school district providing targeted preschool pursuant to P.L. 2007, c. 260 may [also]:

1. Offer age-eligible, non-resident, at-risk children[,] who receive [preschool education aid,] **Preschool Education Aid** a full-day preschool program under a [Department approved] **Department-approved** written agreement between district boards of education to enroll [those] **the** children in their **school district** preschool program that includes the transfer of [State approved] **State-approved** per pupil SFRA [preschool education aid] **Preschool Education Aid** from the sending district of residence to the **school** district of parental employment;
2. Offer age-eligible, resident children[,] who are not at risk[,] a full-day or part-day preschool program by charging tuition to the parent or guardian or using another funding source to support associated costs; and/or
3. Offer age-eligible, non-resident children[,] who do not receive [preschool education aid,] **Preschool Education Aid** a full-day or part-day preschool

program by charging tuition to the parent or guardian or using another funding source to support associated costs.

[(j)] (i) Implementation of [(i)1] (h)1, 2, and 3 above shall be contingent upon ensuring all resident age- and income-eligible children are given priority.

[(k)] (j) Age-eligible, non-resident children of non-resident staff members employed in school districts providing targeted preschool may only be enrolled in the employer's school district preschool program if:

1. (No change.)
2. The child meets the eligibility requirements for universal or targeted preschool in the child's **school** district of residence and a [Department approved] **Department-approved** written agreement exists between the two school districts that includes the transfer of [State approved per pupil] **State-approved per-pupil SFRA** [preschool education aid] **Preschool Education Aid** from the sending district of residence to the **school** district of parental employment; or
3. The child's parent or guardian pays tuition **at a rate that is comparable to the per pupil rate provided in State aid, but does not exceed the actual cost per pupil pursuant to N.J.A.C. 6A:23A-17. Preschool Education Aid shall not be used to subsidize or offset the costs for tuition students.**

[(l)] (k) Implementation of [(k)2] (j)2 and 3 above shall be contingent upon ensuring all age-eligible, resident children are given priority.

[(m)] (l) (No change in text.)

[(n)] (m) Any [Department approved] **Department-approved** written agreement established between district boards of education to provide preschool programs pursuant

to (a) through [(m)] **(l)** above shall include the responsibilities for oversight of the **chapter's** preschool program elements [set forth in this chapter].

6A:13A-2.2 Enrollment

- (a) [For every child's preschool application, the] **The** district board of education shall obtain, **through every child's preschool application**, enrollment information in a format provided by the Department at <https://www.state.nj.us/education/ece/budget/>.
- (b) **A district board of education that offers universal or targeted preschool shall ensure that age-eligible children who are domiciled in the school district, eligible to attend its preschool program, and seeking enrollment are offered enrollment in the school district's preschool program and not placed on a waiting list.**
- (c) **The district board of education shall contract with every willing Head Start program that is able to meet this chapter's requirements for the number of eligible preschool students in the local Head Start catchment area determined by the Federal government.**

6A:13A-2.3 Universe of eligible children

- (a) District boards of education that received [preschool expansion aid] **Preschool Expansion Aid** or [education] **educational** opportunity aid in the 2007-2008 school year shall document the school district's strategies to serve at least 90 percent of the universe of eligible preschool children in the [five-year] **three-year** preschool program plan and/or annual update[, as required and approved by the Department]. **The plan shall include annual preschool enrollment targets that coincide with the school district's projected initiation and/or expansion of preschool.**

- (b) All other district boards of education shall document the school district's strategies to serve at least 90 percent of the universe of eligible preschool children [by the 2013-2014 school year] in the [five-year] **three-year** preschool program plan and/or annual update[, as required and approved by the Department]. The plan shall include annual preschool enrollment targets that coincide with the school district's projected initiation and/or expansion of preschool.
- (c) (No change.)
- (d) The universe of eligible preschool children to be served by a school district in the next school year is determined by the following method:
1. (No change.)
 2. For school districts providing targeted preschool, the number of first graders reported on the [Application for State School Aid (]ASSA[)] is multiplied by two with the result multiplied by the percentage of [free and reduced lunch] **at-risk** pupils in kindergarten through grade 12.
 3. The school district may request that the Department adjust the universe of [eligible three- and four-year-old] **preschool** children to be served in the next school year based on factors including a large employer moving in or out of the school district or a new housing development, or documentation of a change in the [at risk] **at-risk** population.
- (e) A district board of education that provides documentation of efforts to serve 90 percent of its eligible universe of preschool children within the [five-year] **three-year** preschool program plan and/or annual update, is fully implementing a full-day preschool program, and is meeting the elements established for high-quality preschool programs for three-

and four-year-old children shall use any additional preschool aid to implement a full-day kindergarten program [where] **if the school** district still operates a half-day kindergarten program[, and then may, upon]. **Upon Commissioner** approval [by the Commissioner], **the school district may** subsidize preschool programs for resident [preschool-aged] **three- and four-year-old** children who are not eligible pursuant to this chapter or P.L. 2007, c. 260, or **may** budget [preschool education aid] **Preschool Education Aid** to support kindergarten through grade 12.

- (f) [The] **Upon Commissioner approval, the** district board of education may[, upon approval from the Commissioner,] use any [preschool education aid carry over] **Preschool Education Aid carry-over** funds for the school district's preschool program in the subsequent school year. The school district's request for Commissioner approval shall include justification for any expenditure of funds contrary to that approved by the Department in the [five-year] **three-year** preschool program plan and/or annual update.
- (g) The district board of education shall establish procedures for recruitment, enrollment, and placement of all eligible resident preschool children in the preschool program.

Subchapter 3. Program Planning

6A:13A-3.1 Program planning

- [(a) A district board of education that did not receive any form of preschool aid in the 2007-2008 school year shall plan for preschool programs to be fully implemented by the 2013-2014 school year, pursuant to P.L. 2007, c. 260 based on Department approval of its five-year preschool program plan and with full preschool education aid provided at the SFRA funded per pupil amount determined by the formula established in P.L. 2007, c. 260. Once the school district receives approval as set forth in this subsection to implement its

five-year preschool program plan, it shall be required to adhere to all other rules in this chapter.]

[(b)] (a) School districts formerly known as Early Childhood Program Aid (ECPA) school districts, pursuant to repealed N.J.S.A. 18A:7F-16, that submitted a One-Year Preschool Operational Plan by May 30, 2008, and received approval from the Department to expand their preschool program in the [school year] 2008-2009 **school year**, and subsequently submitted and received **Department** approval [from the Department] for a five-year preschool program plan commencing September 2009, shall implement [that Department approved] **the** preschool program plan and any update(s), [as required and approved by the Department] and shall adhere to [the rules found in] this chapter.

