

**Proposed Readoption with Amendments at N.J.A.C. 6A:30, Evaluation of the
Performance of School Districts**

The following is the accessible version of the proposed readoption with amendments at N.J.A.C. 6A:30. The proposal level document includes three sections – [comments and responses](#), [summary](#) and [rules proposed for readoption and proposed amendments](#), including [Appendix A](#) and [Appendix B](#).

**State Board of Education
Administrative Code
Comment/Response Form**

This comment and response form contains comments from the August 7, 2024, meeting of the State Board of Education when the rulemaking was considered at Second Discussion Level.

Topic: Evaluation of the Performance of School Districts

Meeting Date: September 4, 2024

Code Citation: N.J.A.C. 6A:30

Level: Proposal

Division: Field Support and Services

Completed by: Field Support and Services

Summary of Comments and Agency Responses:

The following is a summary of the comments received from members of the public and the Department of Education's (Department) responses. Each commenter is identified at the end of the comment by a number that corresponds to the following list:

1. Tricina Strong-Beebe
2. Steve Tetreault
3. Jessica Piazza, School Library Media Specialist (SMLS), Harmony Township School
4. Marcella Simadiris
5. Elizabeth Kneute, SMLS
6. Jimmy Alvarez, Superintendent, Belmar Elementary School
7. Karen Grant, President-Elect, New Jersey Association of School Librarians (NJASL)
8. Joseph Isola, Superintendent, Howell School District
9. Dr. Christine Skinner, Director of Curriculum and Instruction, Lumberton Township School District
10. Dr. Rachel Goldberg, Superintendent, Springfield School District
11. Jennie Lamon, Assistant Director of Government Relations, New Jersey Principals and Supervisors Association (NJPSA)
12. Elisabeth Yucis, Associate Director, Professional Development and Instructional Issues, New Jersey Education Association (NJEA)
13. Kathleen Fernandez, Executive Director, New Jersey Teachers of English to Speakers of Other Languages/New Jersey Bilingual Educators (NJTESON/NJBE)
14. Dr. Kristin Kellogg, Superintendent, Swedesboro Woolwich School District
15. Amy Penwell, Regional Response Chair, NJASL

16. Jamil Maroun, Superintendent, Manville School District
17. Kari McGann, Ed.D., Superintendent, Flemington-Raritan Regional School District
18. Dr. Colleen Murray, Superintendent, Lumberton School District

1. **Comment:** The commenter thanked the Department for the proposed amendments at N.J.A.C. 6A:30 because it demonstrates clear signs of responsiveness to stakeholder input. The commenter asked the State Board of Education to support the Department and its responsiveness. **(14)**
Response: The Department appreciates the support.
2. **Comment:** The commenter stated that the Department’s proposed amendments to the District Performance Reviews (DPRs) at Appendices A and B illustrate that the Department is being responsive and are an important step forward, even if the proposed amendments do not address all of the challenges that school districts face during the New Jersey Quality Single Accountability Continuum (NJQSAC) process. **(16)**
Response: The Department appreciates the support.
3. **Comment:** The commenter requested that the Department amend N.J.A.C. 6A:30 and the appendices to adjust the NJQSAC framework to create a more effective educational environment by streamlining compliance requirements and reallocating resources toward direct instructional support. The commenter stated that the intent of the current NJQSAC process is to ensure educational standards and accountability, but it places a disproportionate burden on the limited administrative staff at smaller kindergarten through grade six (K-6) and kindergarten through grade eight (K-8) school districts. The commenter also stated that directors of curriculum and instruction are forced to shift their focus from providing professional development and mentoring teachers to the administrative demands of complying with NJQSAC, thereby causing compliance to overshadow instructional leadership. The commenter further stated that the focus on compliance with NJQSAC requirements leaves less time and fewer resources for instructional activities that have a more immediate impact on student learning. The commenter suggested a more balanced approach that prioritizes the direction of resources to professional development and teacher mentoring as opposed to exhaustive compliance documentation. **(9)**
Response: The Department disagrees with the commenter’s request. NJQSAC identifies areas of statutory and regulatory compliance and noncompliance. Pursuant to N.J.S.A. 18A:7A-10, the goal of NJQSAC is to ensure that all school districts are operating at a high level of performance. The process cannot be streamlined in the manner suggested without undermining the statutorily mandated goal.
4. **Comment:** The commenter stated that NJQSAC unfairly penalizes the commenter’s school district, which is highly diverse, and prevents the school district’s administrators and educators from doing the best job for students and the community. The commenter also stated that an overload of unfunded State mandates and years of budget cuts has made it impossible to advance professional development enough to move the needle on lagging student achievement. The commenter requested that the Department amend NJQSAC to measure success more holistically and in ways that do not unfairly punish students and constituents. The commenter provided examples of real-world, project-based learning that reduced the numbers of disciplinary referrals and, therefore, demonstrate that students are growing along social emotional lines that NJQSAC does not measure. **(18)**
Response: The Department declines to adopt the commenter’s suggestions. NJQSAC is designed to evaluate school districts with the same metrics; therefore, each metric must be applicable to all school districts. The commenter’s examples of real-world, project-based

learning is not administered in every school district and, accordingly, cannot be monitored through NJQSAC.

The Department disagrees with the commenter's assertion that NJQSAC unfairly penalizes diverse school districts and prevents administrators and educators from doing the best job for students and the community. The inclusion of student group* weighting at Instruction and Program (I&P) Indicators 1 through 7 supports the Department's effort to align, to the greatest extent possible, NJQSAC with student performance indicators in the State plan required pursuant to the Federal Every Student Succeeds Act (ESSA), P.L. 114-95,. To ensure school district achievement gaps amongst student groups are not masked, the Department weights student group performance and overall student performance equally when determining the points a school district earns at I&P Indicators 1 through 7 in Appendix A. Please see Agency-initiated Change 1 for details on the Department's newly proposed amendments regarding the point values for I&P Indicators 1 through 6.

***Note:** The Department is proposing at Agency-initiated Change 2 below to replace "subgroups" with "student groups." Therefore, "student groups" will be used throughout the comment/response form.

5. **Comment:** The commenter stated that NJQSAC scores are not the metric parents use to measure the quality of their children's schools. The commenter also stated that rankings from the New Jersey School Performance Reports, Niche, and U.S. News and World Report provide a more robust set of data than NJQSAC. The commenter further stated that New Jersey School Performance Reports, which are aligned to the ESSA requirements, provide a clear picture of student achievement over a period of time, unlike NJQSAC data that provides a snapshot of a single school year and is subject to variations in cut scores or testing instruments. **(10)**

Response: The Department appreciates the commenter's perspective and agrees triangulating data to help measure the value of quality of a school is useful. However, the purpose of NJQSAC is not necessarily to provide the public information and insight regarding individual schools. NJQSAC is designed to be a single, comprehensive accountability system that consolidates and incorporates the monitoring requirements of applicable State and Federal programs. NJQSAC is also intended to complement, and serve in part to implement, Federal requirements. It is utilized to determine the extent to which school districts are providing a thorough and efficient education. The standards and criteria by which school districts are evaluated will assess actual achievement, progress toward proficiency, local capacity to operate without State intervention, and the need for State support and assistance.

6. **Comment:** The commenter stated that NJQSAC calculations are inequitable and do not provide a reliable measurement of a school district's quality. The commenter contended that the inequitable calculations result in an inefficient use of State and school district personnel. The commenter provided an example two school districts and contended that the school district with a lower socio-economic status continues to fall below 80 percent in I&P indicators while the suburban school district maintains its high performing status. The commenter indicated that the commenter's analysis of Cohort 1 school districts that underwent NJQSAC evaluations during the 2022-2023 school year. The commenter asserted that year's data was from prior to the COVID-19 pandemic and do not reflect inequities caused by the pandemic. The commenter stated that the individual indicator level data for school districts is not available but hypothesized that the different values for each indicator significantly impact scoring. The commenter further asserted that there are many iterations of data calculation possible asked and questioned why the data are valued, what a failing designation means, and whether the designation is an accurate picture of the school district or the result of a specific point allocation. **(10)**

Response: The Department agrees that achievement is correlated with socio-economic

status. The Department further contends that all students are held to the same proficiency standard in the State of New Jersey. Additionally, NJQSAC does not designate a school district as “failing.” Instead, a school district is placed on a continuum of improvement based on the school district’s scores in the five key components of school district effectiveness, in accordance with N.J.A.C. 6A:30.

7. **Comment:** The commenter requested that the Department amend N.J.A.C. 6A:30-1.1(c) to include charter schools in NJQSAC comprehensive reviews and to hold charter schools to the same accountability process as school districts. (10)

Response: The Department declines to make the commenter’s suggested change. N.J.S.A. 18A:7A-10 specifies the entities that must be monitored using NJQSAC and charter schools are not referenced. The Department annually evaluates each charter school to ensure it is meeting the goals of its charter. The Department conducts a comprehensive review prior to granting a renewal of a charter, as required at N.J.S.A. 18A:36A-16 and N.J.A.C. 6A:11-2.3.

8. **Comment:** The commenter inquired as to who is involved in the collaborative development of a district improvement plan. (4)

Response: N.J.A.C. 6A:30-5.4(e) requires the school district to develop its district improvement plan utilizing the in-district team identified by the chief school administrator. Upon the chief school administrator’s request, pursuant to N.J.A.C. 6A:30-5.4(f), the Department may provide technical assistance to the in-district team. Presently, such assistance and collaboration are provided by the executive county superintendent and other county office of education staff.

9. **Comment:** The commenter requested that the Department amend N.J.A.C. 6A:30 to reduce the number of school districts required to develop a district improvement plan for NJQSAC by not requiring a district improvement plan for I&P Indicators 1 through 7. The commenter stated that the New Jersey School Performance Reports required by ESSA also monitor lagging student achievement and school districts not meeting those metrics are required to also develop a district improvement plan. The commenter also stated that the management of two accountability systems using the same data is inefficient use of both school district and Department resources. The commenter further stated that resources would be better spent on providing professional support and working to support instruction. The commenter suggested that school districts that fail to meet the 80 percent threshold for I&P due to student achievement should not be required to create a district improvement plan. The commenter contended that this would refocus attention to NJQSAC’s goals, which include meeting expectations for responsible management of tax dollars and State requirements. (10)

Response: The Department declines the commenter’s request. N.J.A.C. 6A:30-5.4, as proposed for readoption with amendments, ensures school districts comply with State and Federal laws and regulations and that students receive a high-quality education. The district improvement plan process allows the Department to monitor school districts that are deficient in their compliance with laws or regulations or the provision of the high-quality education to their students. NJQSAC is a State evaluation system, pursuant to N.J.S.A. 18A:7A-3 et seq., while ESSA is a Federally-mandated accountability system used to identify schools in need of comprehensive and targeted supports. While both accountability systems serve different purposes, the proposed amendments to the DPRs align, to the greatest extent possible, the two systems.

10. **Comment:** The commenter requested clarification of what the commenter contended are conflicts at N.J.A.C. 6A:30-5.7(d) and 7.3(a)4 regarding highly skilled professionals. The commenter recommended that the Department consider the following, which are essential

questions related to charter schools: whether the academic program is a success, if the school is financially viable, and if the school is equitable and organizationally sound. (4)
Response: The Department disagrees with the commenter’s assertion that there is a conflict at N.J.A.C. 6A:30-5.7(d) and 7.3(a)4. N.J.A.C. 6A:30-5.7 relates to technical assistance provided to school districts through the district improvement plan process, while N.J.A.C 6A:30-7.3 outlines components of the transition plan for withdrawal of State intervention. N.J.A.C. 6A:30-5.7(d) states that the Commissioner shall not appoint highly skilled professionals to a school district in any capacity that would create an actual or potential conflict of interest within the school district. N.J.A.C. 6A:30-7.3(a)4 requires the transition plan to address the continued use of and any change(s) in the duties, authority, and responsibilities of highly skilled professionals appointed to provide direct oversight in the school district. The transition plan also must establish a decision-making hierarchy if conflicts regarding school district operations arise between persons appointed and school district personnel.

The commenter’s request for the Department to consider the essential questions that guide the evaluation of charter schools is outside of the scope of this rulemaking.

11. **Comment:** The commenter requested that Appendix A be amended to the greatest extent possible within the constraints imposed by the ESSA to minimize the impact of standardized assessment results on school district ratings, including removing the science assessment component at I&P Indicator 3. The commenter stated that “achievement” means Statewide assessment scores and “growth” refers to a measure derived from Statewide assessment scores that compares the year-over-year scores of similar groups of students. The commenter also stated that both measures present a very limited snapshot of student learning. The commenter asserted that assessment scores should not be included as a factor in educator evaluations or the evaluation of school districts. (12)

Response: The Department declines the commenter’s recommendation. I&P Indicators 1 through 7 in Appendix A are aligned to the State ESSA Plan to the greatest extent possible. I&P Indicators 1 through 7 present opportunities for the Department to evaluate whether a school district’s academic programs are providing high-quality instruction and support for all students. The Department disagrees with the commenter’s assertion that “achievement” and “growth” present a very limited snapshot of student learning. While measuring student proficiency or “achievement” in English language arts (ELA), mathematics, as well as science continues to be an important requirement for Federal accountability, the Department maintains that it is important to measure and report student progress or “growth” toward proficiency for all students. Please see Agency-initiated Change 1 for details on the Department’s newly proposed amendments regarding the point values for I&P Indicators 1 through 6.

12. **Comment:** The commenter expressed appreciation for the proposed amendments to the I&P indicators that increase the emphasis on student growth and acknowledge the overemphasis of the New Jersey Student Learning Standards (NJSLS) in Science. The commenter also stated that the proposed amendments provide more balance to NJQSAC and focus on growth. (17)

Response: The Department appreciates the commentators’ support. Please see Agency-initiated Change 1 for details on the Department’s newly proposed amendments regarding the point values for I&P Indicators 1 through 6.

13. **Comment:** The commenter expressed support for the Department’s proposed amendments to the I&P indicators in Appendices A and B. The commenter also expressed support for the Department’s proposal to increase the weight for student growth by changing how points are distributed for the ELA, mathematics, and science assessment indicators. The commenter stated that students who score the lowest on State assessments are neglected

when achievement is prioritized because school districts focus on students who have border-line scores in an effort to reach annual progress. The commenter also stated that the proposed amendments will clarify a school district's responsibility to ensure growth. The commenter further stated that the Department must measure inputs rather than outputs to progress the lowest performing students and to provide equity. (4)

Response: The Department appreciates the support. Please see Agency-initiated Change 1 for details on the Department's newly proposed amendments regarding the point values for I&P Indicators 1 through 6.

14. **Comment:** The commenter thanked the Department for its proposal to shift NJQSAC points from achievement indicators to growth indicators. The commenter expressed appreciation for the Department's efforts to work with stakeholders, address their concerns, and focus on a growth-oriented accountability system that more accurately reflects the accomplishments and progress of schools. The commenter further expressed support for the proposed amendments because they skillfully rebalance the scoring of NJQSAC indicators without lowering achievement standards. (11)

Response: The Department thanks the commenter for the support.

15. **Comment:** The commenter expressed support for the proposed amendments at N.J.A.C. 6A:30, particularly the proposed amendments to the I&P indicators in Appendix A that will make NJQSAC a more equitable and valid measure of school district accountability. The commenter stated that a review of NJQSAC data from Cohort 1 school districts, as found in the previous 18 months of State Board of Education agendas, revealed critical points that should be considered by the Department in restructuring the I&P indicator calculations. The commenter stated the data review revealed that I&P averages are directly correlated to the economics of a school district's community evidenced by the commenter's analysis that school districts known as the former Abbott districts had an average I&P score of 72 while the wealthiest school districts had an average score of 87. The commenter contended that school district configurations impact NJQSAC scores because the data reviewed indicated that school districts with nine through 12 (9-12) grade configurations appear more likely to receive a passing score compared to school districts with K-8 grade configurations. The commenter further contended that the commenter's analysis regarding the NJQSAC scores of 274 school districts over a two-cohort period supports the argument that the existing I&P indicators are inherently flawed and inequitable and, therefore, may be an invalid model for accountability. The commenter asked whether the quality of education in school districts with kindergarten through 12 (K-12) grade configurations versus school districts with K-8 grade configurations is appropriate. (10)

Response: The Department appreciates the commenter's support and the data review in support of the commenter's position. The quality of education is equally important in all school districts regardless of grade configuration. The Department agrees that achievement is correlated with socio-economic status. The Department further contends that all students are held to the same proficiency standard in the state of New Jersey. Please see Agency-initiated Change 1 for details on the Department's newly proposed amendments regarding the point values for I&P Indicators 1 through 6.

16. **Comment:** The commenter agreed with the Department that focusing on growth is essential and a single indicator such as achievement is less valuable than growth over time. (10)

Response: The Department appreciates the commenter's support.

17. **Comment:** The commenter stated that New Jersey has remained among the top performing states in the nation for student achievement but recent discussions on early literacy show a pattern of New Jersey's growth at the same levels as other states. The commenter contended

that growth is the key and provided an example of the reliance of growth over time in investing. The commenter contended that education is an investment in students and a single indicator of achievement has much less value than growth over time. The commenter further stated that research shows students from lower socio-economic levels enter schools with a lower vocabulary, giving those schools a larger expectation for growth. The commenter contended that schools with high growth and lower achievement are labeled as failures, which sends message to educators that their work is undervalued. **(10)**

Response: The Department agrees with the commenter that growth is critical. Please see Agency-initiated Change 1 for details on the Department’s newly proposed amendments regarding the point values for I&P Indicators 1 through 6, which show the Department is putting a greater emphasis on the growth indicators.

- 18. Comment:** The commenter stated that Statewide assessments and their results, which are used to measure the quality of school districts’ academic programs, have been shown to be heavily influenced by socio-economic factors beyond the control of school districts. The commenter also stated that the commenter was able to predict school district performance on Statewide assessments within approximately 10 points based on parent income for more than 70 percent of school districts in New Jersey. The commenter contended that Statewide assessments are not the best tools for measuring a school’s performance. The commenter also suggested that NJQSAC results should be controlled for out-of-district socio-economic factors and not student growth as some advocates contend. **(16)**

Response: The Department disagrees with the commenter’s suggestion that NJQSAC should be controlled for socio-economic factors, not growth. The Department agrees that achievement is correlated with socio-economic status. The Department further contends that all students are held to the same proficiency standard in the state of New Jersey.

- 19. Comment:** The commenter requested that the Department amend N.J.A.C. 6A:30 and Appendix A to further refine, streamline, and enhance NJQSAC by incorporating flexibility regarding the calculation of student groups. The commenter stated that NJQSAC currently lacks flexibility regarding the calculation of student groups, blanket graduation rate reporting, and the current staffing shortage. The commenter also stated that the I&P indicators are primarily driven by the New Jersey Student Learning Assessment (NJSLA) scores and graduation rates, and that scores for these indicators often place school districts into the “in need of improvement” category. The commenter asserted that existing NJQSAC rules enable a single student’s NJSLA score to be included in several student groups. The commenter further asserted that student groups are disproportionately weighted in the calculations for I&P indicators, thereby resulting in less diverse school districts having an advantage over other school districts. **(11)**

Response: The Department disagrees. The performance of student groups are weighted in the calculations at I&P Indicators 1 through 7 in Appendix A to align to the State ESSA Plan. ESSA requires states to factor in student group performance. To ensure that NJQSAC does not mask school district achievement gaps amongst student group, the Department deems appropriate to weight student group performance and overall student performance equally when determining a school district’s performance for I&P Indicators 1 through 7 in Appendix A. Please see Agency-initiated Change 1 for details on the Department’s newly proposed amendments regarding the point values for I&P Indicators 1 through 6.

- 20. Comment:** The commenter requested that the Department incorporate into NJQSAC and the I&P indicators a more equitable approach regarding student scores on standardized assessments, like the NJSLA. The commenter stated that one student’s score can be included in several student groups (e.g. economically disadvantaged, students with disabilities, multilingual learners (MLs), and racial and ethnic student groups) and asserted that this misreports results, especially in many high-diversity and low-income school districts that are

helping all students learn at high levels. The commenter also asserted that less diverse school districts have an advantage over highly diverse school districts, which the commenter contended perpetuates a narrative of diverse school districts' inadequacy. **(11)**

Response: The Department disagrees with the commenter's assertion that individual student group scores are detrimental to a school district's performance because they may be counted multiple times in student group categories. The inclusion of student group weighting at I&P Indicators 1 through 7 in Appendix A supports the Department's effort to align, to the greatest extent possible, NJQSAC with student performance indicators in the State ESSA Plan. To ensure achievement gaps amongst student groups in school districts are not masked, the Department weights student groups performance and overall student performance equally when determining the points a school district earns for I&P Indicators 1 through 7. Please see Agency-initiated Change 1 for details on the Department's newly proposed amendments regarding the point values for I&P Indicators 1 through 6.