[(c)] (b) Any other former [Early Childhood Program Aid (ECPA)] school district, pursuant to repealed N.J.S.A. 18A:7F-16, shall adhere to its [Department approved] **Department-approved** 2008-2009 ECPA operational plan and any update(s) [as required and approved by the Department] and shall adhere to N.J.A.C. 6A:13A-2.1(b) through [(l)] (j) and to [(c)1] (b)1 through [(1)] 10 below until [such time as] the school district receives approval to implement its preschool program[, based on] **through Department** approval of its [five-year] **three-year** preschool program plan [by the Department,] and **is provided** with full [preschool education aid provided] **Preschool Education Aid** at the **School Funding Reform Act (SFRA)** funded per pupil amount determined by the formula established [in P.L. 2007, c. 260] **at N.J.S.A. 18A:7F-54**. [Once the] A school district **that** receives approval, as set forth [above] **at N.J.A.C. 6A:13A-2.1(b) through (j) and to (b)1 through 10 below**, to implement its [five-year]

three-year preschool program plan[, it] shall [be required to] adhere to all other rules in this chapter.

1. The district board of education shall serve at least 75 percent of the universe of four-year-old children in a preschool program prior to any [application] **spending** of [preschool education aid to first] **Preschool Education Aid for kindergarten** through [third grades] **grade three**.
- [2. The district board of education shall serve all enrolled four-year-old children in a full-day preschool program prior to any application of preschool education aid from preschool to kindergarten through grade three.]
- [3.] **2.** The district board of education shall implement programming for the following components:
 - i. [District-wide] **Districtwide** planning;
 - ii. – vi. (No change.)
- [4.] **3.** The district board of education shall demonstrate that programs are based on a [district-wide] **districtwide** assessment that includes a needs and resource assessment for each school [that is a subset of] **in** the school district's comprehensive strategic plan.
- [5.] **4.** The district board of education **with an ECPA-funded program** shall ensure that the preschool program:
 - i. – iii. (No change.)
 - iv. Includes transition activities, programs, and services between **early intervention and** preschool programs, **and between preschool and** kindergarten programs;

v. Coordinates with all other relevant school district programs, [for example,] **such as** special education and bilingual education; and

vi. (No change.)

[6.] **5.** The district board of education shall base preschool programs and curricula on student needs, strengths, and interests that focus on all aspects of development: cognitive, social, emotional, and physical. Curriculum and assessment strategies and/or resources shall be developmentally appropriate and include performance-based assessment measures.

[7.] **6.** The district board of education shall ensure that instructional methods and/or strategies are congruent with the cognitive, social, emotional, and physical skills of the young child. Instruction shall balance teacher-directed and child-initiated experiences.

[8.] **7.** The district board of education shall provide professional development and training specific to preschool education for all early childhood education administrators, teachers, and teacher assistants.

[9.] **8.** The preschool program may be offered by the district board of education within a mixed delivery system that includes in-district, private provider, and local Head Start agency settings provided [that] the private provider and/or local Head Start agency program(s) with which the district board of education contracts comply with the school district's program requirements, including the employment of appropriately licensed and qualified teaching staff.

[10.] **9.** The district board of education shall include parent education activities in the preschool program with specific, **identified** strategies [identified] that assist

parents in remaining actively involved in their child's education throughout their school years.

[11.] **10.** The district board of education shall demonstrate that community health and social service agencies have been included in the **preschool program's** planning, operations, and, if appropriate, [the] fiscal support [of the preschool program].

[(d)] **(c)** [Each] **In addition to implementing preschool, each** district board of education with a high concentration of low-income students shall[, in addition to implementing preschool, maintain full-day kindergarten for all five-year-olds as follows] **be subject to the following:**

1. School districts in which **at least** 20 percent [or more] and less than 40 percent of [the] students are "at-risk" as defined [in] **at** P.L. 2007, c. 260 shall maintain all existing full-day kindergarten programs **for all five-year-olds as determined by the enrollment date set by each district board of education pursuant to N.J.S.A. 18A:38-5 and 6.**
2. [Pursuant to N.J.A.C. 6A:13-3.2, school] **School** districts in which 40 percent or more of [the] students are "at-risk" as established [in] **at** P.L. 2007, c. 260 shall [maintain all existing] **follow the provisions at N.J.A.C. 6A:13-3.2 and this section for** full-day kindergarten programs, [with a teacher's assistant for each classroom. Class] **including the class size** [for these kindergarten classrooms shall] **requirement to** not exceed 21 students.

[(e)] **(d)** Each school district receiving funds equal to its 2007-2008 Early Launch to Learning Initiative (ELLI) award shall adhere to its 2007-2008 ELLI Operational Plan

and any update(s) [as required and approved by the Department] until [such time as] the school district receives approval to implement its preschool program[, based on] **through Department** approval of its [five-year] **three-year** preschool program plan [by the Department,] and **is provided** with full [preschool education aid] **Preschool Education Aid** provided at the [School Funding Reform Act (]SFRA[)] funded per pupil amount determined by the formula established [in P.L. 2007, c. 260] **at N.J.S.A. 18A:7F-54**. [Once the] A school district **that** receives approval, as set forth in this subsection, to implement its [five-year] **three-year** preschool program plan[, it] shall [be required to] adhere to the rules of this chapter.

[(f)] **(e)** The **district board of education may offer the** universal and targeted high-quality preschool program [may be offered by the district board of education] within a mixed delivery system that includes in-district, private provider, and local Head Start agency settings.

[(g)] **(f)** [Each year, the] **The** district board of education shall **annually** submit projected enrollment, the [five-year] **three-year** preschool program plan, and/or an annual update[, as required by the Department].

1. The district board of education providing universal preschool shall submit its projected enrollment data **for the next school year** and the [five-year] **three-year** preschool program plan and/or annual update(s) [as required by the Department for the next school year by the second Friday in] **on or before** November **15** of each year.
2. The district board of education providing targeted preschool shall submit its projected enrollment data for the next school year [by the second Friday in

November of each year] and the required [five-year] **three-year** preschool program plan and/or annual update(s) [as required by the Department for the next school year by the second Friday in December] **on or before November 15** of each year.

[(h)] (g) [The Department shall issue a determination approving or disapproving the plan no later than April 1 of each year.] The required [five-year] **three-year** preschool program plan and/or annual update shall adhere to Department preschool program and budget planning document guidance for school districts, private providers, and local Head Start agencies, including, but not limited to:

1. The strategies to address the elements **in this chapter** for [high quality] **high-quality** preschool programs [outlined in this chapter];
2. A rationale for the type of delivery system chosen and, [upon request by the Department] **for school districts seeking to change the delivery system or expand the preschool program**, a justification for not contracting with every willing and able private provider and local Head Start agency;
3. The programmatic needs of [its] students, programs, private providers, and local Head Start agencies; **and**
4. The information collected annually from the [self assessment] **self-assessment** and validation, beginning with the initial year of preschool program implementation[; and].
- [5. For school districts providing universal preschool and not currently providing full-day kindergarten to all age-eligible students, a plan and annual updates for providing full-day kindergarten to every age-eligible student by 2013-2014.]

- (h) **The Department shall issue a determination approving or disapproving the three-year preschool program plan no later than April 1 of each year.**
- (i) The [Department approved five-year] **Department-approved three-year** preschool program plan and/or annual update shall be directly connected with, and be the primary basis for, the school district preschool budget for each school year.
- (j) Any appeal of a Department decision **pursuant to (h) above** shall be expedited pursuant to provisions set forth [in] **at** N.J.A.C. 6A:13A-11.

Subchapter 4. Program Staffing

6A:13A-4.1 Administrative oversight

- (a) Each district board of education shall designate an in-district administrative position to oversee the preschool program. A dedicated in-district early childhood supervisor is required at a ratio of one for every 750 enrolled preschool children, minus [those] students enrolled in **school** district stand-alone early childhood education buildings. For school districts with fewer than 750 enrolled preschool children, [this] **the early childhood supervisor** position may be combined with another in-district school administrator position with the same certification and qualifications required of an early childhood supervisor or, as approved by the Department in the school district's [five-year] **three-year** preschool program plan and/or annual update, may be contracted for with a county or regional educational services commission [where the county or regional educational services commission is] approved by the State Board to do so.
 - 1. Each district board of education shall ensure that in-district early childhood supervisors and administrators of in-district buildings with preschool children hold the appropriate New Jersey [Supervisor's Certificate] **supervisor**

endorsement or [New Jersey Principal’s Certificate] **principal certificate**, have **at least three years of** experience in preschool education, and participate in annual training specific to preschool program planning and implementation, [and] the school district’s comprehensive preschool curriculum, **and assessment**.

i. Administrators who oversee in-district buildings that include preschool classrooms but are not stand-alone early childhood education or preschool buildings, and who do not possess at least three years of experience in preschool education, shall acquire knowledge of the content and skills relevant to working with preschool-aged children through training, coursework, and/or professional development, as determined and provided for by the school district.

2. In-district administrators and/or supervisors of preschool programs shall ensure the coordination of all [of the] elements of a high-quality preschool program within the school district, including all private providers and local Head Start agencies. The responsibilities of the in-district administrators and/or supervisors of preschool programs shall include:

- i. Developing and implementing the preschool budget, [five-year] three-year preschool program plan and/or annual update, and professional development plans [as required by the Department];**
- ii. Contributing to the development of [long range] long-range facilities plans;**
- iii. Supervising registration, recruitment, and outreach efforts;**

- iv. – v. (No change.)
- vi. Facilitating transition initiatives in collaboration with **early intervention programs and** other preschool to kindergarten through third grade administrators;
- vii. Where applicable, meeting regularly with private providers[, including] **and** local Head Start agencies[,] to foster collaboration and program implementation, including, but not limited to, fiscal and curriculum information;
- viii. Overseeing the implementation of the comprehensive preschool curriculum **and performance-based assessment**;
- ix. – xi. (No change.)
- xii. Hiring, supervising, and ensuring evaluation of all in-district staff funded by the preschool programmatic budget; and
- xiii. Ensuring [that] each private provider and local Head Start agency implements a system for classroom teacher observations.

(b) Each private provider and local Head Start agency shall provide a director pursuant to the regulations [set forth in the] **at N.J.A.C. 10:122**, Manual of Requirements for Childcare Centers[, N.J.A.C. 10:122].

1. The director shall work on-site at the [child care] **childcare** center for a minimum of five of the six hours of the comprehensive educational program day.
2. The director shall **hold**, at a minimum, [hold] the credentials set forth [in the Manual of Requirements for Childcare Centers,] **at N.J.A.C. 10:122**.

3. The director shall not serve in any other position, including, but not limited to, instructional staff member or family worker, during the same hours **the individual serves** as [he or she is serving in the capacity of] center director.
4. If the director is required to be off-site, [he or she] **the director** shall assign an on-site designee, pursuant to [the Manual of Requirements for Childcare Centers at] N.J.A.C. 10:122. The designee shall not be a classroom teacher or teacher assistant.

6A:13A-4.2 [Master teachers] **Preschool instructional coaches**

- (a) The district board of education shall provide [master teachers] **preschool instructional coaches** at a ratio of no more than 20 preschool classrooms for each [master teacher] **preschool instructional coach** to ensure coaching and classroom support for classroom teachers. The district board of education shall provide additional [master teachers] **preschool instructional coaches** to assist [uncertified or inexperienced] **novice** teachers, and to provide professional development that supports English language learners and children in inclusive classroom settings. For school districts with fewer than 20 preschool classrooms, the [master teacher] **preschool instructional coach** position, described in the school district's [five-year] **three-year** preschool program plan and/or annual update, [as required, and approved by the Department,] may be fulfilled in one of the following ways:

1. Combine the preschool [master teacher] **instructional coach** position with another in-district position, provided **that the preschool instructional coach is not a classroom teacher and** all [master teacher] **preschool instructional coach** qualifications established in this chapter are met;

2. Collaborate with one or more school district(s) to share the services of a [master teacher] **preschool instructional coach**; or
3. Contract **for preschool instructional coach services** with a county or regional educational services commission [for master teacher services where the county or regional educational services commission is] approved by the State Board to do so.

(b) The [master teacher] **preschool instructional coach** shall have the following qualifications and experience:

1. A bachelor's degree and **preschool through grade three (P-3)** teacher certification;
2. [Three to five] **At least three years of** experience teaching in general education preschool programs;
3. (No change.)
4. Experience with a range of appropriate early childhood assessments, including performance-based [assessment instruments] and [classroom quality] **classroom-quality** assessment instruments; [and]
5. Experience providing professional development to classroom teachers[.]; **and**
6. **Preschool Professional Development Fellow status.**

(c) A [master teacher] **preschool instructional coach** appointed prior to September 1, 2007, shall **hold**, at a minimum, [hold] a preschool through grade three standard instructional certificate or an N-8 standard instructional certificate, **as set forth at N.J.A.C. 6A:9B.**

- (d) A [master teacher] **preschool instructional coach** appointed on or after September 1, 2007, shall **hold**, at a minimum, [hold] a preschool through grade three or equivalent preschool certification, as set forth [in] **at N.J.A.C. 6A:9B**.
- (e) In addition to the requirements **at (b), (c), and (d)** above, depending on the population served by the district board of education, [the master teacher(s)] **a preschool instructional coach** shall demonstrate one or more of the following:
1. – 2. (No change.)
 3. A graduate degree in early childhood education with an emphasis on early literacy and/or early mathematics; **and/or**
 4. A graduate degree in educational supervision and/or leadership[; and/or].
 - [5. Preschool Professional Development Fellow status.]
- (f) The responsibilities of the [master teacher] **preschool instructional coach** shall **include**, at a minimum[, include]:
1. [Modeling] **Visiting classrooms regularly to model**, [coaching] **coach**, informally [observing,] **observe** using structured observation instruments, and [providing] **provide** feedback to [teachers] **teaching staff** in preschool programs **based on the reflective cycle** to assist with the implementation of the comprehensive curriculum and the Preschool Standards;
 2. Providing staff development[,] based on systematic classroom observations consistent with a [classroom quality] **classroom-quality** assessment instrument[,] as defined in N.J.A.C. 6A:13A-5.5];
 3. (No change.)

4. Ensuring [that] systematic early childhood **program** assessment occurs in the preschool program;
5. **Collaborating with the preschool intervention and referral specialists (PIRSs) to ensure systematic curriculum supports in social-emotional development;**
- [5.] 6. Ensuring implementation of the comprehensive performance-based assessment system that is connected to the comprehensive preschool curriculum as part of the [five-year] **three-year** preschool program plan and/or annual update [as required and approved by the Department];
- [6.] 7. (No change in text.)
- [7.] 8. Supporting transition activities, programs, and services between and among preschool through grade three programs.