- 21. Comment:** The commenter objected to the I&P indicators in Appendix A and requested that the Department reform NJQSAC by creating a system that truly reflects student growth and performance, regardless of economic or demographic factors. The commenter stated that NJQSAC fails to adequately recognize the achievements of school districts. The commenter also stated that the commenter's school district experienced significant improvements in growth for ELA and mathematics during the 2022-2023 school year, which resulted in surpassing the State average by eight percentage points in both subjects, but the school district cannot pass NJQSAC. The commenter stated that the NJQSAC system is flawed, and that the Department must revamp the process to ensure it is equitable and reflective of student success in a diverse state. **(6)**
- Response:** The Department disagrees. The proposed amendments at I&P Indicators in Appendix A are intended to do the following: add indicators for new statutory and regulatory requirements implemented since N.J.A.C. 6A:30 was last adopted; rebalance points to provide greater weight for indicators of more complexity and significance and to equitably apply the points regardless of a school district's grade configuration (e.g. K-8, K-12, 9-12); align NJQSAC performance indicators more closely with those in the State ESSA Plan; and shift points from achievement indicators to growth indicators to foster and promote continuous improvements for educators and district boards of education. Please see Agency-initiated Change 1 for details on the Department's newly proposed amendments regarding the point values for I&P Indicators 1 through 6.
- 22. Comment:** The commenter suggested the Department amend the I&P indicator point values to reflect individual student growth as opposed to norm-referenced scores. **(18)**
- Response:** The NJSLA is a standards-based assessment and is not a norm-referenced assessment. The Department's proposed amendments to the point values of I&P Indicators 1 through 5 will better align with the Department's State ESSA plan by placing greater emphasis on academic progress to foster a more equitable distribution of points for each school district type. Please see Agency-initiated Change 1 for details about further amendments to the indicators.
- 23. Comment:** The commenters requested an amendment to the I&P Indicators 1 through 7 in Appendix A to fix flawed student group weighting. The commenters asserted that inequitable student group weighting disproportionately affects low income, high-diversity school districts with many MLs. The commenters provided the example of a single student who is included in multiple student groups, which results in the student's assessment score being counted multiple times, which the commenters asserted disproportionately impacts diverse school districts when determining student achievement. The commenters stated that NJQSAC's scoring system creates an unfair depiction of the performance of many school districts that are unable to meet 80 percent of the I&P indicators. The commenters

also stated the NJQSAC process lacks the flexibility needed to effectively monitor accountability and, as a result, high-poverty school districts that are diverse do not see their improvements accurately represented in NJQSAC results even though their students exceed Statewide averages in key performance areas. **(6 and 8)**

Response: The Department declines to adopt the commenters' requested changes. The proposed amendments at I&P Indicators 1 through 7 in Appendix A are intended to do the following: rebalance points to provide greater weight for indicators of more complexity and significance and to equitably apply the points regardless of a school district's grade configuration (e.g. K-8, K-12, 9-12); align NJQSAC performance indicators more closely with those in the State ESSA Plan; and shift points from achievement indicators to growth indicators to foster and promote continuous improvements for educators and district boards of education.

The Department disagrees with the commenter's assertion that student group weighting at I&P Indicators 1 through 7 disproportionately affects low income, high-diversity school districts with MLs. The inclusion of student group weighting at I&P Indicators 1 through 7 supports the Department's effort to align, to the greatest extent possible, NJQSAC with student performance indicators in the State ESSA Plan. To ensure achievement gaps amongst student groups in school districts are not masked, the Department weights student group performance and overall student performance equally when determining the points a school district earns for I&P Indicators 1 through 7. Please see Agency-initiated Change 1 for details on the Department's newly proposed amendments regarding the point values for I&P Indicators 1 through 6.

- 24. Comment:** The commenter requested that the Department amend the I&P indicators in Appendix A to include language that suspends the calculation of student performance when changes in State assessments are made or when catastrophic events like the COVID-19 pandemic result in invalid data sets or data not being available. **(10)**

Response: The Department declines to propose the commenter's requested changes. The use of the most recent Statewide assessment and student performance data at I&P Indicators 1 through 5 in Appendix A is appropriate and accounts for events that may lead to the suspension of Statewide assessments. Additionally, the Department does not use, for NJQSAC, data from Statewide assessments that change until there has been sufficient field testing for reliability and validity.

- 25. Comment:** The commenter requested that the Department amend I & P Indicators 1, 2, and 3, in Appendix A so students in multiple groups are counted only once toward a school district's final indicator points. The commenter agreed that student group data information should be analyzed and that school districts must be accountable for all their student groups. However, the commenter asserted that statistically counting student groups multiple times does provide an accurate or transparent result in school districts' I&P indicator scores. The commenter provided an example of a school district with 80 percent of its students meeting proficiency on the NJSLA, which is well above the State average, but not earning enough indicator points to pass NJQSAC due to the school district's student group average of 45 percent. The commenter requested that the Department identify a point rubric that would allow school districts to have a statistical probability of earning the maximum allowable points if they perform above the State average. The commenter suggested that the calculations for I&P Indicators 1, 2, and 3 should be adjusted so 50 percent of the school district's proficiency rate is derived from the proficiency rate for all students in the school district and then the other 50 percent is the average of the performance for all student groups in the school district. The commenter further suggested that the two resulting numbers should then be averaged to find the indicator proficiency rate and then multiplied by the total point value available based on the school district's grade configuration. The commenter provided the following

example of how the suggested formula would work if a school district's proficiency rate for all students is 80 percent (8.0) and its student group proficiency rate is 45 percent (4.5): $8 + 4.5 = 12.5$, then $12.5/2 = 6.25$ out of the possible 10 points. (14)

Response: The Department also disagrees with the commenter's assertion that student group weighting at I&P Indicators 1 through 7 in Appendix A lowers school districts' scores. The Department appreciates the commenters' suggestion for how to calculate I&P Indicators 1 through 7. However, the inclusion of student group weighting at I&P Indicators 1 through 7 support the Department's effort to align, to the greatest extent possible, NJQSAC with student performance indicators in the State ESSA Plan. To ensure school district achievement gaps amongst student groups are not masked, the Department weights student group performance and overall student performance equally when determining the points a school district earns for I&P Indicators 1 through 7. Please also see Agency-initiated Change 1 for details on the Department's newly proposed amendments regarding the point values for I&P Indicators 1 through 6.

26. **Comment:** The commenter requested that the Department suspend the use of I&P Indicator 3 in Appendix A related to student achievement on the NJSLA-Science and afford school districts the opportunity to submit an equivalency or waiver until a science assessment with statistical validity is secured. The commenter contended that the current NJSLA-Science has less than a 25 percent State average passing rate. (14)

Response: The Department declines the commenter's request to suspend I&P Indicator 3. NJQSAC is designed to provide a comprehensive picture of a school district's performance, and it is appropriate to include a science achievement indicator for all school districts regardless of grade configuration. N.J.A.C. 6A:5 authorizes school districts to submit an equivalency or waiver application for regulatory flexibility regarding a specific rule at N.J.A.C. 6A, including N.J.A.C. 6A:30. Please also see Agency-initiated Change 1 for details on the Department's newly proposed amendments regarding the point values for I&P Indicator 3.

27. **Comment:** The commenter stated that Statewide performance on the NJSLA-Science disproportionately effects school districts comprised of any grade configuration within K-8 due to the weight of I&P Indicator 3 for science, which is equal to the weight of I & P Indicators 1 and 2 for ELA and mathematics achievement, respectively. The commenter stated that the NJSLA-Science is administered in only two grade levels in K-8 and, therefore, represents 33 percent of tested students in a K-8 school district, while the NJSLA in ELA and mathematics are administered in grades three through eight. The commenter requested that the Department rebalance the point values for I&P Indicators 1 through 3 to reduce the point value for the science achievement score at Indicator 3 so it is one-third of the point value assigned to the ELA and mathematics achievement indicators. The commenter also requested that school districts have the opportunity to submit a waiver to use internal assessments or averages of other subjects for I&P Indicator 3 in Appendix A. (8)

Response: The Department's proposed amendments to the point values for I&P Indicators 1, 2, and 3 at first and second discussions mirrored the commenter's changes requested. The Department now is proposing additional changes to the point values. Please see Agency-initiated Change 1 for details. N.J.A.C. 6A:5 authorizes school districts to submit an equivalency or waiver application for regulatory flexibility regarding a specific rule at N.J.A.C. 6A, including N.J.A.C. 6A:30.

28. **Comment:** The commenter contended that I&P Indicator 3, which monitors the school district's science achievement score, is inequitable for K-8 school districts. The commenter stated that the minimum n-size for science proficiency is 20 students, which means that a K-8 school district with an n-size of less than 20 receives all possible points for Indicator 3.

The commenter also stated that Indicator 3 allots zero points for 9-12 school districts even though they administer the NJSLA-Science in grade 11. The commenter stated that the commenter's school district received 3.1 out of a possible five points because they have more than 20 students who took the assessment and 40.9 percent of the 359 students who took the grade five NJSLA-Science scored at a level three or four. The commenter provided examples of two other K-8 school districts within the same county that receive all possible points for Indicator 3 because they have fewer than 20 students taking the assessment even though they had lower percentages of students who scored at levels three or four on the assessment. The commenter stated that the examples begin to demonstrate how K-8 school districts, especially larger ones, are at a disadvantage in terms of NJQSAC.

The commenter further stated that because the achievement score for I&P indicator 11 is comprised of the overall performance of all students in the school district, as well as the proficiency rate of all student groups, students such as MLs are doubly counted.

(17)Response: I&P Indicator 3, as proposed for re-adoption with amendments, provides more consistency in point value across grade bands by reducing points value for K-8 districts to five from the existing 10 and increasing to five the point value for 9-12 school districts, which currently receive no points for Indicator 3. The Department disagrees with the commenter's assertion that student group weighting at I&P Indicators 1 through 7 skew school district scores. The inclusion of student group weighting at I&P Indicators 1 through 7 supports the Department's effort to align, to the greatest extent possible, NJQSAC with student performance indicators in the State ESSA Plan. To ensure school district achievement gaps amongst student groups are not masked, the Department weights student group performance and overall student performance equally when determining the points a school district earns at I&P Indicators 1 through 7 in Appendix A. Since 2017, the Department has opted for uniformity and clarity to maintain an n-size of 20 for school and district accountability systems. The Department, in collaboration with stakeholders, determined that an n-size of 20 creates the optimal balance between reliability and representativeness. The same n-size is utilized within New Jersey's educator evaluation system, as well as State and Federal accountability systems. Please see Agency-initiated Change 1 for details on the Department's newly proposed amendment regarding the point value for K-12 school districts in I&P Indicator 3.

29. **Comment:** The commenter stated that one of the most significant weaknesses of I&P is the reliance on assessments that do not produce usable data on student learning and achievement. The commenter contended the NJSLA-Science is not offered consistently throughout the student's academic career and provides no growth data. The commenter also contended that the NJSLA-Science has changed frequently over the past several years and student performance is dismal. As another example of what the commenter contended are the problems with relying upon assessments, the commenter stated that Cohort 1 school districts were offered to use three-year-old data in NJQSAC or submit a waiver. The commenter contended that the commenter's school district submitted its waiver, but the Department's calculation was inaccurate, and the school district did not appeal because it would have been a waste of resources. **(10)**

Response: The Department agrees that student growth cannot be assessed using NJSLA-Science data. Therefore, the I&P indicators in Appendix A do not include a measure for science academic progress. I&P Indicators 3 and 4 measure ELA and mathematics academic progress, respectively. The Department contends that as school districts continue to align their curricula to the NJSLs and provide continued professional development to build teacher's capacity to instruct students, results from the NJSLA-Science will improve.

30. **Comment:** The commenter expressed support for the Department's proposed amendments at the I&P Indicators 3, 4, and 5 in Appendix A to decrease the points related to the

science achievement score and increase the points for ELA and mathematics academic progress. The commenter stated that the proposed amendments are a step in the right direction. (17)

Response: The Department appreciates the support. Please see Agency-initiated Change 1 for details on the Department's newly proposed amendments regarding the point values for I&P Indicators 3, 4, and 5.

31. **Comment:** The commenter requested the Department rebalance the point distribution for I&P indicators in Appendix A by increasing points for Indicators 8 through 16 and reducing points for Indicators 1 through 5. The commenter stated that, in I&P, only 40 of the total points are for curricular instruction and program, while 60 points are for performance-based assessments. The commenter also stated that this imbalance makes NJQSAC focus solely on student performance on State assessments, some of which the commenter contended are flawed and need to be reevaluated. (8)

Response: The Department declines to propose the commenter's requested changes. The proposed amendments at I&P Indicators 1 through 7 in Appendix A are intended to do the following: rebalance points to provide greater weight for indicators of more complexity and significance and to equitably apply the points regardless of a school district's grade configuration (e.g. K-8, K-12, 9-12); align NJQSAC performance indicators more closely with those in the State ESSA Plan; and shift points from achievement indicators to growth indicators to foster and promote continuous improvements for educators and school district boards of education. Please see Agency-initiated Change 1 for details on the Department's newly proposed amendments regarding the point values for I&P Indicators 1 through 6.

32. **Comment:** The commenter contended that the existing NJQSAC I&P indicators penalize the commenter's school district and students based on factors beyond the school district's control. The commenter stated that the commenter's school district has experienced a 127 percent increase in MLs in recent years, as well as a shift in when MLs are enrolling in the school district. The commenter also stated that the school district has experienced a significant increase in MLs enrolling in grades five through eight, which provides the school district fewer years to provide a thorough and efficient education before students are required to take a State assessment. The commenter further stated that the student group weighting in NJQSAC discriminates against low-income, high-diversity school districts with high numbers of MLs. (17)

Response: The Department disagrees. The use of I&P indicators that assess a school district's performance and capacity in the areas of curriculum, instruction, and student performance are appropriate. The Department disagrees with the commenter's assertion that student group weighting at proposed I&P Indicators 1 through 7 skews school district scores. The inclusion of student group weighting at I&P Indicators 1 through 7 supports the Department's effort to align, to the greatest extent possible, NJQSAC with student performance indicators in the State ESSA Plan. To ensure school district achievement gaps amongst student groups are not masked, the Department weights student group performance and overall student performance equally when determining the points a school district earns at I&P Indicators 1 through 7 in Appendix A.

33. **Comment:** The commenter requested that the Department amend the I&P indicators in Appendix A to aggregate three-year averages of student achievement or three-year growth trajectories because it would be a better use of the student achievement data and would foster discussions about student learning. The commenter stated using a single year of data is problematic for small school districts because one student can determine whether a student group is large enough to be counted and one teacher on leave can impact the achievement of 25 to 100 student scores, which the commenter contended leads to

dramatic year-over-year shifts. (10)

Response: The Department declines the commenter’s request to use aggregate three-year averages of student achievement or three-year growth trajectories. Using the most recent or prior-year student performance data available is an appropriate way to evaluate whether a school districts’ academic programs are providing high quality instruction and support for all students. The I&P indicators in Appendix A, as proposed for readoption with amendments, support the facilitation of data-driven discussions about student learning and performance that foster school district improvement, regardless of a school district’s enrollment.

34. **Comment:** The commenters requested that the Department incorporate flexibility into NJQSAC regarding the use of blanket graduation rates. The commenters stated that a one-size-fits-all approach can disproportionately impact school districts with a 9-12 grade configuration. The commenters cited an example of a student who leaves high school after three years to attend college is categorized as a “dropout,” which the commenters contended penalizes the school districts. The commenters requested a more nuanced approach. (8 and 11)

Response: The Department disagrees. Data used to calculate a school district’s performance at I&P Indicator 6 in Appendix A are based on information a school district enters in the New Jersey Standards and Measurement and Resource for Teaching (NJSMART) student collection system. The commenters’ assertion that a student who graduates high school in three years to attend college is categorized as a “dropout” would be based on information the school district entered in NJSMART. When a student exits a school district, the school district must provide the exit reason in the graduation snapshot in NJSMART. More information and links to graduation resources can be found on the [Department’s NJSMART High School Graduation Guidance](#).

Please see Agency-initiated Change 1 regarding the Department’s proposal to amend I&P Indicator 6 to rebalance the distribution of points for equity among grade configurations.

35. **Comment:** The commenter requested that the Department change the formula to calculate graduation rates. The commenter stated the commenter’s school district was in the first cohort to complete the NJQSAC evaluation after the COVID-19 pandemic. The commenter also stated the school district scored 79.4 percent in I&P, which was 0.1 percentage points short of reaching the high-achieving benchmark. The commenter also stated the school district scored 79.4 percent in I&P, which was 0.1 percentage points short of reaching the high-achieving benchmark. The commenter contended that the score was due to dropout rates of students with disabilities. The commenter further stated that 24 students with individual educational programs (IEPs) graduated, but six were marked as not graduating within their four-year cohort even though three of the six students received diplomas but were entitled to receive additional services until they turned 21 years old. The commenter also stated that the school district was not allowed to mark as graduated the students to receive services and, instead, the school district had to count the students as dropping out. The commenter contended the school district would have met the 80 percent threshold for the I&P indicators if the students were marked as graduates. (16)

Response: The Department disagrees. Data used to calculate a school district’s performance at I&P Indicator 6 in Appendix A are based on information a school district enters in the NJSMART student collection system. The commenters’ assertion that contention that the score was due to the dropout rates of students with disabilities would be based on information the school district entered in NJSMART. When a student exits a school district, the school district must provide the exit reason in the NJSMART graduation snapshot student collection system. More information and links to graduation resources can be found on the [Department’s NJSMART High School Graduation Guidance](#).

36. Comment: The commenter requested that the Department impose increased penalties for school districts that willfully refuse to implement statutory curriculum requirements. The commenter asserted that N.J.A.C. 6A:30, as proposed for readoption with amendments, enables school districts to choose which statutory curriculum requirements they will follow because the penalty for not earning the indicator points is minimal. The commenter stated that a handful of school districts were vocal that they did not intend to implement the 2020 NJSLS-CHPE, which keep children safe by teaching them medically accurate information about their bodies. The commenter also stated that the school districts indicated that the only penalty for not implementing the NJSLS in Comprehensive Health and Physical Education (CHPE) was a minor deduction of NJQSAC points. The commenter further contended that the confidence of some school district administrators and district board of education members that the accountability process would protect them illustrates the need for stricter consequences. **(12)**

Response: The point values assigned at I&P Indicators 9 through 18 in Appendices A and B related to the implementation of statutorily mandated curricula are fair and appropriate. Pursuant to the School Ethics Act at N.J.S.A. 18A:12-24.1a, school district officials are required to abide by the Code of Ethics for School Board Members and uphold and enforce all laws, rules and regulations of the State Board of Education, and court orders pertaining to schools. The School Ethics Commission hears all complaints related to the Act and the Code of Ethics for School Board Members.

37. Comment: The commenters requested that the Department strengthen and enforce the implementation of school library media services by increasing the point value at Governance Indicator 14. The commenters stated that the current point value of three enables school districts to ignore compliance with the requirement and still pass the Governance portion of NJQSAC. The commenters stated that the use of “district” library media specialist on page 77 of the Department’s NJQSAC manual leads school districts to assume that they need only one school library media specialist (SLMS) for the school district, which, the commenters contended, is leading to a reduction of SLMS in the State. The commenters stated that preliminary data from the national School Librarian Investigation—Decline or Evolution? (SLIDE) study indicates that students living in poverty, students who are minorities, and MLs are the students most impacted by the declining numbers of school librarians. The commenters also provided numerous examples of student-to-SLMS ratios in school districts throughout the State, Statewide averages from the New Jersey School Performance Reports, and school districts that have achieved 100 percent on the Governance portion of NJQSAC even though other State data indicates they do not employ a certified SLMSs. **(1 and 3)**

Response: The Department declines to increase the point value at Governance Indicator 14 because NJQSAC is not designed so the point value of one indicator can cause a school district to fall below 80 percent in any the five key components of school district effectiveness. Governance Indicator 14 ensures that a school district is fulfilling the provisions at N.J.A.C. 6A:13-2.1(h), which requires all school districts to provide library-media services that are connected to classroom studies in each school building, including access to computers, district-approved instructional software, appropriate books including novels, anthologies and other reference materials, and supplemental materials that motivate students to read in and out of school and to conduct research. Please see Agency-initiated 3 regarding the Department’s proposal to amend Governance Indicator 14 in both Appendices A and B in an effort to remind school districts of the requirement to employ a certified SLMS.

38. Comment: The commenter stated that ambiguous language regarding SLMSs in some documents and the NJQSAC requirements may be leading to discrepancies in school district employment. The commenter specifically referenced the use of “district” library

media services in the NJQSAC manual as the cause of school districts choosing to interpret that only one SLMS needs to be employed to manage multiple school libraries. The commenter stated that this practice is shortsighted and inequitable to students. The commenter also provided examples of how one SLMS per school district or a part-time SLMS is insufficient. (5)

Response: Governance Indicator 14 ensures that a school district is meeting the provisions at N.J.A.C. 6A:13-2.1(h), which requires all school districts to provide library-media services that are connected to classroom studies in each school building, including access to computers, district-approved instructional software, appropriate books including novels, anthologies and other reference materials, and supplemental materials that motivate students to read in and out of school and to conduct research. N.J.A.C. 6A:13-2.1(h) also requires each school district to provide library media services under the direction of a certified SLMS. Please see Agency-initiated Change 3 regarding the Department's proposal to amend Governance Indicator 14 in both Appendices A and B in an effort to remind school districts of the requirement to employ a certified SLMS.

39. **Comment:** The commenters requested that the Department verify that each school district's SLMS is not simultaneously employed by, or working for, another school district and ensure that the individual who holds the SLMS endorsement is employed as a SLMS and not in another position unrelated to school libraries. (1 and 2)

Response: The Department appreciates the commenter's suggestion related to a SLMS being employed by more than one school district. However, school districts are permitted to enter into a shared service agreement for a SLMS. Personnel Indicator 4c, ensures job descriptions are maintained for every certificated staff member, including the SLMS, and that staff hold the appropriate certificate and endorsement for their assignment pursuant to N.J.A.C. 6A:9B. Please see Agency-initiated Change 3 regarding the Department's proposal to amend Governance Indicator 14 in both Appendices A and B in an effort to remind school districts of the requirement to employ a certified SLMS.

40. **Comment:** The commenter requested clarification on the method utilized by school districts to provide evidence that library media services are being provided by an SLMS as required at N.J.A.C. 6A:13-2.1(h). The commenter cited examples of schools that did not maintain a library facility or employ an SLMS over multiple years, or hired a full- or part-time SLMS only during the school year that the school district was undergoing NJQSAC monitoring. (2)

Response: The Department monitors the requirement at N.J.A.C. 6A:13-2.1(h) through Governance Indicator 14 and Personnel Indicator 4c, the latter of which ensures job descriptions are maintained for every certificated staff member, including the SLMS, and that staff hold the appropriate certificate and endorsement for their assignment pursuant to N.J.A.C. 6A:9B. The county offices of education conduct review of the indicators to verify the evidence that library media services are being provided by an SLMS. While the Department appreciates the example the commenter provided of a school that did not maintain a library facility or employ an SLMS, N.J.A.C. 6A:13-2.1(h) does not require each school building to have a library facility and each school in a school district to have an SLMS. Rather, the rule requires all school districts to provide library-media services that are connected to classroom studies in each school building, including access to computers, district-approved instructional software, appropriate books including novels, anthologies and other reference materials, and supplemental materials that motivate students to read in and out of school and to conduct research. Please see Agency-initiated Change 3 regarding the Department's proposal to amend Governance Indicator 14 in both Appendices A and B in an effort to remind school districts of the requirement to employ a certified SLMS.

41. **Comment:** The commenter stated that many schools are not providing a thorough and efficient education in school library media services due to the lack of guidance on how

school districts provide library media services that are connected to classroom studies in each school building, as required at N.J.A.C. 6A:13-2.1(h). The commenter requested clarification on the method utilized by school districts to provide evidence that library media services are being provided by an SLMS as required at N.J.A.C. 6A:13-2.1(h). The commenter provided a list of ways in which school districts can provide such evidence; the list addressed library media services connected to classroom studies, the availability of school library resources, reading, research, and certified staff. The commenter stated that the suggested items are derived from the proposed DPRs, regulations related to SLMSs, and the functions of SLMSs as set forth at N.J.A.C. 6A:9B-14.14. The commenter stated that the inclusion of library media services in NJQSAC will help demonstrate to school districts that the primary focus of school libraries is building capacity for critical engagement with information, with emphasis on the critical evaluation of sources and the investigation of diverse sources on information, all of which leads to the inquiry skills of asking, thinking, and creating. (7)

Response: The Department monitors the requirement at N.J.A.C. 6A:13-2.1(h) through Governance Indicator 14 and Personnel Indicator 4c. Governance Indicator 14 monitors that all school districts to provide library-media services that are connected to classroom studies in each school building, including access to computers, district-approved instructional software, appropriate books including novels, anthologies and other reference materials, and supplemental materials that motivate students to read in and out of school and to conduct research. Personnel Indicator 4c ensures job descriptions are maintained for every certificated staff member, including the SLMS, and that staff hold the appropriate certificate and endorsement for their assignment pursuant to N.J.A.C. 6A:9B. The county offices of education conduct review of the indicators to verify the evidence that library media services are being provided by an SLMS. Please see Agency-initiated Change 3 regarding the Department’s proposal to amend Governance Indicator 14 in both Appendices A and B in an effort to remind school districts of the requirement to employ a certified SLMS. The Department appreciates the suggested list of items that school districts can provide as evidence and will consider the items when updating the [NJQSAC User Manual](#).

42. **Comment:** The commenter requested the location of the checklist or template used to evaluate school districts. (4)

Response: The DPRs, which are used to evaluate school districts through NJQSAC, are incorporated at N.J.A.C. 6A:30 as Appendices A and B, and can be found on the Department’s current rules [webpage](#).

43. **Comment:** The commenter asked the Department to create a task force to consider school district feedback on the NJQSAC changes. (18)

Response: The Department declines to accept the commenter’s recommendation. The proposed amendments at N.J.A.C. 6A:30 and the DPRs were based on extensive feedback from stakeholders, including school district personnel, to create a monitoring tool that focuses on teaching and learning and preparing students to be college and career ready.

44. **Comment:** The commenter requested that the Department incorporate into NJQSAC flexibility that takes into account the current nationwide educational staffing crisis. The commenter stated that NJQSAC unfairly penalizes school districts for not staffing certain positions like an SLMS when the vacancies are caused by staffing shortages, which are outside of the control of school districts.

With N.J.A.C. 6A:30 scheduled to expire on November 1, 2024, the commenter suggested that the Department implement a temporary waiver process to allow school districts to earn more points without the inequitable student group averaging and to adjust the existing subject weights to a balanced model that provides a better indication of student achievement. (11)

Response: The Department declines to adopt the commenter’s proposed recommendation

to incorporate in NJQSAC flexibility regarding staffing. N.J.A.C. 6A:5, Regulatory Equivalency and Waiver, already provides the mechanism and criteria for school districts and other entities to seek Commissioner approval of an equivalency to, or a waiver of, the requirements of a specific rule at N.J.A.C. 6A, including N.J.A.C. 6A:30.

45. **Comment:** The commenter stated that school districts are no longer compliant with N.J.A.C. 6A:15, Bilingual Education, due to the removal of the evaluation of the quality and effectiveness of English as a second language (ESL) and bilingual education programs as part of the NJQSAC review process. The commenter requested that the Department amend the DPRs to require school districts to report compliance with ESL and bilingual education programs required pursuant to N.J.A.C. 6A:15. **(13)**

Response: The Department declines to make the commenter's suggested change. NJQSAC does not monitor the quality and effectiveness of language instruction educational programs (LIEPs), which can include ESL, English language services, and bilingual education programs, because not all school districts are required to implement LIEPs. Through the submission of the three-year LIEP plan, the Department's Office of Supplemental Educational Programs, and in conjunction with the county offices of education, oversees the implementation of N.J.A.C. 6A:15. The Department reviews the plans to ensure that the district boards of education have a system of support for all MLs.

46. **Comment:** The commenter requested that the ACCESS for ELLs, which is the Federally recognized assessment for MLs, be included in the measures evaluated in NJQSAC. The commenter stated that ACCESS for ELLs is the appropriate measures for MLs because it measures English language proficiency, whereas the assessments used to measure student achievement are not normed for non-English speakers. The commenter also stated that MLs are at a disadvantage and their scores are detrimental to a school district's performance because they may be counted multiple times in student groups, which skews school district scores. **(13)**

Response: The Department declines the commenter's request. NJQSAC is designed to evaluate school districts with the same metrics; therefore, each indicator must be applicable to all school districts. The ACCESS for ELLs assessment is not administered in every school district and, accordingly, cannot be monitored through NJQSAC.

The Department disagrees with the commenter's assertion that MLs' scores are detrimental to a school district's performance because they may be counted multiple times in student group categories. The inclusion of student group weighting at I&P Indicators 1 through 7 in Appendix A supports the Department's effort to align, to the greatest extent possible, NJQSAC with student performance indicators in the State ESSA Plan. To ensure achievement gaps amongst student groups in school districts are not masked, the Department weights student group performance and overall student performance equally when determining the points a school district earns for I&P Indicators 1 through 7. Please see Agency-initiated Change 1 for details on the Department's newly proposed amendments regarding the point values for I&P Indicators 1 through 6.

47. **Comment:** The commenter requested that the Department amend the DPRs to align NJQSAC with the ESSA accountability indicator of Progress in English Language Proficiency. **(13)**

Response: The Department declines the commenter's request. NJQSAC is designed to evaluate school districts with the same metrics; therefore, each indicator must be applicable to all school districts. The ACCESS for ELLs assessment is not administered in every school district and, accordingly, is not monitored through NJQSAC.

48. **Comment:** The commenter shared a personal anecdote of an educator working for one year as a shared SLMS for the commenter's primary school district, as well as for a small

school district during the year it underwent NJQSAC evaluation. The commenter asserted that the small school district did not have a certified SLMS for many years, instead employing a retired administrator who held a SLMS endorsement but did not have any experience as a SLMS and did not perform SLMS services. The commenter also asserted that the shared service agreement was terminated by the small school district after its NJQSAC review was completed, which lead the SLMS to believe that the purpose of the shared services agreement was to avoid the mandate and expense of regular compliance. The commenter stated the SLMS's experience reenforces the idea that school districts avoid complying with N.J.A.C. 6A:13-2.1(h) by taking advantage of the language in Governance Indicator 14. **(15)**

Response: Governance Indicator 14 ensures that a school district is meeting the provisions at N.J.A.C. 6A:13-2.1(h), which requires all school districts to provide library-media services that are connected to classroom studies in each school building, including access to computers, district-approved instructional software, appropriate books including novels, anthologies and other reference materials, and supplemental materials that motivate students to read in and out of school and to conduct research. N.J.A.C. 6A:13-2.1(h) also requires each school district to provide library media services under the direction of a certified SLMS. Please see Agency-initiated Change 3 regarding the Department's proposal to amend Governance Indicator 14 in both Appendices A and B in an effort to remind school districts of the requirement to employ a certified SLMS.

49. **Comment:** The commenters requested that the Department provide more transparency on the outcomes of school district's NJQSAC reviews. The commenters expressed concern on how school districts provide evidence that school library media services are being provided in accordance with N.J.A.C. 6A:13-2.1(h). The commenters stated that it is difficult to determine how school districts report school library media services for NJQSAC and how they are reported to the public. The commenters suggested Statewide compliance report or Department website to share NJQSAC results to provide clearer and more consistent information on school district outcomes for NJQSAC. **(5 and 7)**

Response: The Department declines the commenters' suggestions regarding the publication of compliance reports or a dashboard of NJQSAC results on the Department's website. Existing N.J.A.C. 6A:30-3.2(f) requires a district board education to hold a public meeting to present and have public discussion on the NJQSAC DPR responses prior to submitting to the Department. The rule also requires the district board of education to post the proposed responses to the DPR and declaration page on the school district's website at least five working days prior to the meeting date and make the documents available for review at the district board of education office or other suitable location. The rule further requires the district board of education to provide the public with the opportunity to comment and be heard at the public meeting with respect to the proposed responses to the DPR. Additionally, N.J.A.C. 6A:30-4.1(a)4 requires the school district to report the Commissioner's final determination letter on the school district's performance and placement on the performance continuum at the next public district board of education meeting.

As previously indicated, the Department monitors compliance with N.J.A.C. 6A:13-2.1(h) through Governance Indicator 14 and Personnel Indicator 4c. Please see Agency-initiated Change 3 regarding the Department's proposal to amend Governance Indicator 14 in both Appendices A and B in an effort to remind school districts of the requirement to employ a certified SLMS.

50. **Comment:** The commenter requested that the Department provide transparent access to NJQSAC data for research and accountability. **(10)**

Response: Existing N.J.A.C. 6A:30-3.2(f) requires a district board education to hold a public meeting to present and have public discussion on the NJQSAC DPR responses prior to submitting to the Department. The rule also requires the district board of education to post

the proposed responses to the DPR and declaration page on the school district's website at least five working days prior to the meeting date and make the documents available for review at the district board of education office or other suitable location. The rule further requires the district board of education to provide the public with the opportunity to comment and be heard at the public meeting with respect to the proposed responses to the DPR. Additionally, N.J.A.C. 6A:30-4.1(a)4 requires the school district to report the Commissioner's final determination letter on the school district's performance and placement on the performance continuum at the next public district board of education meeting.

- 51. Comment:** The commenter questioned whether the NJQSAC processes identifies the critical management issues. The commenter stated numerous school districts have had deeply concerning auditor findings during the past few years, but the commenter could not find the school districts' NJQSAC scores. The commenter questioned whether the NJQSAC process finds the same concerns or if the Department is simply utilizing the auditor's findings. **(10)**
Response: The Department verifies through Fiscal Indicators 4 and 5 and Governance Indicator 3, that required audits such as the Annual Comprehensive Financial Report (ACFR), the Auditor's Management Report (AMR), and the Federal Data Collection Form, have been conducted. These indicators also verify that the school district has created corrective action plans as applicable for any substantive findings and that the district board of education is aware of the audits, finding and corrective action plans, as appropriate.
- 52. Comment:** The commenter inquired whether NJQSAC ensures all students have access to advanced courses. **(4)**
Response: The Department ensures all students have access to advanced courses through NJQSAC reviews of the NJSLS content areas. I&P Indicators 9 through 17, as proposed for amendment, monitor whether a school district's curricula and instruction are aligned to the NJSLS for each content area in accordance with the Department's curriculum implementation timeline. Each content area requires integrated accommodations and modifications for students with disabilities, MLs, students at risk of school failure, gifted and talented students, and students with 504 plans.
- 53. Comment:** The commenter inquired if music, art, and comprehensive health and physical education courses are available to the most vulnerable students. **(4)**
Response: I&P Indicators 14 and 15 ensure a school district's comprehensive health and physical education and visual and performing arts curricula and instruction are aligned to the NJSLS in accordance with N.J.A.C. 6A:8. The indicators also ensure that curriculum is designed and implemented to meet grade, grade-band, or grade-level expectations and graduation requirements, while ensuring integrated accommodations and modifications for students with disabilities, MLs, students at risk of school failure, gifted and talented students, and students with 504 plans.
- 54. Comment:** The commenter inquired as to whether NJQSAC measures career and technical education opportunities in school districts. **(4)**
Response: NJQSAC is designed to evaluate school districts with the same metrics; therefore, each indicator must be applicable to all school districts. Not all school districts provide career and technical education opportunities; therefore, it cannot be monitored through NJQSAC.
- 55. Comment:** The commenter inquired as to whether NJQSAC measures the school district's capacity to utilize Federal grants. **(4)**
Response: Fiscal Indicator 5 monitors that the school district's entitlement and discretionary grants appropriately are managed and overseen. Governance Indicator 6 monitors whether the school district's budgeting process and allocation of resources, including grant funding, are aligned with instructional priorities and student needs to provide for a thorough and efficient education.

56. **Comment:** The commenter asked if NJQSAC measures incidents of educators teaching subjects that are outside of the scope of their instructional certificates and endorsements. The commenter cited a draft U.S. Department of Education performance review of New Jersey that noted instances of teachers working outside of their field. (4)
Response: Personnel Indicator 4c monitors whether a school district maintains approved job descriptions for every certified staff member and that staff are appropriately certified for their assignment, pursuant to N.J.A.C. 6A:9B.
57. **Comment:** The commenter inquired as to whether NJQSAC measures the completion of a school district's comprehensive equity plan. (4)
Response: Yes, recodified Operations Indicator 19 monitors whether the school district has implemented its comprehensive equity plan and submitted, to the Department, the related annual statement of assurance.
58. **Comment:** The commenter inquired whether school districts self-monitor disclosure statements or if they are monitored as part of NJQSAC. (4)
Response: N.J.S.A. 18A:12-21 et seq., School Ethics Act (Act), requires personal/relative and financial disclosure statements to be filed with the School Ethics Commission. N.J.A.C. 6A:28 also sets forth procedures for filing the disclosure statements and the process when they are not filed or incomplete. NJQSAC Governance Indicator 13 monitors whether district board of education members and school administrators annually file a timely and properly completed disclosure statements, if the district board of education annually discusses the Act, and whether no district board of education member or administrator has been found in violation of the Act.
59. **Comment:** The commenter noted that N.J.A.C. 6A:30 does not apply to charter schools and renaissance school projects and inquired as to how the schools are monitored and evaluated. (4)
Response: The Department monitors and evaluates charter schools in accordance with N.J.A.C. 6A:11-2.3 and renaissance school projects in accordance with N.J.A.C. 6A:31-5.1.
60. **Comment:** The commenter asked if NJQSAC measures school district's efforts to engage stakeholders. (4)
Response: Governance Indicator 8 monitors the district board of education's compliance with all stakeholder engagement requirements that are part of Federal grant programs through which the school district receives funds. The Federal programs include, but are not limited to, grant programs under the Elementary and Secondary Education Act, the Individuals with Disabilities Education Act, and the Carl D. Perkins Career and Technical Education Act. Any additional stakeholder engagement the school districts conduct falls outside the scope of NJQSAC monitoring.
61. **Comment:** The commenter asked whether any NJQSAC indicator speaks to prohibiting entities from doing business with State-operated school districts if the entities disclosed political donations in prior years. The commenter also inquired if any NJQSAC indicator indicates possible corruption and nepotism. (4)
Response: NJQSAC is designed to monitor school districts using the same standard and, therefore, cannot contain indicators that apply to only State-operated school districts. The DPRs monitor for school district compliance with State and Federal laws and regulations. Governance Indicator 1 monitors whether the district board of education or the advisory district board of education reviews, updates, and adopts, by resolution, policies, procedures, and by-laws reflective of current statutory and regulatory authority at least annually, and more frequently if required by changes in case law, regulation, or statute. The policies referenced in the indicator would include the required nepotism policy.

62. Comment: The commenter suggested the Department use a report called “Fulfilling Brown’s promise: A State Policy Agenda” by the Southern Education Foundation to help with inequity issues and desegregation issues highlighted by a recent ruling. The commenter contended that the resource aligns with the State’s ESSA plan and could be used to improve NJQSAC. For example, the commenter stated that the report’s Strategy 5B “Add Integration and Resource Equity to District Accountability Ratings” recommends making changes to district accountability systems in partnership with school district leaders, students, and families. The commenter also stated that this suggestion should be extended to include teachers and union leaders because there is a lack of opportunity to ensure that curricular issues, both pedagogical and appropriateness, and the effect on evaluation tools are communicated when school district is undergoing an NJQSAC review because teachers and union leaders are not included in the process. **(4)**

Response: When a school district is undergoing a NJQSAC review, teachers and union leaders are included in the process. N.J.A.C. 6A:30-3.2(b)1 through 4 require the chief school administrator to convene a committee to assist in completing the DPR. The chief school administrator determines the total number of people who will serve on the committee, but the team must include the chief school administrator, one or more members of the school district’s administrative staff, one or more teaching personnel, representative of different grade levels and/or schools in the school district, the business administrator and assistant superintendent for curriculum and instruction, other appropriate school district level personnel as determined by the chief school administrator, and one or more member representatives of the educational staff’s local collective bargaining unit as selected by the local collective bargaining unit. The member representatives may include teaching personnel. N.J.A.C. 6A:30-3.2 also requires the chief school administrator to do the following: ensure that the process used by the committee in completing the DPR provides for participation and input by all committee members; consult with the committee in formulating a response to all quality performance indicators of each key component of school district effectiveness; ensure the responses in the school district’s DPR encompass and reflect circumstances that exist in the school district; and ensure that all responses to the DPR can be verified by data and supporting documentation.

63. Comment: The commenter indicated that the commenter’s school district would enthusiastically adopt OpenSciEd for its science program, but the associated cost for professional development is astronomical due to mandatory annual trainings, unfunded mandates, and cost increases. The commenter requested the Department to provide training for Department-recommended curricula such as OpenSciEd. As an example, the commenter suggested that the Department provide expert job-embedded instructional coaching support for school districts required to create a district improvement plan. **(18)**

Response: The commenter’s request for the Department to provide training for recommended curricula is outside the scope of this rulemaking. As it relates to the district improvement plan, N.J.A.C. 6A:30-5.7 allows the Department to provide technical assistance to school districts to improve performance and increase local capacity in areas of need as identified in the comprehensive review and/or the in-depth evaluation. N.J.A.C. 6A:30-5.7 also allows technical assistance to be provided by Department personnel or highly skilled professionals appointed by the Commissioner using criteria established in the section.

64. Comment: The commenters requested that the Department require each school building to have a library facility. The commenters noted that many school districts have dismantled their library facilities to use the spaces for other purposes. The commenters stated that other states, including Maryland and Kentucky, have established the facility requirements in regulations. **(1 and 3)**

Response: The Department declines to propose the commenters’ requested change because N.J.A.C. 6A:30 and the DPRs monitor for compliance with regulatory

requirements found elsewhere in State or Federal laws or regulations. Therefore, this rulemaking is not the proper avenue for changing existing requirements at N.J.A.C. 6A:13.