6A:13A-4.3 Instructional staff

- (a) The district board of education **of a school district that is approved to provide a State-funded universal preschool program** shall ensure that one appropriately certified teacher and one appropriately qualified teacher assistant, pursuant to [N.J.A.C. 6A:13A-4.3(f)] **(d)** and [(g)] **(e) below**, are provided for every preschool class of 15 children. Class size shall not be greater than 15 children.
 1. The district board of education may have fewer than 15 children in a class, if the services can be provided at the school district's per pupil amount, and the essential elements **of the chapter** for the implementation of a high-quality preschool program[, as set forth in this chapter,] are maintained.

2. In-district preschool classroom teachers shall hold a bachelor's degree and, at a minimum, a certificate of eligibility (**CE**) or certificate of eligibility with advanced standing (**CEAS**) for preschool through grade three or other equivalent preschool certification, as set forth [in] **at N.J.A.C. 6A:9B.**
- (b) Private provider and local Head Start agency preschool teachers [teaching] **working** in classrooms contracted with school districts that received [preschool expansion aid] **Preschool Expansion Aid** or [education] **educational** opportunity aid in 2007-2008[,] shall hold a bachelor's degree and, at a minimum, a [certificate of eligibility] **CE** or [certificate of eligibility with advanced standing] **CEAS** for preschool through grade three or other equivalent preschool certification, as set forth [in] **at N.J.A.C. 6A:9B.**
- [(c) All private provider and local Head Start agency preschool teachers, teaching in classrooms contracted with school districts that did not receive preschool expansion aid or educational opportunity aid in 2007-2008, who do not hold the appropriate degree and certification shall submit an initial application and annual updates documenting progress toward timely completion of following requirements to the school district verified and signed by the teacher's college advisor:
1. Is working toward completing the preschool through grade three certification by September 2012;
 2. Is a student in good standing;
 3. Has a minimum GPA of 2.75 when 4.0 equals an A; and
 4. Has a detailed and feasible plan for attaining preschool through grade three certification within the timeframe described in (c)1 above.

- (d) To ensure that teachers hold the appropriate credentials/certification, pursuant to (c) above, the district board of education shall be responsible for:
1. Reviewing each initial application and subsequent revisions for accuracy and completeness by the start of the school year;
 2. Approving or denying each individual application; and
 3. Ensuring that only teachers who have completed the requirements listed in (c) above remain as a classroom teacher beyond the start of the 2012 school year.]

[(e)] (c) All preschool classroom teachers hired in private provider and Head Start agencies subsequent to the initial year of the school district's implementation of a preschool program shall hold a bachelor's degree and, at a minimum, a [certificate of eligibility] **CE** or [certificate of eligibility with advanced standing] **CEAS** for preschool through grade three certification or other equivalent preschool certification, as set forth [in] at N.J.A.C. 6A:9B.

[(f)] (d) The district board of education teacher assistants in **school** districts or schools supported by Title 1 funding, as applicable, shall meet the **Title 1** requirements pursuant to the [No Child Left Behind Act of 2001, P.L. 107-110] **Every Student Succeeds Act, P.L. 114-95**.

[(g)] (e) (No change in text.)

6A:13A-4.4 Intervention and support services

(a) The district board of education shall establish [one] **a** preschool intervention and referral [team (PIRT) for every 750 enrolled preschool students] **specialist (PIRS) at a 1:20 ratio of PIRS to preschool classrooms**. [In school] **School** districts with [fewer] **more** than [750 enrolled] **20** preschool [children, the] **classrooms shall also create a team of**

specialists, including the PIRS, using a consultative model as part of the intervention and referral services. The services shall be funded by the school district's preschool budget, [and] as described in the school district's [five-year] three-year preschool program plan and/or annual update[, as required and approved by the Department]. The position(s) may be:

1. [May be combined] **Combined** with the school district's existing intervention and referral services[,] required by N.J.A.C. 6A:16; or
2. [May be fulfilled] **Fulfilled** by contracting **for PIRS services** with a county or regional educational services commission [for PIRT services where the county or regional educational services commission is] approved by the State Board to do so.

(b) For school districts with fewer than 20 preschool classrooms, the PIRS may be fulfilled in one of the following ways:

1. **Combine with the school district's existing intervention and referral services required by N.J.A.C. 6A:16;**
2. **Combine the preschool instructional coach position with another position within the school district, provided that the preschool instructional coach is not a classroom teacher and all PIRS qualifications established in this chapter are met;**
3. **Collaborate with one or more school district(s) to share the services of a PIRS; or**
4. **Contract for PIRS with a county or regional educational services commission approved by the State Board to do so.**

[(b)] (c) The [PIRT] **PIRS** shall be supervised by the early childhood school district administrator and shall work within a consultation model with relevant school district, private provider, and local Head Start agency staff and administrators to deliver preschool age-appropriate services designed to decrease referrals to special education and to maximize general education classroom teachers' ability to support all students.

[(c)] (d) The [PIRT shall include a combination of] **PIRS position and/or team may be comprised of preschool teachers, psychologists, learning disabilities teacher consultants, school social workers, and speech and language specialists who shall have knowledge of the school district's curriculum and assessment and who shall either have experience working with preschool-aged children or acquire knowledge of the content and skills relevant to working with preschool-aged children through training, coursework, and/or professional development, as determined and provided for by the school district.**

[(d)] (e) The [PIRT] **PIRS** shall, at a minimum:

1. Consult with [master teachers] **instructional coaches** and preschool classroom teachers to adapt and modify teaching practices to help preschool children meet the Preschool Standards;
2. Conduct regular **classroom** visits [to classrooms] to observe, model, provide feedback, and make recommendations about appropriate strategies, classroom modifications, and the selection of adaptive materials to address the needs of children with challenging behaviors or potential learning difficulties;
3. Provide professional development **using a classroom quality assessment tool** for instructional staff and administrators to facilitate preschool inclusion;

4. (No change.)
5. Refer children, when all other efforts have failed, to the school district child study team, as set forth [in] **at** N.J.A.C. 6A:14, Special Education; [and]
6. Bring professionals across disciplines together with families, as appropriate[.];
and
7. **Provide support to general education classroom teachers to address the needs of children with challenging behaviors or learning disabilities.**

[(e)] **(f)** The district board of education shall annually report the number of children served by the [PIRT] **PIRS** and the number of children referred to the child study team for formal evaluation in its [five-year] **three-year** preschool program plan and/or annual update [as required and approved by the Department].

[(f)] The PIRT shall provide support to general education classroom teachers to address the needs of children with challenging behaviors or learning difficulties.]