- 65. Comment:** The commenter requested that the Department ensure that SLMS provide the instruction related to the new Information Literacy standards because the functions for each certificate and endorsement at N.J.A.C. 6A:9B indicate that SLMS are the most qualified to teach the subject matter. The commenter stated that the commenter's association wants to ensure that library media services are provided by certified SLMSs and not other staff who lack the appropriate certificate or endorsement for the position. **(7)**
Response: The comments are out of the scope of this rulemaking.
- 66. Comment:** The commenter stated that the timeline for school district curriculum updates and its' relationship to NJSLS changes is inequitable. The commenter also stated that the size of the school district has a direct relationship to the number of resources available to meet the implementation timelines for new and updated NJSLS. The commenter contended that school districts in Cohort 3 for NJQSAC have the least amount of time to make the curricular updates and put them into practice before being monitored through NJQSAC. **(10)**
Response: The comments related to school district curriculum updates to align with NJSLS changes are outside the scope of this rulemaking.
- 67. Comment:** The commenter suggested that the Department evaluate school districts based on the transparency of information by requiring a school district to post the following on its website: curriculum documents, educator evaluation policies, number of teacher transfer requests per school, involuntary transfers, and various school district plans and assessment grades. The commenter stated that transparency is important because of the politicization of district boards of education and the corruption that occurs as a result. **(4)**
Response: The Department disagrees. State law and regulations do not require school districts to maintain a website. Therefore, requiring school districts to post documents on their websites cannot be evaluated in NJQSAC because the DPRs contain only provisions that are established in State or Federal laws and regulations other than N.J.A.C. 6A:30.
- 68. Comment:** The commenter asked how the Department is ensuring that local educational agencies are engaging stakeholders, as indicated in proposed revisions to the ESSA State Plan. **(4)**
Response: The comment is outside the scope of this rulemaking.

Agency-initiated Changes

1. Based on discussion with State Board members during first and second discussions, as well as Policy Committee meetings, the Department proposes to amend the point values of I&P Indicators 1 through 6. Specifically, the Department proposes at Indicators 1 and 2 to increase the point value for the ELA and mathematics achievement scores to seven from the proposed five for school districts with grade configurations of K-12 and to 10 from the proposed five for school districts with grade configurations of 9-12. The new changes to the point values will maintain the emphasis on progress and alignment to the State ESSA plan. For the point value increase in student achievement for school districts with a 9-12 grade configuration, the Department proposes to decrease the point value of I&P Indicator 6, which is related to the State graduation rate, to 25 from the proposed 30.

The Department also proposes to decrease the point value of I&P Indicator 3, which relates to the science achievement score, to 3.5 from five points for school districts with grade configurations of K-12. The proposed amendment will ensure that the point value for science achievement equals half of the value for ELA or mathematic achievement in each of the grade configurations.

Further, the Department proposes to decrease the point values of I&P Indicators 4 and 5, which relate to ELA and mathematics academic progress, to 12.5 points each from

the proposed 15 points for school districts with grade configurations of K-8. The Department also proposes to decrease the point values for school districts with grade configurations of K-12 to 8.75 from the proposed 10 points each. The new changes to the point values will maintain the emphasis on progress and alignment to the State ESSA plan.

2. The Department proposes to amend I&P Indicators 1 through 7 in Appendix A and Governance Indicator 2a in both appendices to replace “subgroup(s)” with “student group(s)” to align to the terminology used in the New Jersey School Performance Reports. The Department aims to shift to asset-based language to the extent possible.
3. The Department proposes to amend Governance Indicator 14 in both Appendices A and B to include the entire requirement at N.J.A.C. 6A:13-2.1(h). The Department proposes to add the following as the second sentence: “Each school district shall provide these library-media services under the direction of a certified school library media specialist.” The additional language in the indicator will remind school districts of the requirement to employ a certified SLMS.



State of New Jersey
DEPARTMENT OF EDUCATION
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Proposal Level
September 4, 2024

PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

KEVIN DEHMER
Acting Commissioner

To: Members, State Board of Education

From: Kevin Dehmer, Acting Commissioner

Subject: N.J.A.C. 6A:30, Evaluation of the Performance of School Districts

Reason for Action: Readoption with Amendments

Authority: P.L. 2005, c. 235, P.L. 2007, c. 16, and N.J.S.A. 18A:7A-1 et seq.

Sunset Date: November 1, 2024

Summary

The Department of Education (Department) proposes to readopt with amendments N.J.A.C. 6A:30, Evaluation of the Performance of School Districts, which implements a monitoring and evaluation system for school districts and county special services school districts.

P. L. 2005, c. 235 and P. L. 2007, c. 16 amended N.J.S.A. 18A:7A-1 et seq. to establish a new monitoring and evaluation system of school districts, entitled the New Jersey Quality Single Accountability Continuum (NJQSAC). P.L. 2007, c. 16 set forth the procedures for the Commissioner of Education (Commissioner) to promulgate rules to implement the monitoring system for 36 months following enactment on January 24, 2007. The law also provided for the State Board of Education (State Board) to approve all subsequent readoptions, amendments, or repeals. In February 2007, the Commissioner adopted initial rules implementing NJQSAC. The Commissioner readopted the rules with amendments in March 2008, amended the rules in January 2009, amended the rules and adopted new rules in January 2010. The State Board readopted the rules with amendments in June 2010 and adopted amendments, repeals, and new rules in March 2012 and November 2017. Pursuant to N.J.S.A. 52:14B-5.1, the chapter is scheduled to expire on November 1, 2024.

NJQSAC establishes a comprehensive single accountability system for monitoring and evaluating school districts. Under NJQSAC, school districts are evaluated in five key component areas of school district effectiveness -- instruction and program, fiscal management, governance, personnel, and operations -- to determine the extent to which a thorough and efficient education is being provided to students within the school district. The standards and criteria used to evaluate school districts assess both student achievement and progress toward proficiency, as measured by State assessments, school district capacity to operate without State intervention, and the need for State support and assistance. Once a school district is identified under NJQSAC as requiring assistance in one or more of the five key components of school district effectiveness, the Department and the school district work collaboratively to improve school district performance in the identified targeted area(s). The measures used to achieve this goal include Department

evaluations of the school district, collaborative development of a district improvement plan, close monitoring of the plan's implementation, and the provision of technical assistance, as appropriate. If a school district fails to develop or implement an improvement plan as required, or other emergent circumstances warrant, State law allows the Department to seek full or partial intervention in the school district to effect the changes necessary to build local capacity to provide a thorough and efficient education.

As part of the current readoption of N.J.A.C. 6A:30, the Department proposes amendments to streamline and clarify rules, procedures, and operations, update terminology and rules to align to provisions throughout Title 6A of the New Jersey Administrative Code and Title 18A of the New Jersey Statutes, and remove gendered nouns and pronouns throughout the chapter.

The Department also proposes amendments at Appendix A, which is the District Performance Review (DPR) for school districts other than county special services school districts (CSSSDs), and Appendix B, which is the DPR for CSSSDs. The DPRs are used to document a school district's self-assessment evaluation in five key components of school district effectiveness, and the county offices of education's validation of the self-assessment score based on a review of the documentation provided by the school district. The proposed amendments at Appendices A and B will align NJQSAC with the State's plan under the Federal Every Student Succeeds Act (ESSA) and ensure that the Department's evaluation of performance of a school district reflects current provisions at Title 6A of the New Jersey Administrative Code and Title 18A of the New Jersey Statutes.

Proposed amendments at Appendices A and B will redistribute points to equitably apply the Department's evaluation of the performance of all school districts to which the chapter applies, regardless of configuration. Other proposed amendments at Appendices A and B will redistribute points to provide greater weight for indicators of more significance across the five key component areas of school district effectiveness. The proposed amendments at Appendices A and B have been developed with extensive input from stakeholders to create a monitoring tool that focuses on teaching and learning and preparing students to be college and career ready.

The Department proposes to delay the effective date of the proposed amendments to Appendices A and B until July 1, 2025. Therefore, the Department will use the existing DPRs through the 2024-2025 school year. The delayed effective date of the proposed amendments at Appendices A and B will ensure that the amendments do not go into effect in the middle of an evaluation cycle. The delayed effective date also will provide school districts and stakeholders ample time to become familiar with the new DPRs before they are used to monitor school district effectiveness.

The following is a summary of the rules proposed for readoption and the proposed amendments.

Subchapter 1. Purpose, Scope, and Definitions

N.J.A.C. 6A:30-1.1 Purpose and scope

This section establishes the chapter's purpose, which is to implement NJQSAC, including the steps the Department undertakes to implement the three-year evaluation process, placement of the school district on a performance continuum, improvement and intervention activities, and periodic progress monitoring. The section also establishes the chapter's scope as it applies to all school districts in the State. The chapter does not apply to county vocational school districts that provide only shared-time services but applies to all other county vocational school districts. The chapter also does not apply to charter schools, renaissance school projects, and educational services commissions.

The Department proposes an amendment at N.J.A.C. 6A:30-1.1(a) to clarify that the achievement evaluated is in the five component areas of school district effectiveness. The existing reference to “actual achievement” could be misunderstood as applying only to student achievement. Additionally, the Department proposes to replace “local” with “school district” to clarify that the reference is to school district capacity. The Department proposes the same amendment throughout the chapter, where necessary.

The Department also proposes an amendment at N.J.A.C. 6A:30-1.1(a) to replace “Department evaluations” with “the Department’s comprehensive review” to clarify the Department’s evaluation consists of a comprehensive review of school district performance in five component areas to determine the extent to which school districts are providing a thorough and efficient education. The Department proposes the same amendment throughout the chapter, where necessary.

The Department proposes amendments at N.J.A.C. 6A:30-1.1(c) to clarify the entities to which the chapter applies.

N.J.A.C. 6A:30-1.2 Definitions

This section provides definitions of terms used throughout the chapter.

The Department proposes to amend the term “components of school district effectiveness” to add “key” at the beginning, which will align the term with the authorizing statute. The Department also proposes to amend the definition of “comprehensive review” to delete “developed by the Department and set forth in the District Performance Review incorporated in this chapter as the chapter Appendices” because the same information will be included in the definitions of “District Performance Review” and “quality performance indicators,” as proposed for amendment. The Department also proposes to correct all references to the components to match the defined term, as proposed for amendment.

The Department proposes to amend the definition of “district improvement plan” to delete “in collaboration with the Department” to clarify that school districts develop district improvement plans, which are approved by the Commissioner, pursuant to N.J.A.C. 6A:30-5.5.

The Department proposes to amend the definition of “District Performance Review” to add “The District Performance Reviews are incorporated in this chapter as Appendix A and Appendix B” to specify where the DPRs are located within the chapter. The Department also proposes throughout the chapter to delete all references to the DPRs being incorporated in the chapter as Appendix A and Appendix B.

The Department proposes to amend the definition of “quality performance indicators” to delete “or weighted quality performance indicators” and, instead, add a sentence to specify that the quality performance indicators are weighted. The Department proposes to delete “weighted” before “quality performance indicators” throughout the chapter, where necessary.

The Department proposes a definition for “shared-time services” to mean educational services provided to students who attend and receive instruction for half of the school day at a county vocational school district, pursuant to N.J.S.A. 18A:54-3, and attend and receive instruction at another school or receive equivalent instruction elsewhere than at school for half of the school day. The Department’s proposed term, which is used at existing N.J.A.C. 6A:30-1.1(c), will clarify that the rules at N.J.A.C. 6A:30, do not apply to county vocational school districts that provide only shared-time services.

Subchapter 2. NJQSAC Components of School District Effectiveness and Indicators

N.J.A.C. 6A:30-2.1 Components of school district effectiveness

This section requires the Department to evaluate and monitor school district performance and capacity in the five key components of school district effectiveness and to use objective measures and consider school district improvement and growth in its evaluation.

N.J.A.C. 6A:30-2.2 Quality performance indicators of school district effectiveness

This section requires the Department to establish weighted quality performance indicators to measure school district performance and capacity in each of the five key components of school district effectiveness. The section also establishes that the weighted quality performance indicators are set forth in the DPR incorporated as the chapter Appendices. The section further requires the Commissioner to use the weighted quality performance indicators to assess school district performance and capacity during the comprehensive reviews, in-depth evaluations, and monitoring. The section also requires the Commissioner to use the weighted quality performance indicators in determining whether to initiate intervention activities or to withdrawal from intervention.

The Department proposes to amend the section heading to remove “of school district effectiveness” because the definition of “quality performance indicators” explains that they are the indicators that measure the key components of school district effectiveness, therefore the phrase is unnecessary.

The Department proposes to repeal N.J.A.C. 6A:30-2.2(b) because the definition of “quality performance indicators” at N.J.A.C. 6A:30-1.2, as proposed for amendment, states that they are set forth in the District Performance Review, incorporated in this chapter as the chapter Appendices.

Subchapter 3. Comprehensive Review of School Districts

N.J.A.C. 6A:30-3.1 General requirements

This section requires the Commissioner to conduct a comprehensive review of each school district every three years using the weighted quality performance indicators and establishes procedures for the three-year review and for intervening years.

The Department proposes an amendment at N.J.A.C. 6A:30-3.1(b) to delete, “Unless (d) below applies,” because the Department is proposing to repeal N.J.A.C. 6A:30-3.1(d).

The Department proposes to repeal N.J.A.C. 6A:30-3.1(d) because school districts implementing district improvement plans undergo a comprehensive review every three years and must provide a DPR regardless of a plan’s implementation.

N.J.A.C. 6A:30-3.2 District Performance Review

This section establishes the DPR as the self-assessment tool to measure a school district’s compliance with the weighted quality performance indicators in all five key components of school district effectiveness. Additionally, the section identifies the specific steps to be taken by the chief school administrator (CSA) when completing the DPR, which includes presenting and obtaining approval for submission by the district board of education at a public meeting and submission to the executive county superintendent (ECS) by November 15. The section also allows the Department to grant an extension for submission of the DPR for good cause.

The Department proposes to amend N.J.A.C. 6A:30-3.2(a) by deleting the first sentence because N.J.A.C. 6A:30-3.1(d) is proposed for deletion. The Department also proposes to delete the second sentence because the Department is proposing in two places to add clarifying language that will make the sentence repetitive.

The Department proposes an amendment at N.J.A.C. 6A:30-3.2(f)2 to add “Senator Byron M. Baer” to correct the name of the Open Public Meetings Act at N.J.S.A. 10:4-6 et seq.

The Department proposes to amend N.J.A.C. 6A:30-3.2(g) to replace “appropriate executive county superintendent’s office” with “Department’s electronic data submission system” because the DPR is submitted through NJ Homeroom, which is the Department’s current electronic data submission system, and is no longer submitted to the executive county superintendent’s office.

N.J.A.C. 6A:30-3.3 Review and evaluation of District Performance Reviews

This section requires the ECS to confirm receipt of a school district’s DPR and declaration page and to conduct a review using the documents. The ECS’ review includes providing clarification and feedback, verifying school district responses to the DPR, analyzing the responses, and making a recommendation to the Commissioner for a final decision.

Subchapter 4. Performance Continuum

N.J.A.C. 6A:30-4.1 General requirements

This section requires the Commissioner to issue a final determination letter detailing the school district’s performance and placement on the performance continuum based on the school district’s comprehensive review. The section also requires the Commissioner’s determination letter to consist of the percentage of weighted quality performance indicators satisfied by the school district in each of the five key components of school district effectiveness. For each school district that satisfies at least 80 percent of the quality performance indicators in each of the five key components of school district effectiveness, the letter must include a designation as a “high performing” school district and a recommendation for the State Board to certify, for a period of three years, the school district as providing a thorough and efficient education. The section also requires school districts that satisfy less than 80 percent of the quality performance indicators in the five key components of school district effectiveness, the letter must notify the school district that it has not met the comprehensive review’s requirements and is be directed to begin improvement activities. The section also requires a school district to report the placement on the performance continuum at the next public meeting of the district board of education. Lastly, the section allows a school district to seek reconsideration of the Commissioner’s initial placement decision within seven days of its receipt, as well as the requirements for filing a request for reconsideration.

The Department proposes an amendment at N.J.A.C. 6A:30-4.1(b) to replace “District Performance Review” with “quality performance” to clarify that a DPR consists of quality performance indicators used to assess school district effectiveness.

Subchapter 5. Improvement Activities to Support Student Achievement in School Districts

N.J.A.C. 6A:30-5.1 School district obligations for continual improvement

This section requires each school district to continually strive for improvement in all areas of school district effectiveness to enhance student achievement and to ensure the school district provides a thorough and efficient education to all students.

N.J.A.C. 6A:30-5.2 Improvement activities for school districts that satisfy less than 80 percent of the weighted quality performance indicators in one or more components of school district effectiveness

This section requires school districts that satisfy less than 80 percent of the weighted quality performance indicators in one or more of the key components of school district effectiveness to commence improvement activities set forth in the remainder of the subchapter.

N.J.A.C. 6A:30-5.3 In-depth evaluation

The section requires the Commissioner to determine whether to conduct an in-depth evaluation of a school district and establishes the criteria that the Commissioner uses to make the determination. The section also establishes the process for conducting the in-depth evaluation, including the persons or entities identified to conduct the in-depth evaluation, the evaluation's scope and timeline, allowable extension of the timelines, transmittal of the final report to the CSA, and the reporting of the final report at a regular or special meeting of the district board of education.

The Department proposes amendments at N.J.A.C. 6A:30-5.3(c)2 to clarify that the scope of the in-depth evaluation is not limited to areas identified by the comprehensive review for which the school district satisfied less than 80 percent of the quality performance indicators, but also can be based on other deficiencies or areas of limited capacity within the school district that were identified by the comprehensive review.

The Department proposes an amendment at N.J.A.C. 6A:30-5.3(i) to add "public" before "meeting" and add "in accordance with N.J.S.A 10:4.6 et seq." to clarify the district board of education must report the findings at a regular or special public meeting held in accordance with the Senator Byron M. Baer Open Public Meetings Act.

N.J.A.C. 6A:30-5.4 District improvement plan

This section requires school districts that satisfy less than 80 percent of the weighted quality performance indicators in one or more of the five key components of school district effectiveness to develop and submit a district improvement plan to address the area(s) of deficiency and limited capacity identified through the comprehensive review and in-depth evaluation, if applicable. The section also requires the district improvement plan to be data driven and results oriented. The section further identifies the district improvement plan's required components of the and the process for its development.

The Department proposes an amendment at N.J.A.C. 6A:30-5.4(a) to add "to the Department" after "submit" to clarify the DIP must be submitted to the Department.

The Department proposes an amendment at N.J.A.C. 6A:30-5.4(c) to add "title(s) and name(s) of the" before "individuals responsible for" to align the rule with the DIP format.

N.J.A.C. 6A:30-5.5 Review and approval process for the district improvement plan

This section prescribes the timelines and submission process for a school district's district improvement plan, as well as the possible consequences for not submitting a district improvement plan. The section also requires Department staff to review the proposed district improvement plan to ensure it addresses all areas identified in the comprehensive review and in-depth evaluation and that it contains measurable and attainable evidence-based objectives and strategies for achieving improvement, developing local capacity, and improving school district effectiveness. The section further requires Department staff to recommend to the Commissioner revisions to the district

improvement plan or its approval. The section also requires the Commissioner to review the proposed district improvement plan and Department staff recommendations within 30 days of receipt and requires the Commissioner to notify the school district whether the district improvement plan is approved or if it needs revision.

N.J.A.C. 6A:30-5.6 Implementation and monitoring of an approved district improvement plan

This section requires the school district to implement the district improvement plan promptly after approval by the Commissioner. The section also requires the Department to review, every six months, the school district's progress in implementing the district improvement plan. The section further requires the school district to submit to the Department a progress report regarding implementation of each item(s) in the plan and in satisfying the weighted performance indicators that are the subject of the district improvement plan. The section also requires the Commissioner to determine, based on the six-month review, whether the school district has satisfied the weighted quality performance indicators and, if so, to issue a letter recognizing the school district as high performing. If the school district has not met the satisfactory threshold of at least 80 percent of the weighted quality performance indicators, the section requires the Department to continue to monitor the school district every six months. The section also allows the school district to submit, to the Department for review and approval, amendments to the district improvement plan, as circumstances warrant. The section further requires the Department to assess, every two years, whether the school district's district improvement plan needs to be amended to address insufficient progress by the school district in satisfying the weighted performance indicators in one or more key components of school district effectiveness.

N.J.A.C. 6A:30-5.7 Assistance provided to school districts through the district improvement plan

This section allows the Department to provide technical assistance to school districts to improve performance and increase local capacity in areas of need as identified in the comprehensive review and/or the in-depth evaluation. The section also allows technical assistance to be provided by Department personnel or highly skilled professionals appointed by the Commissioner using criteria established in the section. The section also identifies the designated functions that can be performed by Commissioner-appointed highly skilled professionals. The section also prohibits the Commissioner from appointing highly skilled professionals in any capacity that would create an actual or potential conflict of interest within a school district. The section further requires the compensation of a Commissioner-appointed highly skilled professional to be shared between the school district and the Department. If the highly skilled professional is a Department employee, the section requires the Department to assume the total cost of compensation.

The Department proposes to amend the section's heading to add "technical" before "assistance" to align to the terminology used in most of the section by the Department. The Department proposes the same amendment throughout the chapter, where necessary.

Subchapter 6. Intervention Activities

N.J.A.C. 6A:30-6.1 Forms of State intervention

This section allows the Commissioner to seek partial or full State intervention in a school district in any or all of the five areas of school district functioning. The section also identifies the types of intervention provided in both a partial and full State intervention.

N.J.A.C. 6A:30-6.2 Factors for initiating State intervention

This section allows the Commissioner to seek to initiate partial State intervention if a school district satisfies less than 50 percent of the weighted quality performance indicators in four of the five key components of school district effectiveness and at least one of five additional factors listed in the section is present. The section also allows the Commissioner to seek to initiate full State intervention if the school district satisfies less than 50 percent of the weighted quality performance indicators in all five key components of school district effectiveness, or if the school district is under direct oversight of a State fiscal monitor and satisfies less than 50 percent of the weighted quality performance indicators in the instruction and program, operations, personnel, and governance components of school district effectiveness and at least one of five additional factors listed in the section is present.

N.J.A.C. 6A:30-6.3 Procedure for initiating partial State intervention

This section identifies the procedures for the Commissioner to initiate a partial State intervention when a school district qualifies pursuant to N.J.A.C. 6A:30-6.2(a). The procedures include: issuance of an Order to Show Cause why an administrative order to place the identified key components of school district effectiveness under partial State intervention should not be implemented; service upon the school district of a proposed administrative order for partial intervention, including a partial intervention plan developed by Department staff; referral of the Order to Show Cause to the Office of Administrative Law (OAL) for a plenary hearing conducted on an expedited basis, during which the Department has the burden of showing the recommended administrative order is not arbitrary, unreasonable, or capricious; and recommendation by the Commissioner to the State Board that it issue an order placing the school district under partial State intervention. The section also states that the State Board may place the school district under partial State intervention.

N.J.A.C. 6A:30-6.4 Partial State intervention plan

This section requires the partial State intervention plan to incorporate and amend the district improvement plan. The section also requires the intervention plan to be presented by the Commissioner as part of the proposed administrative order when the Department brings an Order to Show Cause seeking partial intervention in a school district. The section further requires the intervention plan to address the appointment of a school district superintendent with approval by the State Board, appointment of highly skilled professionals, and whether the Commissioner intends to appoint up to three additional district board of education members with State Board approval.

The Department proposes an amendment at N.J.A.C. 6A:30-6.4(a) to add “at N.J.A.C. 6A:30-6.3” to clarify that the partial State intervention plan referenced is the same as the plan initiated pursuant to N.J.A.C. 6A:30-6.3. The Department also proposes to delete “will be presented by the Commissioner as part of the proposed administrative order when the Department brings an Order to Show Cause seeking partial intervention in a school district. The intervention plan” because it repeats the same provision at N.J.A.C. 6A:30-6.3(b). The Department proposes the same amendment at N.J.A.C. 6A:30-6.7(a), which concerns full State intervention plans.

The Department proposes an amendment at N.J.A.C. 6A:30-6.4(a)3 to add “pursuant to N.J.A.C. 6A:30-6.5” to clarify the Commissioner has the authority to appoint up to three additional members to the district board of education with the State Board’s approval as set forth at N.J.A.C. 6A:30-6.5.

N.J.A.C. 6A:30-6.5 Structure of the district board of education under partial State intervention

This section establishes the parameters for the appointment of additional district board of education members by the Commissioner, with State Board approval, if the appointments are included in the partial State intervention plan. The section also establishes the duties, responsibilities, and authority of the additional district board of education members and requires them to be appointed for a two-year term, which can be extended upon State Board approval.

N.J.A.C. 6A:30-6.6 Procedure for initiating full State intervention

This section identifies the procedures for the Commissioner to initiate a full State intervention plan when a school district qualifies pursuant to N.J.A.C. 6A:30-6.2(b). The procedures include: issuance of an Order to Show Cause why an administrative order to place the school district under full State intervention should not be implemented; service upon the school district of a proposed administrative order for full intervention, including a full intervention plan developed by the Department; referral of the Order to Show Cause to OAL for a plenary hearing conducted on an expedited basis, during which the Department has the burden of showing the recommended administrative order is not arbitrary, unreasonable, or capricious; and recommendation by the Commissioner to the State Board that it issue an order placing the school district under full State intervention. The section also states that the State Board may place the school district under full intervention.

The Department proposes an amendment at N.J.A.C. 6A:30-6.6(a) to delete “for full State intervention” because it is repetitious.

N.J.A.C. 6A:30-6.7 Full State intervention plan

This section requires the full State intervention plan to incorporate and amend the district improvement plan and requires the intervention plan to be presented by the Commissioner as part of the proposed administrative order when the Department brings an Order to Show Cause seeking full State intervention in a school district. The section also requires the intervention plan to address the appointment of a State district superintendent, inclusive of term limits, with approval from the State Board and conditions for appointment of the existing school district superintendent as State district superintendent; appointment of highly skilled professionals; whether the school district’s CSA and executive administrators responsible for curriculum, business and finance, and personnel will be abolished; whether a Capital Project Control Board will be established in the school district; and whether the Commissioner intends to appoint up to three additional school district board of education members with State Board approval.

The Department proposes an amendment at N.J.A.C. 6A:30-6.7(a) to add “at N.J.A.C. 6A:30-6.6” to clarify that the full State intervention plan is the same as the plan initiated pursuant to N.J.A.C. 6A:30-6.6.

N.J.A.C. 6A:30-6.8 Operations of the district board of education under full State intervention

This section requires a district board of education of a school district under full State intervention to continue in place but to serve only in an advisory capacity with the rights, powers, and privileges of an advisory district board of education. The section also requires the advisory district board of education to meet once per month at dates and times determined by the State district superintendent. The section further requires a vacancy on the advisory district board of education to be filled in the same manner as initially filled. The section also describes the procedures the Commissioner must follow to appoint up to three additional advisory district board of education members, if included in the full State intervention plan, as well as requirements for

appointed district board of education members. The section also establishes the duties, responsibilities, and authority of the appointed district board of education members and requires them to be appointed for a two-year term, which can be extended by another two years upon State Board approval.

N.J.A.C. 6A:30-6.9 Assessment activities during the period of intervention

This section requires a school district under partial or full State intervention to continue to undergo both comprehensive reviews pursuant to N.J.A.C. 6A:30-3 and monitoring at six-month intervals pursuant to N.J.A.C. 6A:30-5.6(b).

Subchapter 7. Withdrawal from Partial or Full State Intervention

N.J.A.C. 6A:30-7.1 Factors for initiating return to local control

This section requires school districts in full intervention to remain in status for no less than three years before the process of withdrawal can begin. This section also outlines factors the Commissioner will consider in determining whether to initiate a full or partial withdrawal from intervention in a school district. The factors include evidence of sustained and substantial progress demonstrated by the school district having satisfied 80 to 100 percent of the weighted quality performance indicators in one or more of the key components of school district effectiveness under full State intervention, as shown by the comprehensive reviews, six-month Department reviews, and/or other appropriate evidence; and substantial evidence the school district has adequate programs, policies, and personnel in place and in operation to ensure the demonstrated progress, with respect to the key components of school district effectiveness under full State intervention, will be sustained.

N.J.A.C. 6A:30-7.2 Procedure for transition to partial State intervention or to local control

This section requires the Commissioner to recommend to the State Board that the process for withdrawal from intervention be initiated if the Commissioner determines that a school district under State intervention has satisfied the factors at N.J.A.C. 6A:30-7.1(b) with respect to one or more key components of school district effectiveness. The section also allows the State Board, based on the Commissioner's recommendation, to grant approval for the Department to initiate the transition to local control in the respective key component(s) of school district effectiveness. The section also requires the Commissioner to notify the school district if the State Board grants approval. The section further requires the Department to develop, in conjunction with the school district, a transition plan for local control as an initial step in the transition process.

The Department proposes to repeal N.J.A.C. 6A:30-7.2(a)1 because there are no school districts that were State-operated prior to February 22, 2007, and are still under full or partial State intervention.

N.J.A.C. 6A:30-7.3 Components of the transition plan

This section requires the transition plan to address, at a minimum, the following: timelines; continued employment of the State district superintendent; continued technical assistance by highly skilled professionals; continued use of, and any change in the duties, authority, and responsibilities of, highly skilled professionals appointed to provide direct oversight in the school district; a decision-making hierarchy if conflicts arise between appointed highly skilled professionals and school district personnel; specific goals and benchmarks to assist the school district in satisfying the factors at N.J.A.C. 6A:30-7.1(b) with respect to the remaining areas of school district functioning under intervention; status of district board of education members appointed by the Commissioner, if the governance component of school district

effectiveness is being returned to local control; the receipt and payment for technical assistance; and the discontinuance of the Capital Projects Control Board, if applicable.

N.J.A.C. 6A:30-7.4 Implementation of the transition plan

This section requires the school district to present the transition plan for withdrawal from intervention at a public district board of education meeting and officially note it in the minutes. The section also requires the district board of education to immediately implement the transition plan. The section further requires the Department to continue to monitor the school district during the transition period to ensure sustained progress and the transition plan's implementation. Lastly, the section requires the transition plan to be updated and amended as the school district achieves compliance with N.J.A.C. 6A:30-7.2(a) with respect to the other key components of school district effectiveness or as other circumstances warrant.

N.J.A.C. 6A:30-7.5 Transition process for the governance component of school district effectiveness for school districts under full State intervention

This section provides a district board of education transitioning from full State intervention will continue to have the rights, powers, and duties of an advisory district board of education. The section also allows the advisory district board of education to be placed in partial State intervention as part of the transition to local control, unless and until the governance component has been returned to local control. The section further allows the State Board to return, upon Commissioner recommendation, some voting functions to the district board of education as part of, and in furtherance of, the process of transitioning the governance component to local control. The section also allows the Commissioner, or the Commissioner designee, to veto any action by the district board of education in accordance with N.J.S.A. 18A:7A-53.c if some voting functions are returned to the district board of education. The section also requires the district board of education to call a special election to place the question of classification status before the school district's voters no more than one year after the return of the governance component to local control and requires the special election to be conducted in accordance with the provisions of Title 19 of the Revised Statutes concerning school elections.

N.J.A.C. 6A:30-7.6 Completion of the transition process

Upon the school district's complete satisfaction of all components of a full transition plan, this section requires the Commissioner to recommend to the State Board the completion of the withdrawal from intervention and for the school district to be returned fully to local control. This section also requires the Commissioner to determine the school district's placement on the performance continuum upon State Board approval, to notify the school district of the action, and to issue a letter to the school district designating it as a "high performing" school district.

Subchapter 8. Observation of Instructional Practices and Evaluation of Public School District Facilities

N.J.A.C. 6A:30-8.1 Observation of instructional practices and evaluation of public school district facilities

This section states that nothing in the chapter shall limit the Department's ability to monitor school district practices by, among other things, conducting on-site visits to observe instructional practices and inspect school facilities, or to take other action the Commissioner or the Commissioner's designee deems necessary to ensure the satisfaction of any statutory or constitutional obligation.

N.J.A.C. 6A:30 Appendix A, District Performance Review

The Department proposes to readopt N.J.A.C. 6A:30 Appendix A with amendments. The effective date of the proposed amendments will be delayed until July 1, 2025.

District Performance Review

The points in the DPR, as proposed for readoption with amendments, have been assigned based on a weighted balance of the point values related to the significance and complexity of each indicator. The total point value for Appendix A, as proposed for readoption with amendments, will remain at 500. The total point value for each of the five component areas in the DPR, as proposed for readoption with amendments, will remain at 100.

Instruction and Program

The Instruction and Program (I&P) indicators are used to assess a school district's performance and capacity in the areas of curriculum, instruction, and student performance. The I&P DPR indicators include a school district meeting the State's measure of academic progress and graduation rate; State assessment results and the analysis of the results to improve teaching and learning; curriculum alignment with the New Jersey Student Learning Standards (NJSLS); continuous improvement of curriculum and instruction; equitable access to the NJSLS; and tiered supports for all students.

I&P Indicators 1 through 7 establish student performance metrics, inclusive of school quality, student growth, and State graduation rate criteria that are aligned to New Jersey's Every Student Succeeds Act (ESSA) State plan. The points for the indicators vary based on a school district's grade configuration. School districts that have grade configurations of kindergarten through grade eight (K-8), or any composition of K-8, are held accountable only for student growth measures and not a graduation rate; school districts that are kindergarten through grade 12 (K-12), or any composition of K-12, are held accountable for both graduation rates and student growth measures; and school districts that are grade nine through grade 12 (9-12), or any composition of 9-12, are held accountable only for graduation rates. The maximum number of points that each grade configuration can obtain for I&P Indicators 1 through 7 is 60. Each indicator point value varies.

The Department proposes to amend I&P Indicators 1 through 7 to replace "subgroup(s)" with "student group(s)" to align to the terminology used in the New Jersey School Performance Reports. The Department aims to shift to asset-based language to the extent possible. The same amendment is proposed at Governance Subindicator 2a.

I&P Indicators 1 and 2 measures a school district achievement score on State assessments in English language arts (ELA) and mathematics. The Department is proposing to amend the point values of Indicators 1 and 2 to better align with the Department's State ESSA plan by placing greater emphasis on academic progress to foster a more equitable distribution of points for each school district type. Specifically, the Department proposes, in both Indicators 1 and 2, to decrease the point value for school districts with configurations of K-12 to seven from 7.5 and decrease the point value for school districts with configurations of 9-12 to 10 from 15.

I&P Indicator 3 measures a school district's achievement score on State assessments in science. The Department proposes an amendment at Indicator 3 to enable school districts to be able to attain a maximum of five points for each grade configuration. Specifically, the Department proposes to decrease the point value for school districts with configurations of K-8 to five from 10 points and decrease the point value for school districts with grade configurations of K-12 to 3.5

from five points to allocate additional points in Indicators 4 and 5 to align the point values more closely to the Department's State ESSA plan by placing greater emphasis on academic progress. The Department also proposes to increase the point value of school districts with grade configurations of 9-12 to five from zero. At the time of the chapter's last readoption in 2017, State assessments for science in grades nine through 12 did not exist; therefore, school districts with a 9-12 grade configuration were not monitored based on science assessments. The high school science assessment transitioned from the Biology Competency Test to the New Jersey Student Learning Assessment - Science (NJSLS-S) at grade 11 with the field test in 2018. The assessment was operational in the spring 2019 administration, which was after the last readoption of N.J.A.C. 6A:30. The NJSLS-S was developed to reflect the Next Generation Science Standards (NGSS), which were adopted in 2014 and implemented by school districts in September 2017.

I&P Indicator 4 and 5 measure a school district's ELA and mathematics academic progress. As stated above, the Department proposes to place more emphasis on academic progress in alignment with the State ESSA plan's goals. Therefore, the Department proposes to increase the point values of I&P Indicators 4 and 5 to 12.5 from 10 points each for school districts with grade configurations of K-8 and to 8.75 from 7.5 points each for school districts with grade configurations of K-12.

I&P Indicator 6 measures a school district's graduation rate (average of four-year and five-year adjusted cohort graduation rates). The Department proposes an amendment at Indicator 6 to add the term "State" before "graduation" to clarify that the school district graduation rate used for this indicator is the State four- and five-year adjusted cohort graduation rates and not the Federal four- and five-year adjusted cohort graduation rate. The Department also proposes to increase the point value for school districts with a 9-12 grade configuration to 25 from 20 because the Department is proposing to increase the point value of academic progress for school districts with grade configurations of K-8 and K-12, and school districts with grade configurations of 9-12 are not held accountable to student progress. By increasing the point value of this indicator for school districts with 9-12 grade configurations, the Department will foster greater equity for measures of student achievement. The point value for K-8 will remain at zero since school districts without high schools do not have graduation rates. The point value for K-12 will remain at 15 since school districts with grade configurations of K-12 receive points for student progress and graduation rates.

The Department also proposes to amend Indicator 8 to decrease the point value to five from six to allocate points to proposed Indicator 18.

Existing I&P Indicators 9 through 15 monitor whether a school district's curriculum in a specific content area conforms to the requirements at N.J.A.C. 6A:8-3.1 and includes: (a) curriculum designed and implemented to meet grade or grade level expectations, and graduation requirements; (b) integrated accommodations and modifications for students with disabilities, English language learners, students at risk of school failure, gifted and talented students, and students with 504 plans; (c) assessments, including, formative, summative, benchmark, and alternative assessments; (d) list of core instructional and supplemental materials, including various levels of texts at each grade level; (e) pacing guide; (f) interdisciplinary connections; (g) integration of 21st century skills through NJSLS 9; (h) integration of technology through the NJSLS; and (i) career education. At Indicators 9 through 15, the Department proposes to add "grade band," "grade-level appropriate," and "and decodable texts for emergent readers" to align the DPR with N.J.A.C. 6A:8, Standards and Assessment. The Department also proposes to amend Indicators 9 through 15 to replace "special education" with "students with disabilities" to align the DPR with N.J.A.C. 6A:14, Special Education. The Department also proposes to replace "English language learners" with "multilingual

learners” to align the DPR with N.J.A.C. 6A:15, Bilingual Education. The Department also proposes the five amendments throughout the DPR, where necessary.

The Department also proposes to amend Indicators 9 through 15 to delete subindicators g, h and i regarding integration of 21st century skills through NJSLs 9, integration of technology through the NJSLs, and career education, respectively, because the requirements are now included in NJSLs as career readiness, life literacies, and key skills; and, computer science and design thinking. The Department proposes new I&P Indicator 16 to incorporate the NJSLs for career readiness, life literacies, and key skills, as described more in detail below. The Department also proposes new I&P Indicator 17 to incorporate the NJSLs for computer science and design thinking, as described more in detail below. The Department proposes to amend the point value of I&P Indicators 9 through 15 to three each from four to allow for the redistribution of points due to proposed new Indicators 16, 17, and 18.

The Department proposes to subindicator 12i to include the requirement that school districts incorporate instruction on the history and contributions of Asian Americans and Pacific Islanders (AAPI) in K-12 in the social studies curriculum as mandated by N.J.S.A. 18A:35-4.44. This statutory provision became effective in January 2022 after the chapter’s most recent readoption.

The Department proposes to incorporate new NJSLs areas of career readiness, life literacies, and key skills and computer science and design thinking as Indicators 16 and 17, respectively. The proposed indicators will mirror existing indicator requirements subindicators a and c through g. Proposed Indicators 16 and 17 will monitor whether a school district’s curriculum includes performance expectations be integrated within and across other content areas or presented as an independent course, which is unique to these content areas. School districts may structure their curricula to meet students’ needs. The Department proposes a point value for Indicators 16 and 17 of three each.

The Department also proposes the new I&P Indicator 18 to incorporate all statutory curricular requirements that are not already incorporated into the NJSLs but must be included in a school district’s curriculum. The proposed indicator will monitor whether a school district’s curriculum includes, but is not limited to: (a) diversity, equity, and inclusion in accordance with N.J.S.A. 18A:35-4.36a and (b) the history of persons with disabilities and lesbian, gay, bisexual, and transgender people in middle and high school curriculum in accordance with N.J.S.A. 18A:35-4.35. The proposed indicator will ensure that school districts incorporate instruction required at N.J.S.A. 18A:35-4.36a and 4.35. The statutory mandates were enacted in 2019 and 2021, respectively. The Department proposes a point value of three for Indicator 18. Additionally, the proposed indicator will monitor any future statute that establishes curricular requirements.

The Department proposes to recodify with amendments existing Indicator 16 as new Indicator 19. The Department proposes to decrease the point value of new Indicator 19 to five from six to allocate points to proposed Indicator 18 as described above.

Fiscal

The Fiscal DPR is used to assess a school district’s performance and capacity in the area of finance. The Fiscal DPR components include self-assessment of the areas for which the district board of education is responsible for direct oversight, including: maintaining monthly reports by the district board of education secretary; maintaining and updating the standard operating procedures manual for business functions; filing an annual Comprehensive Annual Financial Report (CAFR) audit and other supporting forms and collections; satisfying the elements of the annual audit; managing and overseeing entitlement and discretionary grants, as required; properly

overseeing and accounting capital projects in Fund 30; implementing, reviewing, and revising projects that are consistent with the approved long-range facilities plan; securing county office approval for emergent projects; conducting and meeting requirements for annual health and safety reviews; developing and following a budget calendar; ensuring that all people employed as a buildings and grounds supervisor possesses a valid Department authorization to serve as a certified educational facilities manager; transferring funds during the budget year in accordance with statute and budgetary control provisions; preparing and analyzing fiscal-year cash flow management for all funds; submitting reimbursement requests for Federal grant awards for the actual amount of incurred expenditures; and approving purchase orders approved only by the purchasing agent.

The Department proposes to amend Fiscal Indicator 1 to increase the point value to eight from six to place greater emphasis on a school district's compliance with N.J.S.A. 18A:17-9. The Department also proposes to add "and N.J.A.C. 6A:23A-16.10" at the end to ensure that the Department's review of the fiduciary responsibilities of a school district encompass both the statutory and regulatory requirements.