(g) The district board of education shall ensure that preschool students are not suspended, long-term or short-term, and are not expelled from school, **except as provided pursuant to the Zero Tolerance for Guns Act, N.J.S.A. 18A:37-7 et seq.**

6A:13A-4.5 Health and nutrition

(a) The district board of education shall employ nurses at a ratio of one for every 300 preschool students, including [those] students in contracted private provider and local Head Start programs. In school districts with fewer than 300 enrolled preschool children, the services funded by the school district's preschool budget and described in the school district's [five-year] **three-year** preschool program plan [as required and approved by the Department] **and/or annual update** may be:

1. Provided within the school district's existing health services[,] required by N.J.A.C. 6A:16; or
 2. Fulfilled by contracting **for health services** with a county or regional educational services commission [for health services where the county or regional educational services commission is] approved by the State Board to do so.
- (b) The district board of education shall ensure that basic child health services are provided to all enrolled preschool children. Child health services shall include:
1. At a minimum, vision, hearing, dental, height, and weight screenings of each eligible child upon enrollment [in preschool];
 2. The maintenance of records pertaining to immunizations, physical examinations, and other records necessary for transition to kindergarten; and
 3. (No change.)
- (c) District boards of education offering universal preschool shall apply to the National School Breakfast Program and National School Lunch Program and may charge families of eligible preschool program children for reduced- and above-scale meals. District boards of education shall also ensure that contracted private provider and local Head Start settings apply to the Child and Adult Care Food Program (CACFP)[, in order] to offer breakfast, lunch, and one snack per day for each enrolled preschool child.
1. If accepted into one or more of [these] **the** programs, the district board of education, contracted private provider, or local Head Start agency [must] **shall** participate for all preschool children.

2. If not accepted into one or more of [these] **the** programs, for any reason, the district board of education shall ensure that the dietary requirements listed [in] **at** (d) below are followed.

(d) District boards of education offering targeted preschool shall ensure that all at-risk children in all settings are offered breakfast, lunch, and one snack per day conforming to the [2005] **2020-2025** United States Department of Agriculture [dietary guidelines] **Dietary Guidelines** for Americans, located at [http://www.health.gov/dietaryguidelines/dga2005/document/default.htm] <https://www.dietaryguidelines.gov/> regarding meal pattern requirements and nutrition standards.

6A:13A-4.6 Family and community involvement

(a) The district board of education shall ensure that a coordinated system of social services is provided to families of enrolled preschool children and shall describe the system in its [five-year] **three-year** preschool program plan and/or annual update [as required, and approved by the Department]. [These services] **Services** may be offered by:

1. Coordinating the social services and/or social services functions described in this section among the school district, contracting private providers, and local Head Start agencies; or
2. Contracting **for social services functions described in this section** with a county or regional educational services commission [for the social services functions described in this section where the county or regional educational services commission is] approved by the State Board to do so.

(b) The services shall be provided by a combination of social worker(s), family worker(s), and community parent involvement specialist(s) (CPIS) as part of the school district's [five-year] **three-year** preschool program plan and/or annual update [as required and approved by the Department].

1. A **school district shall provide a** social worker holding the appropriate credentials **in social work**, pursuant to N.J.A.C. 6A:9B-[12.5]**14.5**, [in social work shall be provided] for every [250 to] 300 preschool children enrolled at in-district settings. In school districts with fewer than [250] **300** preschool children enrolled at in-district settings, the social worker position may be combined with another position with the same qualifications. The social worker shall, at a minimum:

i. Collaborate with all relevant preschool instructional staff, administrators, and support personnel to support the school district family services program;

ii. Coordinate with other available school district resource staff to reach out to families, determine individual family needs, advocate **on their behalf**, and obtain appropriate community services;

iii. – v. (No change.)

vi. Help parents learn about child development, nutrition, safety, and how to support their child's learning.

2. [For a] **A** contracting private provider or local Head Start agency[,], **shall provide** a family worker [shall be provided] for every [45] **75** children. In a private provider or local Head Start agency with fewer than [45] **75** preschool children,

this position may be combined with another position. The family worker shall, at a minimum:

i. – iii. (No change.)

iv. Report to the center director and coordinate social services activities with appropriate **school** district social services staff.

3. [For every] **Each** school district[,], **shall provide** one CPIS with a minimum of a bachelor's degree in social work, or a related field[,], such as sociology, psychology, or education[, shall be provided]. School districts with fewer than 750 enrolled preschool children may combine [this position] **the CPIS** with another position as described in the school district's [five-year] **three-year** preschool program plan and/or annual update[, as required and approved by the Department]. The CPIS shall, at a minimum:

i. – v. (No change.)

(c) The district board of education shall establish a preschool through grade three early childhood advisory council (ECAC) to review preschool program implementation and to support transition as children move from preschool through grade three.

1. The **council's** membership [of the council] shall consist of stakeholders in the community, as well as parents, contracting private providers, and the local Head Start agency, if applicable, with new representation added as needed; and

2. (No change.)

6A:13A-4.7 District board of education-fiscal accountability and integrity of preschool program

(a) The district board of education shall ensure the fiscal accountability and integrity of the preschool program.

1. In school districts with eight or more contracting private providers [including the] **or** local Head Start [agency] **agencies**, the district board of education may employ a preschool fiscal specialist.
2. The preschool fiscal specialist shall have auditing, budgeting, and accounting experience, [and] shall report to the early childhood administrator or the supervisor of early childhood programs, and **shall** work with the school district business administrator's office.
3. In school districts [where] **without** a dedicated preschool fiscal specialist [is not provided], [this] **the** position may be combined with another in-district position[,] when described in the [five-year] **three-year** preschool program plan and/or annual update(s), [as required and approved by the Department,] provided the qualifications and responsibilities established in this chapter are met.
4. The preschool fiscal specialist **duties** shall [perform all functions set forth in this chapter, including] **include**, at a minimum:
 - i. [Monitor] **Monitoring** each contracting private provider and/or local Head Start agency for compliance with the preschool program contract;
 - ii. [Track and report] **Tracking** teacher certification information **and reporting it to the Department;**
 - iii. [Monitor] **Monitoring** expenses and [review] **reviewing** quarterly expenditure reports in accordance with the approved contracting private provider and/or local Head Start agency budgets; [and]

- iv. [Provide] **Providing** financial management assistance to contracting private providers and local Head Start agencies in the development and monitoring of their annual budgets[.]; **and**
- v. [The preschool fiscal specialist shall collaborate] **Collaborating** with contracting private providers and/or local Head Start agencies in the development of any corrective action plans in response to [the] findings [from] **of** an audit and/or a limited review examination.

Subchapter 5. Curriculum and Assessment

6A:13A-5.1 Curriculum

- (a) The district board of education shall ensure implementation of a comprehensive curriculum supported by research, aligned with the Preschool Standards, and linked to the New Jersey Student Learning Standards (NJSLS). The school district's choice of curricula shall be described in the [five-year] **three-year** preschool program plan and/or annual update [as required and approved by the Department].
- (b) The **preschool** program and curriculum shall include, but need not be limited to, the following:
 - 1. Systematic support for language acquisition for all children, including approaches for helping English language learners [acquire] **maintain their home language while acquiring** English [while maintaining their home language] within their regularly assigned preschool classroom;
 - 2. A clearly described, systematic, and intensive instructional approach for all aspects of development and learning using the strategies and techniques delineated in the Preschool Standards; and

3. (No change.)