Fiscal Indicator 3 enables a district to receive four points for filing the annual audit of its CAFR, Auditor's Management Report (AMR), Federal Data Collection Form, Audit Summary, and other supporting forms and documentation by the due date set forth at N.J.S.A. 18A:23-1. The Department proposes an amendment to Indicator 3 to replace "Comprehensive Annual Financial Report (CAFR)" with "Annual Comprehensive Financial Report (ACFR)" based on the name change issued October 2021 by the Governmental Accounting Standards Board (GASB). The Department proposes the same amendment throughout the DPR where necessary. The Department also proposes to increase the point value to six from four to place greater emphasis on a school district filing the ACFR, AMR, Federal Data Collection Form, and other supporting forms and collections by the due date set forth at N.J.S.A. 18A:23-1.

The Department proposes to amend Fiscal Indicator 4c to delete "or AMR" because the AMR does not have material weaknesses or significant deficiencies.

The Department proposes to recodify Fiscal Indicator 14 as new Fiscal Indicator 5e because it is more aligned to the Department's monitoring of a school district's management of entitlement and discretionary grants.

Fiscal Indicator 6 monitors that a school district has proper oversight and accounting of capital projects in Fund 30 in four areas. The Department proposes to decrease the point values of Indicator 6a to two from four to allow for an increase in the point value for 6c to six from four to place greater emphasis on a school district's fiduciary practices, notably, spending within the authorized amount unless the school district has received the proper approvals to raise additional funds to augment the authorized amount. The Department also proposes to decrease the point values of 6b and 6d to account for the increase in the point value for recodified Indicator 5e.

The Department proposes to amend the point value for Indicator 10 to four from six because of the Department's proposed increased point value of Indicator 1.

The Department proposes to recodify Fiscal Indicator 15 as new Fiscal Indicator 14.

Governance

The Governance indicators include self-assessment in the areas of responsibility for which the district board of education has direct oversight, including developing curriculum that is aligned with the NJSL; overseeing the budgeting process; developing and implementing all

district board of education approved policies; evaluating the CSA; reviewing and approving all new, renewed, amended, altered, or extended contracts for CSAs, deputy superintendents, assistant superintendents, and school business administrators; approving all personnel matters; addressing all compliance related reports; ensuring compliance with all stakeholder requirements; establishing programming and services for multilingual learners; approving the monthly district board of education secretary's and treasurer's reports within 60 days of month's end; implementing the Senator Byron M. Baer Open Public Meetings Act and ensuring all meeting minutes reflect actions taken by the district board of education; ensuring access to library media services for all student; and filing required disclosure statements.

The Department proposes to amend Governance Indicator 7 to add at the end of the new subindicator a, "established at N.J.S.A. 18A:22-7 and 10" and subindicator b, "within the timeframe established at N.J.S.A. 18A:22-10" to confirm that the public hearings and adoption of the proposed budgets have occurred.

The Department proposes to amend Governance Indicator 14 to include the entire requirement at N.J.A.C. 6A:13-2.1(h). The Department proposes to add the following as the second sentence: "Each school district shall provide these library-media services under the direction of a certified school library media specialist." The additional language in the indicator will remind school districts of the requirement to employ a certified SLMS.

Operations

The Operations indicators are used to assess a school district's performance and capacity in implementing school district policies related to the following:

- Code of student conduct;
- Attendance;
- Alcohol, tobacco, and other drugs;
- Harassment, intimidation, and bullying (HIB);
- NJSMART data collection;
- County District School (CDS) Information System data maintenance;
- Incidents of violence, vandalism, substance abuse, and HIB reporting;
- School safety and security plans and procedures;
- Positive school climate;
- Data management processes;
- Student achievement and progress monitoring using multiple sources of data to evaluate the effectiveness of programs, initiatives, and strategies;
- Education and law enforcement memorandum of agreement;
- School health services;
- Potentially missing and abused children reporting requirements;
- Transportation services; and
- Career education and counseling services, guidance and academic counseling programs, and intervention and referral services.

The Department proposes to amend Operations Indicator 1 to replace "NJSMART" with "the Department's Statewide longitudinal data system" to ensure that the Department is not referencing the common name of the system in case it changes.

The Department proposes to amend Operations Indicator 5 to add "The district board of education provides employees annual training on the code of student conduct and its equitable application, including training on the prevention, intervention, and remediation of student conduct that violates the district board of education's code of student conduct." The proposed amendment

will define and clarify the requirement that all employees must be trained annually on the student code of conduct, pursuant to N.J.A.C. 6A:16-7.1(a)4. In addition to being a requirement, training school district staff on the code of student conduct is essential so staff can effectively contribute to fostering a school climate that promotes the positive development of students, understands student behavioral expectations, and correctly implements the procedures for responding to violations of the code of student conduct.

The Department proposes to amend Operations Indicator 6 to replace “by July 15. (N.J.A.C. 6A:16-5.3)” with “in accordance with the due dates annually established by the Department.” The proposed amendment will alleviate confusion because the cited regulation does not establish a due date.

The Department proposes to amend Operations Indicator 7 to delete “policies” after “school climate” to more accurately reflect the provision in the *Anti-Bullying Bill of Rights Act* at N.J.S.A. 18A:37-21c(4), which requires each school’s school safety/school climate team to “review and strengthen school climate and the policies of the school in order to address harassment intimidation or bullying of students.” The Department also proposes to delete “and (4) completes the HIB self-assessment” in the first sentence because it is the responsibility of the CSA and not the school district, in general, as stated in the indicator’s second sentence.

The Department proposes to decrease the point value of Indicator 8 to three from six to accounts for the proposed new Operations Indicators 17 and 18 as described below.

The Department proposes to amend Indicator 9 to replace “discipline” with, “enforcement of the code of student conduct” to use asset-based language that accurately describes enforcement of policies and procedures regarding alcohol and other drugs in the code of student conduct adopted by the district board of education.

The Department proposes to amend Indicator 13 to replace “directory of private-duty nursing” with “New Jersey Medicaid Management Information System (NJMMIS)” to update the name of the New Jersey Department of Human Services’ directory of agencies providing one-to-one skilled nursing services. The Department also proposes to add “or is approved to provide private duty nursing under the New Jersey FamilyCare Program” after the reference to the NJMMIS to align the indicator with the term “provider of clinical nursing services” at N.J.S.A. 18A:40-3.3.

The Department proposes to amend Indicator 14 to delete “from a certified instructor who has completed the Department’s criminal history record check” and to add “The educational services are provided by a certified instructor who has completed the Department’s criminal history record check.” The proposed amendments are for clarity and are not a substantive change to the indicator.

Indicator 15 monitors whether the school district annually reviews and revises safety and security plans, procedures, and mechanisms in consultation with law enforcement, health, social service, and emergency management agencies and other community members, including parents. The Department proposes to amend Indicator 15 to add “The school district annually assesses plans and facilities to ensure:” at the beginning and to recodify existing Indicator 15 as sub-indicator 15a. The Department proposes to add new sub-indicator 15b as follows: “A school safety audit has been conducted for each school building in accordance with N.J.S.A. 18A:41-14” N.J.S.A. 18A:41-14, which became effective in 2020, requires school districts to annually conduct a school safety audit for each school building using the checklist developed by the New Jersey Office of Homeland Security and Preparedness in collaboration with the Department. The Department also proposes to add new sub-indicator 15c as follows: “Up-to-date critical incident mapping data for all schools and school grounds have been provided to local law enforcement authorities. (N.J.S.A. 18A:41-7.1).”

N.J.S.A. 18A:41-7.1, which became effective in 2022, requires each district board of education to provide local law enforcement authorities critical incident mapping data for its schools. The Department proposes to decrease the point value for Indicator 15 to four from six due to proposed new Operations Indicators 17 and 18 as described below.

The Department proposes to amend Indicator 16 to correct the statutory citation to “N.J.S.A. 18A:41-7a.”

The Department proposes to recodify Indicator 17 with amendments as new Indicator 19. The proposed amendments at new Indicator 19 to ensure that the school district implements the (CEP) instead of monitoring that the school district has a CEP. The Department also proposes to delete the list of protected categories and, instead, to reference “the protected categories and classes as set forth at the New Jersey Law Against Discrimination (NJLAD), N.J.S.A. 10:5-1 et seq., and at N.J.A.C. 6A:7-1.1(a).”

The Department proposes new Indicator 17 to ensure that the school district has designated, for the school district, a school safety specialist who maintains an active certificate pursuant to N.J.S.A. 18A:17-43.2. The proposed indicator will ensure that each school district designates a school administrator, or a school employee with expertise in school safety and security, as a school safety specialist for the school district. The school safety specialist must attend the School Safety Specialist Academy to obtain the school safety specialist certification. Although the statutory requirement was enacted in 2017, the Department has observed that there has been an enormous turnover in this position since the COVID-19 pandemic and, therefore, wants to ensure that school districts continue to adhere to the statutory mandate. The Department proposes to assign new Indicator 17 a point value of two.

The Department proposes to recodify Indicator 18 with amendments as new Indicator 20. The Department proposes to amend new Indicator 20 to add that each school within the school district with 10 percent or more of its enrolled students identified as chronically absent has developed and presented to the district board of education a corrective action plan to improve absenteeism rates. The proposed amendment will ensure that the indicator is consistent with N.J.A.C. 6A:32-8.6 and N.J.S.A. 18A:38-25.1.

The Department proposes the new Indicator 18 to ensure that the district board of education has adopted and implemented a policy to establish a threat assessment team at each school to provide administrators, teachers, and other staff with assistance in identifying, assessing, and managing students that exhibit concerning or threatening behaviors, pursuant to N.J.S.A. 18A:17-43.4. The proposed new indicator will ensure every school district adheres to N.J.S.A. 18A:17-43.4, which took effect in 2022, to ensure school teachers, administrators, and other staff have assistance in identifying students of concern, assessing those students’ risk for engaging in violence or other harmful activities, and delivering intervention strategies to manage the risk of harm for students who pose a potential safety risk, to prevent targeted violence in a school, and ensure a safe and secure school environment that enhances the learning experience for all members of the school community. The Department proposes to assign the new Operations Indicator 18 a point value of three.

Personnel

The Personnel DPR indicators are used to assess a school district’s performance and capacity in fulfilling the requirements for staffing and staff development, including assuring staff are appropriately certified and meet the qualifications of their positions, staff attendance is maintained, staff evaluations are aligned to the TEACHNJ Act, support is provided to novice teachers, professional

development is provided to staff based on the professional development plan, and the school district's professional development plan is aligned to the school district's goals and budget.

Personnel Indicator 1 monitors that an audit of staff personnel files and other relevant school district records demonstrates that evaluation and staff development processes have occurred in accordance with N.J.A.C. 6A:9C and 6A:10. The Department proposes to amend Indicator 1d to replace "processes" with "training" to align more closely to N.J.A.C. 6A:10, Educator Effectiveness. The Department also proposes to correct the citation as "N.J.A.C. 6A:10-2.2b." Finally, the Department proposes to decrease the point value to two from four to allocate points for proposed new Indicator 1e.

The Department proposes new Indicator 1e to ensure that summary conferences for all certified staff have occurred pursuant to N.J.A.C. 6A:10-2.4(c).

The Department proposes to recodify with amendments existing Indicator 2a the new Indicator 6c as described below. The Department proposes to recodify Indicators 2a through 2f as new Indicators 2a through 2e, respectively. The Department proposes to decrease the point value of new Indicator 2c to four from five to as part of the increased point value at Indicator 6.

The Department proposes to decrease the point value for Indicator 4c and 4d to three from five each to allow for points to be allocated to proposed new Indicator 4f as described below.

The Department proposes the new Indicator 4f to ensure that all school district-provided information required for a professional staff member to obtain a standard certificate is submitted to the Department within 30 days of the staff member becoming eligible for a standard certificate pursuant to N.J.A.C. 6A:9B. The Department proposes to assign the indicator a point value of two.

The Department proposes to increase the point value of Indicator 5b from five to six to place greater emphasis that school district control rosters are accurate and up to date.

Indicator 6 ensures proper documentation and evaluation of administrator practices. The Department proposes to recodify Indicator 2a as new Indicator 6c because the requirement that individual professional development plans (PDPs) or corrective action plans (CAPs) are aligned to the professional standards for school leaders or teachers and are linked to school district, school, team, and/or individual goals are part of required administrator practices. The Department proposes to increase the point value to 12 from five to place a greater emphasis on ensuring that professional practices are aligned with goal-setting procedures, supervisory feedback is timely, targeted, and actionable, and PDPs and CAPs are aligned to the professional standards for school leaders and teachers pursuant to N.J.A.C. 6A:9C and 6A:10-2.5.

N.J.A.C. 6A:30 Appendix B (Effective July 1, 2025)

District Performance Review

The Department proposes to readopt Appendix B, which is the DPR for monitoring only CSSSDs, with amendments. The effective date of the proposed amendments will be delayed until July 1, 2025.

The I&P indicators in Appendix B consist of 16 indicators that enable a school district to receive 99 points. The Department proposes to amend the point values to enable a school district to receive 100 points as described below.

Instruction and Program

The I&P indicators for CSSSDs are used to assess a CSSSD's performance and capacity in the areas of curriculum and instruction based on student's individualized education program (IEP). The I&P indicators include; policies and procedures to ensure communication with the sending school's case manager; positive behavioral supports and other proactive strategies to maximize student learning and prevent disciplinary problems; graduation requirements that prepare students for success in post-secondary degree programs, careers, and civic life in the 21st century; developmentally appropriate, standards-based formative and summative assessment administration and alignment to NJSLS and data analysis to inform instruction; appropriate curricular and instructional modifications to content, processes, products, and learning environments based on individual student needs; a comprehensive system to ensure each student's IEP is fully implemented; and the professional development plan is inclusive of individualized professional and school aide staff training that is ongoing, embedded, and targeted to meet the needs of the school district's students. As in Appendix A, the I&P indicators in Appendix B include curriculum aligned to the nine NJSLS content areas. However, Appendix B does not include the student achievement data or graduation data indicators that are in Appendix A because State assessment and graduation data for students placed in a CSSSD are reported with their sending school districts.

I&P Indicator 2 ensures that positive behavioral supports and other proactive strategies are being utilized to maximize student learning and prevent disciplinary problems. The Department proposes to amend Indicator 2 to add a second sentence to also ensure that "[p]olicies and procedures relative to restraint and seclusion are developed and implemented in accordance with N.J.S.A. 18A:46-13.4, 13.5, 13.6, and 13.7." The Department also proposes to amend the point value for Indicator 2 to increase to 10 from nine to account for CSSSDs implementing restraint and seclusion practices pursuant to N.J.S.A. 18A:46-13.4, 13.6, and 13.7.

The Department proposes recodify existing Indicator 3 as new Indicator 7 with amendments and recodify existing Indicator 7 as new Indicator 3 with no amendments so that the indicators are logically ordered and to provide additional clarity. The Department proposes to maintain the point value of recodified Indicator 7 at five and recodified Indicator 3 at 10.

The Department proposes to amend the point values for I&P Indicators 4, 5, and 6 to six from seven to account for the new I&P indicators 16,17, and 18 as described in the summary above for Appendix A.

The Department proposes the same amendments to the I&P DPR for Indicators 9 through 16 and proposes new I&P Indicators 16, 17, and 18 as described in the summary above for Appendix A.

Fiscal

The Fiscal indicators in Appendix B are the same as in Appendix A.

The Department proposes the same amendments to the Fiscal Indicators for Appendix B as described above for Appendix A.

Governance

The Governance indicators in Appendix B are the same as in Appendix A.

The Department proposes the same amendments to the Governance Indicators for Appendix B as described above for Appendix A.

Operations

The Operations indicators in Appendix B are the same as in Appendix A.

The Department proposes the same amendments to the Operations Indicators in Appendix B as described above for Appendix A.

Personnel

The Personnel indicators in Appendix B are the same as in Appendix A.

The Department proposes the same amendments to the Personnel Indicators in Appendix B as described above for Appendix A.

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

Social Impact

The rules proposed for readoption with amendments implement a system for the evaluation and monitoring of school districts by the Department to ensure the provision of a thorough and efficient education to all students in the State. Under NJQSAC, all public school districts are evaluated by uniform, objective criteria in the areas of instruction and program, fiscal management, personnel, operations, and governance. Based on the Department reviews, appropriate assistance and/or intervention activities are initiated. If a school district fails to develop or implement an improvement plan as required or as other emergency circumstances warrant, the Department may seek partial or full intervention in the school district to effect the changes necessary to build local capacity to provide a thorough and efficient education. Through this system, the Department is able to work with school districts to identify and remedy areas of deficient performance, which has a beneficial impact on affected students and their families. Communities also benefit by receiving current, reliable information about their school districts, thereby enabling communities to hold school districts accountable for the five key components of school district effectiveness.

The Department does not anticipate the proposed amendments will have any additional social impact.

Economic Impact

The rules proposed for readoption with amendments have no general economic impact; however, they may depend on a school district's need to take corrective action as a result of the Department's three-year comprehensive review. School districts that are designated as "high performing" pursuant to the comprehensive review process will experience little or no additional costs as a result of the rules proposed for readoption with amendments, new rules, and repeals. However, there likely will be an economic impact on school districts that are required to develop and implement district improvement plans. The amount of increased costs to school districts will depend on the specific improvement activity(ies) required and whether highly skilled professionals will be used. The Department does not anticipate that the proposed amendments will have an economic impact.

Federal Standards Statement

The rules proposed for readoption with amendments are consistent with Federal standards for school-accountability under ESSA (20 U.S.C. § 6311(c) and 34 CFR 200.12); therefore, a Federal standards analysis is not necessary.

Jobs Impact

The Department does not anticipate that rules proposed for readoption with amendments will result in the generation or loss of jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have no impact on the agricultural industry in New Jersey. The rules proposed for readoption with amendments concern school district effectiveness.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rules proposed for readoption with amendments, do not impose reporting, recordkeeping, or other compliance requirements on small businesses as defined by the Regulatory Flexibility Act at N.J.S.A. 52:14B-16 et seq. The chapter impacts solely upon New Jersey public school districts.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will not have an impact on the affordability of housing in New Jersey. There is an extreme unlikelihood the rules proposed for readoption with amendments would evoke a change in the average costs associated with housing because the rules concern school district effectiveness.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments 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 and 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules proposed for readoption with amendments concern school district effectiveness.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

There is an extreme unlikelihood the rules proposed for readoption with amendments would have an impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State because the rules proposed for readoption with amendments concern school district effectiveness.

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

Chapter 30. Evaluation of The Performance of School Districts

Subchapter 1. Purpose, Scope, and Definitions

6A:30-1.1 Purpose and scope

- (a) The chapter's purpose is to establish rules to implement the New Jersey Quality Single Accountability Continuum (NJQSAC) system, [as required by] **pursuant to** N.J.S.A. 18A:7A-3 et seq., for evaluating and monitoring all school districts in the State. NJQSAC is designed to be a single, comprehensive accountability system that consolidates and incorporates the monitoring requirements of applicable State and Federal programs. NJQSAC is also intended to complement[,] and, [serve] in part, [to] implement[,] Federal requirements. Under NJQSAC, school districts are evaluated in five key component areas of school district effectiveness — instruction and program, personnel, fiscal management, operations, and governance — to determine the extent to which school districts are providing a thorough and efficient education. The standards and criteria by which school districts are evaluated will assess [actual] achievement **in the five key component areas of school district effectiveness**, progress toward proficiency, [local] **school district** capacity to operate without State intervention, and the need for State support and assistance. Once a school district is identified [under] **through** NJQSAC as requiring assistance in one or more of the five **key component** areas of school district effectiveness, the Department and the school district will work collaboratively to improve school district performance in the targeted [areas] **area(s)**. The measures used to achieve this goal include [Department evaluations] **the Department's comprehensive review** of the school district, development of a district improvement plan, close monitoring of the implementation of the district improvement plan, and the provision of technical assistance, as appropriate. If a school district fails to develop or implement a district improvement plan as required, or other emergent circumstances warrant, NJQSAC allows the Department to seek partial or full

intervention in the school district to effect the change(s) necessary to build school district capacity to provide a thorough and efficient education.

- (b) This chapter sets forth the steps the Department will undertake to implement N.J.S.A. 18A:7A-3 et seq., which include a three-year evaluation process, placement of the school district on a performance continuum, improvement and intervention activities, and periodic progress monitoring.
- (c) The rules shall apply to all school districts in the State as defined [in] **at** N.J.S.A. 18A:8-1 et seq. and 18A:13-1 et seq., with the exception of charter schools **and renaissance school projects** and educational services commissions, and shall include **county special services school districts established pursuant to N.J.S.A 18A:46-29 et seq., and** county vocational school districts established pursuant to N.J.S.A. 18A:54-1 et seq., with the exception of county vocational school districts that provide only shared-time services[, and county special services school districts established pursuant to N.J.S.A. 18A:46-29 et seq].

6A:30-1.2 Definitions

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

“Administrative order” means a written directive ordering specific corrective action by a school district that has shown insufficient compliance with the quality performance indicators.

“Assistant commissioner” means an assistant commissioner, or designee, in the Department.

“Chief school administrator” or “CSA” means the superintendent of a school district or county vocational school district or, if there is no superintendent, the administrative principal.

“[Components] **Key components** of school district effectiveness” means the areas in which school districts will be evaluated under NJQSAC. [They] **The components** are:

1. Instruction and program;
2. Operations;
3. Fiscal management;
4. Personnel; and
5. Governance.

“Comprehensive review” [refers to] **means** the Department’s evaluation process to measure each school district’s performance, capacity, and need for State support, assistance, or intervention.

The comprehensive review shall be based on the [weighted] quality performance indicators [developed by the Department and set forth in the District Performance Review incorporated in this chapter as the chapter Appendices].

“Declaration page” means the section of the District Performance Review that verifies the accuracy of the responses on the school district’s District Performance Review.

“District improvement plan” means a plan developed [in collaboration with the Department] by a school district that fails to satisfy at least 80 percent of the [weighted] quality performance indicators in any of the five key components of school district effectiveness. The district improvement plan addresses critical areas of need identified through the comprehensive review.

“District Performance Review” or “DPR” means the Department-developed self-assessment tool that measures a school district’s compliance with the quality performance indicators in all of the five key components of school district effectiveness. **The District Performance Reviews are incorporated in this chapter as Appendix A and Appendix B.**

“Evaluation team” means a Commissioner-designated team qualified by training and experience to examine specific conditions existing in a school district.

“Evidence based” means a program or service that has demonstrated success based on research, best practices, or other forms of evidence.

“High-performing school district” means a designation assigned to a school district that satisfies at least 80 percent of the [weighted] **quality** performance indicators in each of the five key components of school district effectiveness.

“Highly skilled professional” or “HSP” means a Commissioner designee who has skills and expertise based on education and/or experience that is relevant to one or more of the five key components of school district effectiveness.

“In-depth evaluation” means a process the Commissioner can authorize to evaluate school districts that satisfy less than 80 percent of the [weighted] quality performance indicators in one or more of the five key components of school district effectiveness as determined by the Department based on the comprehensive review.

“NJQSAC” means the New Jersey Quality Single Accountability Continuum.

“Performance continuum” means a measure that identifies a school district’s performance with respect to each of the five **key** components of school district effectiveness.

“Quality performance indicators” [or “weighted quality performance indicators”] means the specific, objective criteria for each key component of school district effectiveness [by which] **used to measure** each school district’s performance, capacity, and need for State support, assistance, or intervention [are measured]. **The quality performance indicators are weighted, developed by the Department, and set forth in the District Performance Reviews.**

“Shared-time services” mean **educational services provided to students who attend and receive instruction for half of the school day at a county vocational school district, pursuant to**

N.J.S.A. 18A:54-3, and attend and receive instruction at another school or receive equivalent instruction elsewhere than at school for half of the school day.

“Technical assistance” means guidance and support provided to a school district to enable the school district to meet State and Federal policy and regulatory requirements and to ensure the provision of a thorough and efficient education.

Subchapter 2. NJQSAC Components of School District Effectiveness and Indicators

6A:30-2.1 [Components] **Key components** of school district effectiveness

- (a) The Department shall evaluate and monitor school districts’ performance and capacity in five key components of school district effectiveness. [They] **The components** are:
1. Instruction and program;
 2. Personnel;
 3. Fiscal management;
 4. Operations; and
 5. Governance.
- (b) In assessing school district performance and capacity in the five key [component areas] **components of school district effectiveness**, the Department shall use objective measures and shall consider school district improvement and growth.

6A:30-2.2 Quality performance indicators [of school district effectiveness]

- (a) The Department shall establish [weighted] quality performance indicators to measure school district performance and capacity in each of the five key components of school district effectiveness.
- [(b) The weighted quality performance indicators are set forth in the District Performance Review, incorporated in this chapter as the chapter Appendices.]

[(c)] (b) The Commissioner shall use the [weighted] quality performance indicators to assess school district performance and capacity during the comprehensive reviews pursuant to N.J.A.C. 6A:30-3.1 through 3.3, the in-depth evaluations pursuant to N.J.A.C. 6A:30-5.3, and monitoring pursuant to N.J.A.C. 6A:30-5.6. The Commissioner also shall use the [weighted] quality performance indicators in determining whether to initiate intervention activities pursuant to N.J.A.C. 6A:30-6.2 and to withdraw from intervention pursuant to N.J.A.C. 6A:30-7.1.

Subchapter 3. Comprehensive Review of School Districts

6A:30-3.1 General requirements

- (a) The Commissioner shall conduct a comprehensive review of each school district every three years.
 - 1. In the intervening years between each school district's three-year review, the Commissioner shall assess the school district's performance to determine whether conditions exist in the school district that significantly and negatively impact the school district's educational program or operations. Upon a determination that conditions exist in a school district, the Commissioner may direct the Department **to** immediately conduct a comprehensive review of the school district as set forth in this section.
- (b) The comprehensive review shall be based on the [Department-developed weighted] quality performance indicators. [Unless (d) below applies, the] **The** comprehensive review shall commence with the completion of the District Performance Review by each school district, followed by its verification and review of other relevant data and information by the Department. The comprehensive review also may include one or more on-site visits to school district facilities by Department staff.
- (c) The Commissioner shall direct the executive county superintendent and other appropriate Department staff to provide timely notification to each school district of the comprehensive review procedures.

[(d) The Commissioner may determine a school district does not need to provide a District Performance Review as part of the comprehensive review with respect to components of school district effectiveness for which the school district is implementing a district improvement plan, pursuant to N.J.A.C. 6A:30-5.4 and 5.5, and is subject to Department monitoring, pursuant to N.J.A.C. 6A:30-5.6.]

6A:30-3.2 District Performance Review

- (a) [As part of the comprehensive review, unless N.J.A.C. 6A:30-3.1(d) applies, each school district shall complete a District Performance Review. The District Performance Review is incorporated in this chapter as the chapter Appendices (Appendix A and Appendix B), which is the form that school districts shall use in completing the self-assessment.] All school districts, with the exception of county special services school districts, shall use **the District Performance Review set forth at Appendix A** to complete the self-assessment. All county special services school districts shall use **the District Performance Review set forth at Appendix B** to complete the self-assessment.
- (b) To complete the District Performance Review, the CSA shall take the following steps
1. Convene a committee to assist in completing the District Performance Review. The CSA shall determine the total number of people [that] **who** will serve on the committee. The CSA shall appoint to the committee the following persons and may include other persons with approval of the district board of education:
 - i. **The CSA;**
 - ii. One or more members of the school district's administrative staff;
 - iii. One or more teaching personnel, representative of different grade levels and/or schools in the school district;

- iv. The business administrator and assistant superintendent for curriculum and instruction, as well as other appropriate school district level personnel as determined by the CSA;
 - v. One or more member representatives of the educational staff's local collective bargaining unit as selected by the local collective bargaining unit. The member representatives may include the teaching personnel required [under] at (b)1iii above; and
 - vi. One or more members of the district board of education selected by the district board of education.
2. Ensure the process used by the committee in completing the District Performance Review provides for participation and input by all committee members;
 3. Consult with the committee in formulating a response to all [weighted] quality performance indicators of each **key** component of school district effectiveness;
 4. Ensure the responses in the school district's District Performance Review encompass and reflect circumstances that exist in the school district; and
 5. Ensure all responses to the District Performance Review can be verified by data and supporting documentation, or otherwise. The CSA shall provide the verification to the Department upon request.
- (c) The executive county superintendent shall provide technical assistance, as needed, to the CSA and the school district's committee formed to complete the District Performance Review.
 - (d) The district board of education may establish a district board of education subcommittee to consult with the committee formed to complete the District Performance Review. The district board of education also may monitor the progress of the committee completing the District Performance Review by requiring periodic reporting to the district board of education at public meetings.
 - (e) Upon completion of the proposed responses to the District Performance Review, the CSA shall sign a declaration page attesting to the accuracy of the responses in the report to the best

of [his or her] **the CSA's** knowledge. Each member of the committee shall be given the opportunity to sign the declaration page to attest to [his or her] **the member's** participation in completion of the District Performance Review. If a member of the committee refuses to sign the declaration page, the member's name shall be written on the form with the notation "refused to sign."

- (f) Upon completion of the proposed responses to the District Performance Review, the district board of education shall fix a date, place, and time for the holding of a public meeting, which may be a regularly scheduled district board of education meeting, to review the proposed responses to the District Performance Review and declaration page for approval by resolution. The district board of education shall do the following with respect to the meeting:
1. Post the proposed responses to the District Performance Review and declaration page on the school district's Internet site at least five working days prior to the meeting date. The district board of education also shall make the proposed responses and declaration page available for examination by the public at the district board of education offices or another reasonable location;
 2. Cause notice of the meeting to be published, pursuant to the **Senator Byron M. Baer** Open Public Meetings Act, N.J.S.A. 10:4-6 et seq. The notice shall inform the public that the District Performance Review and declaration page will be discussed at the meeting and of the times and manner in which members of the public may view the proposed responses to the District Performance Review; and
 3. Provide, at the public meeting, the public with the opportunity to comment and be heard with respect to the proposed responses to the District Performance Review. The district board of education also shall provide the public with the opportunity to submit written comments prior to the meeting.
- (g) The District Performance Review, the declaration page, and the district board of education resolution approving the District Performance Review shall be submitted to the

[appropriate executive county superintendent's office] **Department's electronic data submission system** by November 15 or at another time designated by the Commissioner if [he or she] **the Commissioner** has directed a school district to undergo an immediate comprehensive review, pursuant to N.J.S.A. 18A:7A-11 and N.J.A.C. 6A:30-3.1(a).

1. If the district board of education does not approve all sections of the District Performance Review as submitted by the CSA, the district board of education may adopt a resolution indicating the District Performance Review sections approved and the [sections] **section(s)** with which the district board of education takes exception.
- (h) Upon a showing of good cause, the district board of education may request from the Department a reasonable time extension for submission of the District Performance Review.
- (i) Failure by a school district to conduct or submit a District Performance Review, including a declaration page approved by the district board of education pursuant to this section, may result in the withholding of State aid, pursuant to N.J.S.A. 18A:55-2, or, under appropriate circumstances, the initiation of intervention activities [as] set forth at N.J.A.C. 6A:30-6.2.

6A:30-3.3 Review and evaluation of District Performance Reviews

- (a) The Department shall confirm receipt of a school district's District Performance Review, district board of education resolution, and declaration page and shall do the following:
1. Review the District Performance Review, district board of education resolution, and declaration page for completeness;
 2. Confirm the use of a committee, composed of representatives required [by] **pursuant to** N.J.A.C. 6A:30-3.2(b)1, to complete the District Performance Review as demonstrated by the declaration page; and
 3. Verify through a desk audit the District Performance Review responses using relevant data, reports, facts, audit results, documents, and/or other information.

The Department may require the school district to submit documentation substantiating its responses or other information.

- (b) Upon completion of the initial review, the Department shall notify the CSA of any area(s) of the District Performance Review that requires additional clarification. When notification is warranted, the Department shall:
 - 1. Issue a written request for any additional information, documentation, or materials from the CSA; and/or
 - 2. Initiate one or more on-site visits to schools and/or other facilities, as needed to verify the accuracy of District Performance Review responses.
- (c) The Department shall compile and analyze the results of each school district's District Performance Review and any additional review conducted by Department staff and shall develop for the Commissioner a recommendation for the school district's placement on the performance continuum.
- (d) The Commissioner shall review the recommendation made pursuant to (c) above, as well as any other data, facts, reports, audit results, documents, and/or other information that may inform a well-reasoned final decision in determining the school district's placement on the performance continuum.

Subchapter 4. Performance Continuum

6A:30-4.1 General requirements

- (a) Following a school district's comprehensive review, or at another time designated by the Commissioner if [he or she] **the Commissioner** has directed a school district to undergo an immediate comprehensive review pursuant to N.J.S.A. 18A:7A-11 and N.J.A.C. 6A:30-3.1(a), the Commissioner shall issue a final determination letter detailing each school district's performance and placement on the performance continuum, based on the

comprehensive review, and shall notify the State Board at its next public meeting. The determination letter shall consist of the following:

1. The percentage of [weighted] quality performance indicators satisfied by the school district in each of the five key components of school district effectiveness;
 2. For each school district that satisfies at least 80 percent of the [weighted] quality performance indicators in each of the five key components of school district effectiveness, a designation as a “high performing” school district and a recommendation for the State Board to certify, for a period of three years, the school district as providing a thorough and efficient education;
 3. For school districts satisfying less than 80 percent in one or more of the [weighted] quality performance indicators in each of the five key components of school district effectiveness, notification the school district has not met the comprehensive review’s requirements and shall be directed to begin improvement activities, pursuant to N.J.A.C. 6A:30-5.2;
 4. The requirement for each school district to report its Commissioner-determined placement on the performance continuum at the next public district board of education meeting; and
 5. Notification the school district may seek reconsideration of the Commissioner’s placement of the school district on the performance continuum within seven days of receiving the determination letter.
- (b) In its request for reconsideration, the school district shall specifically delineate each [District Performance Review] **quality performance** indicator the school district claims was scored incorrectly by the Commissioner and the basis for the claim.
1. During the reconsideration review, the Commissioner shall provide the school district with the opportunity to present evidence supporting the school district’s

claim that its score on one or more **quality performance** indicators [of] **in** the District Performance Review was erroneous and should be changed.

2. If warranted by the evidence and arguments presented by the school district, the Commissioner may amend the school district's placement on the performance continuum. At the conclusion of the reconsideration, the Commissioner shall notify, in writing, the CSA and the State Board of the determination.
- (c) Upon the State Board's approval of the Commissioner's recommendation made pursuant to (a)2 above, the Department will notify a high-performing school district that it is certified, for a period of three years, as providing a thorough and efficient education.

Subchapter 5. Improvement Activities to Support Student Achievement in School Districts

6A:30-5.1 School district obligations for continual improvement

Each school district shall continuously strive for improvement in all [areas] **key components** of school district effectiveness to enhance student achievement and to ensure the school district provides a thorough and efficient education to all students.

6A:30-5.2 Improvement activities for school districts that satisfy less than 80 percent of the [weighted] quality performance indicators in one or more key components of school district effectiveness

School districts that satisfy less than 80 percent of the [weighted] quality performance indicators in one or more of the key components of school district effectiveness shall commence improvement activities as set forth at N.J.A.C. 6A:30-5.3 through 5.7.

6A:30-5.3 In-depth evaluation

- (a) Upon completion of the comprehensive review, the Commissioner will notify the school district as to whether the Department will conduct an in-depth evaluation of the school district pursuant to the following:

1. The Department shall conduct an in-depth evaluation of school districts that satisfy less than 50 percent of the [weighted] quality performance indicators in one or more of the five key components of school district effectiveness, as determined by the comprehensive review, unless the Commissioner determines a comprehensive [evaluation] **review** of the school district by the Department or directed by it has occurred within the last year;
 2. The Department may conduct an in-depth evaluation for school districts that satisfy between 50 and 79 percent of the [weighted] quality performance indicators in one or more of the five key components of school district effectiveness, as determined by the comprehensive review. In making this determination, the Commissioner shall consider:
 - i. Whether other evaluations of the school district address the area(s) of deficiency or limited capacity identified through the comprehensive review process and whether the other evaluations obviate the need for an additional in-depth evaluation; or
 - ii. Whether the school district can demonstrate, through documentation or other data, it is engaged in efforts to address the area(s) of deficiency or limited capacity identified through the comprehensive review process; and
 3. Notwithstanding the provisions [of] **at** (a)1 and 2 above, the Commissioner may decide not to conduct an in-depth evaluation of a school district if the Department conducted in a prior year an in-depth evaluation that was the basis for a district improvement plan currently in operation in the school district.
- (b) The Commissioner shall designate, secure, or appoint appropriate persons or entities to conduct the in-depth evaluation. The evaluation team may consist of Department personnel, highly skilled professionals, or other appropriate persons as determined by the Commissioner, who also shall appoint a team leader. In all instances, the members of the

evaluation team shall be qualified by training and experience to examine the specific conditions within the school district identified through the comprehensive review.

- (c) The evaluation team, in consultation with Department staff, shall determine the scope of the in-depth evaluation. The evaluation may include, but need not be limited to:
1. The deficiency(ies) or area(s) of limited capacity within the school district identified by the comprehensive review as the **key** component(s) of school district effectiveness for which the school district satisfied less than 80 percent of the [weighted] quality performance indicators;
 2. Other deficiency(ies) or area(s) of limited capacity [in] **within the** school district [effectiveness related to the deficiency(ies) or area(s)] identified [in (d)1 above] **by the comprehensive review**; and/or
 3. Conditions in the community that may adversely affect [the] students' ability to learn.
- (d) The evaluation team leader, in consultation with the Commissioner and upon notice to the school district, may amend the evaluation's scope during the course of the evaluation if warranted based on the evaluation team's preliminary findings.
- (e) The in-depth evaluation shall include, but need not be limited to, the following:
1. A pre-evaluation conference [by] **with** the evaluation team [with] **and** the CSA to discuss the review's scope and the procedures to be followed;
 2. On-site visits to the [public] school district's central office and, at the discretion of the evaluation team, to one or more of the school district's schools. The dates for on-site visits shall be established in advance by the team leader in consultation with the [school district's] CSA;
 3. A review of any document(s), data, or other written material(s) deemed relevant by the evaluation team. The CSA shall make available to the evaluation team, upon request, the relevant document(s), data, or other written material(s);

4. Interviews with individuals as determined appropriate by the evaluation team, including members of the school district committee responsible for completing the [school district's] District Performance Review, to obtain the individuals' perspectives regarding the circumstances that contributed to the area(s) of deficiency or limited capacity in the school district and to receive input and suggestions; and
 5. Provision by the evaluation team for public input regarding the evaluation process.
- (f) The review of school district practices conducted by the in-depth evaluation team shall be completed within 30 business days. The Commissioner may grant a reasonable extension(s) of time for completion of the in-depth evaluation.
 - (g) Within 45 days after conclusion of its review, the evaluation team shall submit a report to the Commissioner. The report shall include findings, conclusions, and recommendations for the school district to use in developing and implementing a district improvement plan.
 - (h) The Commissioner shall review the evaluation team's findings, conclusions, and recommendations. The Commissioner shall prepare a final report and shall transmit it to the CSA and the district board of education. The Commissioner may use [his or her] **the** final report to re-evaluate the school district's placement on the performance continuum. The school district and the Department shall use the Commissioner's final report in developing the district improvement plan, pursuant to N.J.A.C. 6A:30-5.4.
 - (i) Within 30 days of the issuance of the Commissioner's final report, the district board of education shall report the findings at a regular or special **public meeting held in accordance with N.J.S.A 10:4-6 et seq.**

6A:30-5.4 District improvement plan

- (a) Each school district that satisfies less than 80 percent of the [weighted] quality performance indicators in one or more of the five components of school district effectiveness shall be required to develop and submit **to the Department** a district

improvement plan to address the area(s) of deficiency and limited capacity identified through the comprehensive review and in-depth evaluation, if applicable.

- (b) The district improvement plan shall be data driven and results oriented, and shall outline strategies for building capacity of the school district and its schools to improve learning and teaching. The district improvement plan shall identify specific areas of strength and weakness in addressing all methods employed by the school district to improve student achievement, increase school district capacity, and improve performance in each applicable **key** component of school district effectiveness. The district improvement plan also shall incorporate the content and requirements of improvement or corrective action plans required by other State or Federal programs. The district improvement plan shall be informed by data generated by the Department, the school district, and any individual school improvement planning process that may have occurred.
- (c) A district improvement plan shall consist of districtwide goals and measurable objectives that describe the structural, policy, programmatic, or organizational changes to be implemented. The district improvement plan shall identify the **title(s) and name(s) of the** individual(s) responsible for addressing each area and shall specify timelines for each goal's completion. The district improvement plan shall include, but not be limited to, the following elements:
1. School-level planning objectives toward ensuring a thorough and efficient education;
 2. Evidence-based strategies for improvement to address all critical areas of need for the school district identified by the findings of the in-depth evaluation report, if applicable, and the comprehensive review; and
 3. Identification of the assistance required to implement improvement strategies with budgetary considerations identified.
- (d) The school district also shall ensure the district improvement plan is aligned with and incorporates or references the relevant provisions of all applicable State and Federal plans.

- (e) The district improvement plan shall be developed by an in-district team established by the CSA. This in-district team shall, at a minimum, consist of school district administrators; school district or school personnel with experience in one or more of the [areas] **key components** of school district effectiveness; school administrative personnel from a representative sample of the schools in the school district; instructional staff; member representatives of the local collective bargaining unit of the educational staff selected by the local collective bargaining unit; and one or more representatives of the district board of education selected by the district board of education.
- (f) When requested by the CSA, the Department may provide the in-district team with technical assistance [needed] to develop the district improvement plan. The Department shall determine the type of technical assistance to be provided in collaboration with the school district.