6A:13A-5.2 [Assessment] **Ongoing performance-based assessment of children**

- (a) (No change.)
- (b) **The district board of education shall ensure all preschool classroom teachers conduct an ongoing performance-based assessment of children that:**
 1. **Is aligned with the comprehensive curriculum described in the school district's three-year preschool program plan and/or annual update;**
 2. **Addresses all learning domains;**
 3. **Uses multiple sources of evidence gathered over time;**
 4. **Is used for curriculum planning and reporting to parents; and**
 5. **Is not used to determine the classroom placement of children.**

6A:13A-5.3 Screening

- (a) The district board of education shall conduct a [developmentally-based] **developmentally based** early childhood screening assessment **for each child** upon enrollment in preschool to:
 1. – 2. (No change.)

6A:13A-[5.5]5.4 [Classroom quality] **Classroom-quality assessment**

- (a) Starting in the first year of preschool program implementation, the school district shall **use**, at least annually, [use] a reliable [classroom quality] **classroom-quality** assessment instrument described in the [five-year] **three-year** preschool program plan and/or annual update[, as required and approved by the Department,] to assess program quality in each in-district, contracting private provider, and/or **local** Head Start agency preschool

classroom, aggregate the data, and develop professional development plans for all teaching staff.

1. The school district shall score program quality on a graduated scale in [all] **each** preschool classroom[s].
2. An action plan shall be developed and implemented by the school district and contracting private provider or local Head Start agency if any classroom falls below the minimum acceptable score established by the district board of education in [their] **the** preschool program contract. [Development of the action plan shall involve participation of the] **The** school district and the contracting private provider or local Head Start agency **shall participate** in joint discussions **as part of the action plan's development** to determine the [classroom quality] **classroom-quality** improvements that are necessary based upon the [results of the] observation instrument's **results** and [establishment of] **to establish** a timeframe for making the required changes.
3. The [master teacher] **preschool instructional coach** shall provide technical assistance to the classroom teacher based upon the action plan.
4. If the district board of education [deems that] **determines** improvements have not been made according to the established plan and schedule, the district board of education, or contracting private provider or local Head Start agency, may request **from the Department** that the classroom or program be evaluated by a reliable, independent observer [approved by the Department]. If the reliable, independent observer verifies [that] the action plan is not being satisfied in a contracting private provider or local Head Start agency classroom, **the district board of**

education shall take steps [shall be taken] to remove the contracting private provider or local Head Start agency teacher from the **contracted** classroom or **to** terminate or not renew the preschool program contract between the contracting private provider or local Head Start agency and the district board of education, pursuant to the provisions for non-renewal and termination [set forth in] **at** N.J.A.C. 6A:13A-9.

Subchapter 6. Transition

6A:13A-6.1 Transition

- (a) The district board of education shall include [transition initiatives from program entry to kindergarten through grade three] in its [five-year] **three-year** preschool program plan and/or annual update[, as required and approved by the Department,] **transition initiatives from program entry to kindergarten through grade three** that describe:
1. (No change.)
 2. **Implementation of a comprehensive, developmentally appropriate kindergarten entry assessment within the first six to eight weeks of school to measure children’s knowledge, skills, and behaviors at the beginning of kindergarten;**
 - [2.] 3. Methods for communicating **to a child’s new kindergarten and elementary teachers** information about [individual children to their new kindergarten and elementary teachers; and in particular] **the child, including** the results of the [comprehensive performance-based] **kindergarten entry** assessment;

[3.] **4.** The process for identifying [and communicating] the curriculum and pedagogical information about the preschool program **and communicating it** to the kindergarten and elementary teachers; and

[4.] **5.** (No change in text.)

Subchapter 7. Facilities

6A:13A-7.1 Space requirements

- (a) [The] **For any school district or charter school that received Preschool Education Aid in August 2017 or thereafter, the** district board of education **or charter school** shall ensure[, for all newly] **all preschool classrooms in-district or in the charter school, as applicable, and at the** contracted private provider and local Head Start agency [preschool classrooms,] **are** a minimum of 950 square feet per classroom consisting of 750 square feet of usable space, 150 square feet of storage, and equipment or furnishings that are either built in or not easily movable, and 50 square feet of toilet room.
- 1. Any preschool classroom that is relocating as of, or after, (the effective date of this rule) to a space not previously occupied for preschool shall immediately meet minimum space requirements set forth at (a) above.**
 - 2. A district board of education may seek a waiver of, or equivalency for, the requirements set forth at (a) above pursuant to the process at N.J.A.C. 6A:5, Regulatory Equivalency and Waiver.**
- (b) The district board of education shall ensure that all construction or alteration of playgrounds and playground equipment complies with N.J.A.C. 5:23-7, **Barrier Free Subcode**, and [11] **N.J.A.C. 5:23-11**, [the barrier free subcode and playground safety

subcode, respectively, found within] **Playground Safety Subcode, in** the Uniform Construction Code.

(c) Any change(s) affecting the physical space or location of contracted private provider or local Head Start agency preschool classrooms [require approval from] **shall be approved prior to relocation or renovation** by the school district and shall meet the space requirements established [in] **at (a) and (b) above.**

(d) **Any change(s) affecting the physical space or location of in-district preschool classrooms shall be approved by the executive county superintendent and shall meet the space requirements at (a) and (b) above.**

[(d)] (e) (No change in text.)

(f) **Beginning in the 2027-2028 school year, a district board of education, contracted provider, or Head Start program shall not use temporary classroom units (TCUs) or other similar temporary facilities, as defined at N.J.A.C. 6A:26, Educational Facilities, for preschool classrooms without prior approval pursuant to N.J.A.C. 6A:5.**

1. **A district board of education that receives approval, pursuant to N.J.A.C. 6A:5, to use TCUs or other similar temporary facilities shall ensure compliance with N.J.A.C. 6A:26, including requirements relating to the use of TCUs or other similar temporary facilities.**

2. **Upon Department request, a district board of education shall provide information and/or documentation establishing the school district's compliance with N.J.A.C. 6A:26 and the provisions of this chapter.**

- (g) Any district board of education using TCUs or other similar temporary facilities for preschool classrooms as of (the effective date of this amendment), shall submit to the Department proof of compliance with N.J.A.C. 6A:26 and a long-range facilities plan for phasing out the use of TCUs or other similar temporary facilities for preschool classrooms by (June 30 of the fifth year from the effective date of this amendment).

Subchapter 8. Program Evaluation

6A:13A-8.1 [Self assessment and validation] **Self-assessment for continuous quality improvement cycle**

- (a) The district board of education shall participate in a **process of continuous quality improvement either through the annual** self-assessment and validation system (SAVS) or **Grow NJ Kids** to inform the school district of the status of its preschool program implementation [using a protocol developed by the Department]. **School districts that utilize Grow NJ Kids shall also complete the ratings process, which is valid for three-years.** The self-assessment and validation system shall include the following:
- [1. A detailed, annual self-assessment by the district board of education of its preschool program to inform the five-year preschool program plan and/or annual update;]
 - [2.] **1.** (No change in text.)
 - [3.] **2.** A **Department-required improvement** plan [for improvement, as required and] in a **Department-provided** format [to be provided by the Department. The plan] **that** shall include:
 - i. – iii. (No change.)

Subchapter 9. School District Contracts with Private Providers and Local Head Start Agencies
for Providing Preschool Services

6A:13A-9.1 Contract

- (a) The **district board of education annually shall execute the** preschool program contract **provided and/or approved by the Department with all contracting** private providers and local Head Start agencies [shall be in a form provided and/or approved by the Department].
1. Each district board of education using the [State] **Department-**approved preschool program contract without modifications shall submit **to the Department** a copy of each executed contract [to the Department] no later than 60 days after the Department's annual release of the contract for the following school year.
 2. The district board of education may request modifications to the [State] **Department-**approved preschool program contract no later than 45 days after the Department's annual release of the contract for the following school year.
 - i. **The district board of education shall not request a modification of the provision in the Department-approved preschool program contract that requires the school district to ensure that the educational program offered by the private provider or Head Start agency will comply with all Federal, State, and local laws, rules, and regulations regarding the secular nature of programs receiving public funding.**
 3. The district board of education shall submit **to the Department** a copy of each executed contract [to the Department] within 60 days of receiving **Department**

approval [from the Department] to modify the [State] **Department**-approved preschool program contract.

(b) The district board of education shall [only] utilize a private provider or local Head Start agency that maintains appropriate licensure pursuant to [the Manual of Requirements for Childcare Centers,] N.J.A.C. 10:122[,] and adheres to **the requirements of this chapter** for programmatic and fiscal accountability [established in this chapter,] to provide [services to] preschool children **with services** that meet the elements of a high-quality preschool program.

[(c) The district board of education shall annually execute the preschool program contract provided by the Department with all contracting private providers and local Head Start agencies.]

[(d)] (c) Each private provider or local Head Start agency entering into a contractual arrangement with a district board of education to provide a full-day preschool program pursuant to this chapter shall be willing and able to meet the following criteria to be eligible for a contract:

1. (No change.)
2. Submit to the district board of education copies of insurance certificates, an efficient annual budget, appropriate credentials for teaching staff, attendance and pupil records, and any additional documentation, including all financial records, as requested by the district board of education and/or Department;
3. Manage funds allocated within annual [Department approved] **Department-approved** budgets in a manner that is effective, efficient, and in accordance with generally accepted accounting principles.

4. Present [evidence] to the district board of education **evidence** of compliance with Department of Children and Families background check procedures for child abuse record information pursuant to [the Manual of Requirements for Childcare Centers,] N.J.A.C. 10:122-4.9[,], and [compliance with Department of Children and Families] criminal history background check procedures pursuant to [P.L. 2000, c. 77] **N.J.S.A. 30:5B-6.10 through 6.18**.
5. Procure and maintain at its own expense, until at least one year after the completion of all services performed under the contract, liability insurance for damages imposed by law and assumed under the contract from insurance companies admitted or approved to do business in the State [of New Jersey];
6. Keep all pupil records in strictest confidence in accordance with N.J.A.C. 10:122 and 6A:32, **and** the Federal Family Education Rights and Privacy Act[,], (20 U.S.C. § 1232g[, and]; 34 CFR Part 99);
7. Agree that the educational program offered will comply with all Federal, State, and local laws and regulations regarding the secular nature of programs receiving public funding;
8. (No change.)
9. Provide, upon receiving reasonable notice, the district board of education and the Department [of Education] with access to its site and program records for the purposes of monitoring and ensuring that [it] **the private provider or local Head Start agency** is complying with all aspects of the preschool program contract.

[(e)] (d) Each private provider or local Head Start agency that has not previously held a preschool program contract with a district board of education shall be able to meet the following criteria to be eligible for a contract:

1. (No change.)
2. Have a documented record of appropriate financial management, including timely independent audits revealing no material findings and accounting systems that can accommodate financial reporting requirements; and
3. (No change.)

[(f)] (e) Each private provider and/or local Head Start agency shall meet the minimum acceptable score on the reliable [classroom quality] **classroom-quality** assessment instrument, set forth at N.J.A.C. 6A:13A-[5.5]**5.4**, and established by the district board of education in [their] **the** preschool program contract to determine the eligibility of the private provider and/or the local Head Start agency to continue to contract with the school district.

6A:13A-9.2 Informal dispute resolution process

- (a) The district board of education and contracting private provider or local Head Start agency shall attempt to resolve any dispute that may arise.
1. If the dispute cannot be resolved locally, an appeal [may be filed] to the Commissioner **may be filed** pursuant to N.J.A.C. 6A:3, Controversies and Disputes.

6A:13A-9.3 Renewal or non-renewal of a preschool program contract

- (a) The district board of education, [and] contracting private provider or local Head Start agency, and **the** Department shall use the following process for renewal or non-renewal of a private provider or local Head Start agency preschool program contract:
1. For all private provider or local Head Start agency contract renewals or non-renewals:
 - i. The school district shall notify any contracting private provider or local Head Start agency in writing on or before May 1 of each contract year of [its] **the school district's** intent to renew the preschool program contract for an additional [one year] **one-year** term. The school district shall also notify any private provider or local Head Start agency, the Department's [of Education,] Division of Early Childhood Education, and the Department of Children and [Families,] **Families'** Office of Licensing, in writing, on or before May 1 of each contract year of [its] **the school district's** intent to not renew the preschool program contract for an additional one-year term. Any school district notification of non-renewal shall follow the protocol established by the **Department's** Division of Early Childhood Education and detail justifiable reason(s) for non-renewal of the preschool program contract.
 - ii. Any change(s) in configuration of the way [that] preschool children are served within the school district's mixed delivery system shall be described in the school district's preschool program plan and/or annual update or modifications[, as required and approved by the Department,] and shall be submitted to the **Department's** Division of Early Childhood

Education for consideration prior to notification of non-renewal to contracting private provider(s) and/or local Head Start [agencies] **agency(ies)**.

iii. The contracting private provider or local Head Start agency shall notify the school district in writing within 30 days of [a] receipt of [a] **the school district's** renewal notice [from the school district] of [its] **the private provider's or local Head Start agency's** acceptance or rejection of the offer to renew the preschool program contract for one year.

iv. – vii. (No change.)

viii. The school district's [five-year] **three-year** preschool program plan and annual update(s) shall be amended accordingly, based on the changes in the classroom configuration.

6A:13A-9.4 Termination of a preschool program contract

(a) The school district shall have the right to terminate a contracting private provider's or local Head Start agency's preschool program contract immediately upon:

1. Revocation of the contracting private provider's or local Head Start agency's licensure;
2. Material breach of the contracting private provider's or local Head Start agency's responsibilities, including the failure to conduct and document criminal background and child abuse history checks;
3. (No change.)
4. Any other reasonable cause within the discretion of the school district and **with** written approval from the Department.

- (b) The district board of education shall use the following process to terminate a contracting private provider's or local Head Start agency's preschool program contract:
1. If a contracting private provider or local Head Start agency fails to comply with all terms of the preschool program contract or applicable Federal, State, or local requirements, the school district shall notify, **in writing**, the contracting private provider or local Head Start agency and the Department [of] **about** the deficiency [in writing] and provide a timeframe for compliance.
 2. If the contracting private provider or local Head Start agency fails to resolve the deficiency within the time provided, the school district may initiate termination of the preschool program contract upon written notice to the contracting private provider or local Head Start agency and **the** Department. Termination of the contract shall be subject to written approval by the Department to the school district and contracting private provider or local Head Start agency.
- (c) Contracting private providers or local Head Start agencies [and school districts shall have the right to] **may** appeal to the Commissioner, **pursuant to N.J.A.C. 6A:3, Controversies and Disputes**, a school district's decision to terminate a contract [pursuant to N.J.A.C. 6A:3, Controversies and Disputes]. The filing of an appeal shall not prevent the termination from becoming effective on the date specified unless the appealing party seeks and is granted a stay pending decision by the Commissioner.
- (d) The school district and the contracting private provider or local Head Start agency may terminate the preschool program contract by mutual agreement, in writing, upon notice to and receipt of written approval from the Department.

1. [In the event of] **A** termination under this provision[, said termination] shall take effect upon the 30th day from the date the school district and the contracting private provider or local Head Start agency receive written approval from the Department to terminate the preschool program contract.
- (e) Upon non-renewal or termination, the school district shall recover from the contracting private provider or local Head Start agency all playground materials, playground equipment both installed and uninstalled, start-up classroom materials and [start-up classroom] technology, or the monetary equivalent thereof, based upon funding for [said] **the** items as approved by the Department. The amount to be recovered shall be at least equal to the amount approved for the initial start-up costs.
- (f) (No change.)

Subchapter 10. Fiscal Oversight

6A:13A-10.1 School district fiscal responsibilities

- (a) The district board of education shall ensure that the budget of each private provider and local Head Start agency supports **and aligns with the children's** needs [of the children] and the actual program costs for the six-hour comprehensive educational program and day, [meeting] **meets the** Department's requirements, and [in accordance] **aligns** with the school district's grade one through 12 daily school calendar, [and] not exceeding the 10-month academic period.
- (b) The district board of education shall ensure that procedures for contracting private providers and local Head Start agencies are in place to ensure sound fiscal practices including:

1. The district board of education shall verify for accuracy and efficiency **of** annual budget planning workbooks submitted by each contracting private provider and local Head Start agency prior to submission **to the Department** of the **school** district budget planning workbook [to the Department].
 2. The district board of education shall ensure that compensation for certified teachers and teacher assistants in contracting private provider or local Head Start settings is comparable to [that of] **compensation for** a teacher or teacher assistant employed by the district board of education and **is** based on equivalent certification and credentials.
 - i. (No change.)
 3. The district board of education shall monitor **at least quarterly** the expenditures of each contracting private provider and local Head Start agency [at least quarterly] and shall recoup any unexpended or misspent funds based on the quarterly expenditure reports, enrollment records, and monthly payments made by the school district.
 4. – 5. (No change.)
- (c) (No change.)

6A:13A-10.2 Private provider and local Head Start agency fiscal responsibilities

- (a) Any private provider or local Head Start agency contracting with a school district to provide a full-day preschool program pursuant to this chapter shall implement sound fiscal practices including, but not limited to:
 1. [Maintenance of] **Maintaining** a financial management system that provides timely, accurate, current, and complete disclosure of all financial activities related

- to the preschool program operating under [preschool education aid] **Preschool Education Aid** and in accordance with generally accepted accounting principles;
2. [Certification that] **Certifying** the proposed budget planning workbook, **as** submitted to the district board of education, is true and accurate;
 3. Making all educational, administrative, and indirect support cost expenditures in strict accordance with the budget planning workbook approved by the district board of education and, as appropriate, [also approved] by the Department;
 4. Submitting to the district board of education a quarterly report of actual, approvable, reasonable, and customary expenditures with supporting documentation and receipts.
 - i. The quarterly report shall include expenditures for all approved budget lines for the school year, including all approved salaries, benefits, payroll taxes, substitute stipends, classroom materials and supplies, start-up classroom materials/supplies and technology, if applicable, field trips and associated transportation, space costs, food costs, **and** administrative and indirect costs expenditures. [and] **The quarterly report** shall be signed and certified by an officer of the corporation;
 5. Posting revenue and expenditures related to [preschool education aid] **Preschool Education Aid** to separate accounts in the contracting private provider and local Head Start agency general ledger and not commingling with revenue and expenditures related to other funding sources;
 6. Requesting from the district board of education[,] any budget transfer(s) or budget planning workbook amendment(s) to the approved budget planning workbook, or:

- i. (No change.)
7. Making all financial and program information available [on request] for inspection at any time to the school district or Department designee.

Subchapter 11. Appeals

6A:13A-11.1 Preschool program appeals

(a) Appeals of Department decisions on preschool program plans and/or annual updates and budget applications shall proceed as follows:

1. The Department shall issue [program and budget decisions] to school districts on or before [the first of] April[, which] **1st program and budget decisions, which** shall ensure, at a minimum, that an appropriate program and budget are planned to provide for the implementation of a high-quality preschool program.
2. A school district may file an appeal of their preschool program plan and/or annual update and budget decision with the Commissioner [of Education], pursuant to N.J.A.C. 6A:3, Controversies and Disputes[, and]. **The appeal generally** shall [generally] proceed as a contested case except as noted in this subchapter.
[Service of the petition is required on the Attorney General of the State of New Jersey, and should be directed to the Department of Law and Public Safety, Division of Law, P.O. Box 112, Trenton, New Jersey 08625-0112; Attention: Education and Higher Education Section.]

(b) (No change.)

6A:13A-11.2 Review of pleadings

- (a) Upon review of the petition, answer, and supporting documentation, the Commissioner may decide to hear the matter directly pursuant to N.J.S.A. 52:14F-8 or refer the matter to the Office of Administrative Law.
- (b) (No change.)
- (c) If the Commissioner is hearing the matter directly, [he or she] **the Commissioner** shall use the procedures for motions for summary decision set forth at N.J.A.C. 1:1-12.5. In addition, the Commissioner shall promptly notify the parties and [they shall be provided] **provide them** the opportunity to submit any additional document(s) **previously** submitted to, [the Department] or considered by, the Department in rendering the **appealed** decision. If the Commissioner determines, upon review of the papers submitted, [that] there are one or more genuine issues of material fact in dispute [which] **that** can [only] be determined **only** in an evidentiary proceeding, [he or she] **the Commissioner** may transmit the matter to the Office of Administrative Law as a contested case or retain the matter for **an** evidentiary hearing, pursuant to N.J.S.A. 52:14F-8.

6A:13A-11.3 Commissioner review and decision

- (a) If the Commissioner retains the matter, pursuant to N.J.A.C. 6A:13A-11.2, upon receipt of the filings set forth [above] **at N.J.A.C. 6A:13A-11.1 and 11.2**, or **upon** expiration of the time [for their submission] **to file all submissions**, the Commissioner shall review the total record before [him or her] **the Commissioner** and render a written decision.
- (b) In rendering decisions pursuant to this chapter, the Commissioner shall apply the [same] standards [as are] set forth for Department review in the operative rules for the type of application in dispute. The burden of proof shall be on the petitioning party to

demonstrate [that these] **the** standards were met by the applicant notwithstanding the Department's determination to the contrary. The record on appeal shall consist of [those] documents and information submitted to the Department in support of [its] **the** application and any additional information relied upon by the Department in making the determination at issue.