6A:30-5.5 Review and approval process for the district improvement plan

- (a) Within 60 days of the school district's receipt of the in-depth evaluation report, the CSA shall obtain district board of education approval for the proposed district improvement plan. The CSA shall submit to the Department the proposed district improvement plan, as approved by the district board of education. If the Department did not conduct an in-depth evaluation of the school district, the CSA shall submit to the Department the proposed district improvement plan, as approved by the district board of education, within 60 days of the final determination of the school district's placement on the performance continuum, as set forth at N.J.A.C. 6A:30-4.1(f).
 - 1. If the district board of education does not approve the district improvement plan, the district board of education may require the CSA and the in-district team to reevaluate and/or revise the plan. If requested by the district board of education, the Commissioner may grant a reasonable extension(s) of time for submission of the district improvement plan approved by the district board of education.

- (b) Failure by a school district to submit a district improvement plan in accordance with N.J.A.C. 6A:30-5.4 and (a) above may result in the withholding of State aid, pursuant to N.J.S.A. 18A:55-2, or, in appropriate circumstances, the initiation of intervention activities as set forth at N.J.A.C. 6A:30-6.2.
- (c) The Department [staff] shall review the proposed district improvement plan to ensure it addresses all areas identified in the comprehensive review and the in-depth evaluation, if applicable. The Department shall ensure the plan contains measurable and attainable evidence-based objectives and strategies for achieving improvement, developing [local] **school district** capacity, and improving school district effectiveness in each [identified] **deficient** area(s) [of deficiency]. The Department [staff] shall make a recommendation to the Commissioner proposing revisions to, or approval of, the proposed district improvement plan.
- (d) The Commissioner shall review the proposed district improvement plan and the Department staff's recommendation within 30 days of receipt.
1. Upon approval of the district improvement plan, the Commissioner, **or the Commissioner's designee**, shall notify in writing the school district and shall ensure sufficient resources are allocated within the school district budget to implement the plan.
 2. If the Commissioner determines the proposed district improvement plan needs revision, [he or she] **the Commissioner, or the Commissioner's designee**, shall notify the school district. The school district shall revise the plan in the manner and within the time specified by the Commissioner **or the Commissioner's designee**.

6A:30-5.6 Implementation and monitoring of an approved district improvement plan

- (a) A school district shall implement its district improvement plan promptly upon Commissioner approval of the plan.

- (b) Every six months, the Department shall review the school district's progress in implementing the district improvement plan. As part of this review, the school district shall submit in a Department-determined format a report of its progress in implementing each item(s) in the district improvement plan and in satisfying the [weighted] performance indicators of the **key** component(s) of school district effectiveness that are the subject of the district improvement plan. Each six-month review also shall include an on-site visit at which time the Department may receive input from members of the in-district team responsible for developing the district improvement plan and others as determined appropriate by Department staff.
- (c) Based on the six-month review pursuant to (b) above:
1. If the Commissioner determines the school district satisfies 80 to 100 percent of the [weighted] quality performance indicators in each of the five **key** components of school district effectiveness:
 - i. The Commissioner shall issue a letter of recognition designating the school district as high performing;
 - ii. The six-month reviews of the school district, pursuant to (b) above, shall cease; and
 - iii. Payment for any technical assistance provided by highly skilled professionals shall become the sole responsibility of the school district.
 2. If the Commissioner determines the school district does not satisfy at least 80 percent of the [weighted] quality performance indicators in each of the five **key** components of school district effectiveness, the Commissioner shall:
 - i. Issue a letter detailing the area(s) in which the school district continues to need improvement;
 - ii. Ensure the school district continues to receive appropriate technical assistance, if applicable; and
 - iii. Continue to monitor the school district's progress at the six-month review pursuant to (b) above.

(d) Upon Commissioner approval, a school district may amend its district improvement plan as circumstances warrant. Two years after the implementation of the initial district improvement plan, and every two years thereafter, the Department shall assess specifically whether to amend the district improvement plan to address insufficient progress by the school district in satisfying the [weighted] **quality** performance indicators in one or more [areas] **key components** of school district effectiveness.

1. If the Commissioner determines the district improvement plan needs to be amended, the Department shall work collaboratively with the in-district team to develop amendments to the plan, which shall be subject to approval as set forth at N.J.A.C. 6A:30-5.5.
2. If the Commissioner determines the school district is making sufficient progress in all areas, the school district shall continue to implement the current district improvement plan without amendment.

6A:30-5.7 [Assistance] **Technical assistance** provided to school districts through the district improvement plan

(a) The Department may provide school districts with technical assistance to improve performance and increase [local] **school district** capacity in areas of need as identified in the comprehensive review and/or the in-depth evaluation.

1. The type of **technical** assistance shall be delineated in the district improvement plan developed by the school district in collaboration with the Department.
2. The Commissioner may select and appoint appropriate Department personnel to provide the technical assistance set forth in the district improvement plan.
3. In consultation with the school district, the Commissioner may select and appoint other appropriate highly skilled professionals who are not Department personnel to provide the assistance set forth in the district improvement plan.
4. The technical assistance may be coordinated and provided on a regional or Statewide basis.

- (b) The Commissioner shall determine the eligibility of persons to be designated as “highly skilled professionals” to perform specific functions in school districts. Highly skilled professionals may be Department employees and shall be selected considering the needs of the particular school district and the following criteria:
1. Relevant education and training;
 2. Relevant professional experience;
 3. Expertise in the field in which technical assistance is needed; and
 4. Experience working with school districts.
- (c) The Commissioner may assign highly skilled professionals to school districts to perform designated functions, including, but not limited to:
1. Participating as a member of the in-depth evaluation team, pursuant to N.J.A.C. 6A:30-5.3;
 2. Providing technical assistance as delineated in the Commissioner-approved district improvement plan; and
 3. Providing direct oversight of school district functions during a period of partial or full State intervention, pursuant to N.J.A.C. 6A:30-6.
- (d) The Commissioner shall not appoint highly skilled professionals to a school district in any capacity that would create an actual or potential conflict of interest within the school district.
- (e) The compensation of highly skilled professionals appointed by the Commissioner pursuant to (c)2 and 3 above shall be a shared expense of the school district and the Department, with each assuming one-half of the costs. The Department shall assume the total cost of compensation for technical assistance, pursuant to (c)2 above, provided by Department employees.

Subchapter 6. Intervention Activities

6A:30-6.1 Forms of State intervention

- (a) Where appropriate, pursuant to N.J.A.C. 6A:30-6.2, the Commissioner may seek partial or full State intervention in a school district.

- (b) Under partial State intervention, the Department will intervene in one or more [areas] **key components** of school district effectiveness. Partial State intervention may include elements set forth [in] **at** N.J.A.C. 6A:30-6.4 and 6.5.
- (c) Under full State intervention, the Department will intervene in each of the five [areas] **key components** of school district effectiveness. Full State intervention may include elements set forth [in] **at** N.J.A.C. 6A:30-6.7 and 6.8.

6A:30-6.2 Factors for initiating State intervention

- (a) The Commissioner may seek to initiate partial State intervention in a school district if the school district satisfies less than 50 percent of the [weighted] quality performance indicators in one to four of the five **key** components of school district effectiveness, and at least one of the following factors is present:
 1. The school district has failed to submit its District Performance Review and/or failed to provide other documentation requested by the Department in connection with the comprehensive review within the established timeframe, pursuant to N.J.A.C. 6A:30-3;
 2. The school district has failed to develop a district improvement plan that can be approved by the Commissioner, pursuant to N.J.A.C. 6A:30-5.4;
 3. The school district has failed to implement the Commissioner-approved district improvement plan, pursuant to N.J.A.C. 6A:30-5.6;
 4. Other circumstances warrant immediate action by the Commissioner to ensure the school district will provide a thorough and efficient education to its students; or
 5. Other circumstances indicate insufficient [local] **school district** capacity to ensure the school district will provide a thorough and efficient education to its students and the school district's unwillingness or inability to develop [local] capacity without State intervention.
- (b) The Commissioner may seek to initiate full State intervention in a school district when the school district: satisfies less than 50 percent of the [weighted] quality performance

indicators in each of the five **key** components of school district effectiveness; or the school district is under the direct oversight of a State fiscal monitor, appointed by the Commissioner pursuant to N.J.S.A. 18:7A-55 et seq., and satisfies less than 50 percent of the [weighted] quality performance indicators in the instruction and program, operations, personnel, and governance components of school district effectiveness. At least one of the following factors also must be present:

1. The school district has failed to submit its District Performance Review and/or to provide other documentation requested by the Department in connection with the comprehensive review within the established timeframe, pursuant to N.J.A.C. 6A:30-3;
2. The school district has failed to develop a district improvement plan that can be approved by the Commissioner, pursuant to N.J.A.C. 6A:30-5.4;
3. The school district has failed to implement the Commissioner-approved district improvement plan, pursuant to N.J.A.C. 6A:30-5.6;
4. Other circumstances warrant immediate action by the Department to ensure the school district will provide a thorough and efficient education to its students; or
5. Other circumstances indicate insufficient [local] **school district** capacity to ensure the school district will provide a thorough and efficient education to its students and the school district's unwillingness or inability to develop [local] capacity without State intervention.

6A:30-6.3 Procedure for initiating partial State intervention

- (a) When a school district qualifies [for partial State intervention] pursuant to N.J.A.C. 6A:30-6.2(a), the Commissioner may seek partial State intervention in the school district by issuing an Order to Show Cause why an administrative order to place the identified **key components of school district effectiveness** under partial State intervention should not be implemented.
- (b) At the Order to Show Cause's time of service, the Commissioner also shall serve upon the school district a proposed administrative order for partial intervention, which shall

contain and incorporate a partial intervention plan developed by Department staff, pursuant to N.J.A.C. 6A:30-6.4.

- (c) The Order to Show Cause shall be referred to the Office of Administrative Law, pursuant to N.J.S.A. 52:14B-1 et seq., for a plenary hearing conducted on an expedited basis. In this proceeding, the Department shall have the burden of showing the recommended administrative order is not arbitrary, unreasonable, or capricious.
- (d) If the Commissioner determines, at the hearing process' conclusion, the school district has failed to show cause why the actions proposed should not occur, the Commissioner shall recommend to the State Board that it issue an order placing the school district under partial State intervention.
- (e) The State Board may place the school district under partial intervention. The State Board's decision shall be considered final and may be appealed to the Superior Court, Appellate Division.

6A:30-6.4 Partial State intervention plan

- (a) The partial State intervention plan **at N.J.A.C. 6A:30-6.3** shall incorporate and amend the district improvement plan, and [will be presented by the Commissioner as part of the proposed administrative order when the Department brings an Order to Show Cause seeking partial intervention in a school district. The intervention plan] shall address, but need not be limited to, the following:
 1. Whether the State Board, upon the Commissioner's recommendation, will appoint a school district superintendent if a vacancy occurs during the period of partial intervention. If a **school** district superintendent is appointed during the period of partial intervention, the intervention plan shall indicate the person shall be appointed for an initial term not to exceed two years and the **school district shall be responsible for the** costs of [his or her] **the superintendent's** salary [shall be an expense of the school district];

2. Whether highly skilled professionals will be appointed, pursuant to N.J.S.A. 18A:7A-14.c(5), to provide direct oversight in the school district.
 - i. If so, the intervention plan will state the key components of **school district effectiveness** over which the highly skilled professionals will have authority and their powers, authority, and duties;
 - ii. The intervention plan also shall establish a decision-making hierarchy to address conflicts that arise between persons appointed by the Commissioner and school district personnel;
 - iii. The intervention plan shall state the costs of the highly skilled professional(s) will be divided equally between the State and the school district; and
3. Whether [the intervention plan shall state] the Commissioner intends to exercise [his or her] **the Commissioner's** authority to appoint, with the State Board's approval **pursuant to N.J.A.C. 6A:30-6.5**, up to three additional members to the district board of education.

6A:30-6.5 Structure of the district board of education under partial State intervention

- (a) If the partial intervention plan incorporated into the administrative order for partial intervention provides for the Commissioner, with State Board approval, to appoint up to three additional members to the district board of education, the following shall apply:
 1. The Commissioner shall appoint at least one of the additional members from a list of three candidates provided by the governing body of the municipality in which the school district is located. If the school district is a regional school district, one of the additional members shall be selected by the Commissioner from a list containing three candidates from each constituent municipality provided by the governing bodies of the respective municipalities. If the school district is a county vocational school district or a county special services school district, the list of

three candidates shall be provided by the governing body of the county in which the school district is located.

2. The Commissioner shall make every effort to appoint residents of the school district; and
 3. The appointed district board **of education** members shall meet all requirements [of] **at** N.J.S.A. 18A:12-1 et seq., and shall be registered voters in the State, except they shall not be required to be residents of the school district or be registered to vote in the school district.
- (b) The appointed district board of education members shall comply with the School Ethics Act, N.J.S.A. 18A:12-21 et seq.
- (c) The appointed district board of education members shall be non-voting members of the district board of education and shall have all other rights, obligations, powers, and privileges of district board of education members.
1. Six months following the initial order for partial State intervention, the Commissioner shall determine whether the appointed district board of education members shall become voting members.
 2. If the Commissioner determines the appointed district board of education members shall become voting members, the district board of education may appeal the determination to the Superior Court, Appellate Division.
- (d) The appointed district board members shall report to the Commissioner on the district board of education's activities and shall provide assistance to the district board of education on matters deemed appropriate by the Commissioner, including, but not limited to, the applicable laws and rules governing specific district board of education action.
- (e) The appointed district board of education members shall be appointed for a term of two years.
1. The Commissioner shall obtain approval of the State Board for any extension of the two-year term.

2. Any vacancy in the Commissioner-appointed membership appointed shall be filled in the same manner as the original appointment.

6A:30-6.6 Procedure for initiating full State intervention

- (a) When a school district qualifies [for full State intervention] pursuant to N.J.A.C. 6A:30-6.2(b), the Commissioner may seek full State intervention in the school district by issuing an Order to Show Cause why an administrative order to place the school district under full State intervention should not be implemented.
- (b) At the time of the Order to Show Cause's service, the Commissioner also shall serve upon the school district a proposed administrative order for full intervention that shall contain and incorporate a full intervention plan developed by the Department, pursuant to N.J.A.C. 6A:30-6.7.
- (c) The Order to Show Cause shall be referred to the Office of Administrative Law, pursuant to N.J.S.A. 52:14B-1 et seq., for a plenary hearing conducted on an expedited basis. In this proceeding, the Department shall have the burden of showing the recommended administrative order is not arbitrary, unreasonable, or capricious.
- (d) If the Commissioner determines, at the hearing process' conclusion, the school district has failed to show cause why the actions proposed by the Department should not occur, the Commissioner shall recommend to the State Board that it issue an order placing the school district under full State intervention.
- (e) The State Board may place the school district under full State intervention. The State Board's decision shall be considered final and may be appealed to the Superior Court, Appellate Division.

6A:30-6.7 Full State intervention plan

- (a) The full State intervention plan at **N.J.A.C. 6A:30-6.6** shall incorporate and amend the district improvement plan, and [will be presented by the Commissioner as part of the proposed administrative order at the time the Department brings an Order to Show Cause

seeking full State intervention in a school district. The intervention plan] shall address, but need not be limited to, the following:

1. Whether the State Board, upon the Commissioner's recommendation, will appoint a State district superintendent.
 - i. If a State district superintendent is appointed, the intervention plan shall indicate the person shall be appointed for an initial term not to exceed three years and the costs of [his or her] **the State district superintendent's** salary shall be an expense of the school district; and
 - ii. If the State Board chooses to appoint the existing **school district superintendent**, the intervention plan shall indicate [he or she] **the school district superintendent** shall agree to [termination of his or her] **terminate their** existing employment contract with the school district; and
2. Whether highly skilled professionals will be appointed, pursuant to N.J.S.A. 18A:7A-15.c, to provide direct oversight in the school district.
 - i. If so, the intervention plan will state the [areas] **key components** of school district [operations] **effectiveness** the highly skilled professionals will oversee and their powers, authority, and duties;
 - ii. The intervention plan also shall establish a decision-making hierarchy if conflicts arise between highly skilled professionals and school district personnel; and
 - iii. The plan shall state that the costs of the highly skilled professional(s) will be divided equally between the State and the school district;
3. Whether the positions of the school district's [CSA] **school district superintendent** and the executive administrators responsible for curriculum, business and finance, and personnel will be abolished. If any of the positions are abolished, the provisions of N.J.S.A. 18A:7A-44.a with respect to notice, salary, tenure rights, etc., shall apply;

4. Whether a Capital Project Control Board shall be established in the school district, with the functions and powers set forth [in] **at N.J.S.A. 18A:7A-46.1 et seq.** If the plan does not require establishment of a Capital Project Control Board, then the plan will set forth a procedure for development and approval of capital projects in the school district; and
5. Whether the Commissioner intends to exercise [his or her] **the Commissioner's** authority to appoint, with the State Board's approval, up to three additional members to the district board of education, **pursuant to N.J.A.C. 6A:30-6.5.**

6A:30-6.8 Operations of the district board of education under full State intervention

- (a) When a school district enters full State intervention, the current district board of education shall continue in place but shall serve only in an advisory capacity and shall have only the rights, powers, and privileges of an advisory **district board of education.**
- (b) The advisory district board of education shall meet at least once per month at dates and times determined by the State district superintendent.
- (c) Any advisory district board of education member seat vacancy(ies) shall be filled in the same manner as the seat(s) was/were filled initially.
- (d) If the full **State** intervention plan incorporated into the administrative order for full intervention provides for the Commissioner, with State Board approval, to appoint up to three additional members to the **advisory** district board of education, the following shall apply:
 1. The Commissioner shall appoint at least one of the additional members from a list of three candidates provided by the governing body of the municipality in which the school district is located. If the school district is a regional school district, one of the additional members shall be selected by the Commissioner from a list containing three candidates from each constituent municipality provided by the governing bodies of the respective municipalities. If the school district is a county

vocational school district or a county special services school district, the list of three candidates shall be provided by the governing body of the county in which the school district is located;

2. The Commissioner shall make every effort to appoint residents of the school district; and
 3. The appointed district board of education members shall meet all the requirements [of] **at** N.J.S.A. 18A:12-1 et seq. and shall be registered voters in the State, except they shall not be required be residents of the school district or registered to vote in the school district.
- (e) The appointed district board of education members shall comply with the School Ethics Act, pursuant to N.J.S.A. 18A:12-21 et seq.
- (f) The appointed district board of education members shall be non-voting members of the **advisory** district board of education and shall have all other rights, obligations, powers, and privileges of **advisory** district board of education members.
1. Six months following the initial order for full State intervention, the Commissioner shall determine whether the appointed district board **of education** members shall become voting members of the **advisory** district board of education. If the Commissioner-appointed members become voting members of the **advisory** district board of education, they shall have the same rights and privileges with respect to voting as other **advisory** district board of education members.
 2. If the Commissioner determines the appointed district board of education members shall become voting members, the **advisory** district board of education may appeal the determination to the Superior Court, Appellate Division.
- (g) The appointed district board members shall report to the Commissioner on the **advisory** district board of education's activities and shall provide assistance to the **advisory** district board of education on matters deemed appropriate by the Commissioner, including, but not limited to, the applicable laws and rules governing specific **advisory** district board of education action.
- (h) The appointed district board of education members shall be appointed for a term of two years.

1. The Commissioner shall obtain State Board approval for any extension of the two-year term.
 2. Any vacancy in the Commissioner-appointed membership shall be filled in the same manner as the original appointment.
- (i) The **advisory** district board of education shall assess, on a regular basis, the school district's progress and shall report on the progress no less than twice per year to the State district superintendent, the public, and other persons designated in the intervention plan. Copies of the report shall be forwarded to the Commissioner and the State Board.

6A:30-6.9 Assessment activities during the period of intervention

- (a) During the period of partial or full State intervention:
1. Comprehensive reviews pursuant to N.J.A.C.6A:30-3 shall be continued; and
 2. School district monitoring at six-month intervals pursuant to N.J.A.C. 6A:30-5.6(b) shall be continued.

Subchapter 7. Withdrawal from Partial or Full State Intervention

6A:30-7.1 Factors for initiating return to local control

- (a) A school district in full State intervention shall remain in status for no less than three years before the process of withdrawal from intervention can begin.
- (b) The Commissioner will consider the following factors in determining whether to initiate a full or partial withdrawal from intervention in a school district:
1. Evidence of sustained and substantial progress by the school district, demonstrated by the school district having satisfied 80 to 100 percent of the [weighted] quality performance indicators in one or more of the **key** components of school district effectiveness under State intervention, as shown by the comprehensive reviews, six-month Department reviews, and/or other appropriate evidence; and

2. Substantial evidence the school district has adequate programs, policies, and personnel in place and in operation to ensure the demonstrated progress, with respect to the **key** components of school district effectiveness under intervention, will be sustained.

6A:30-7.2 Procedure for transition to partial State intervention or to local control

- (a) If the Commissioner determines a school district under State intervention has satisfied the factors at N.J.A.C. 6A:30-7.1(b) for one or more **of the key** components of school district effectiveness, the Commissioner shall recommend to the State Board that the process for withdrawal from intervention be initiated. Based on the Commissioner's recommendation, the State Board may grant approval for the Department to initiate the transition to local control in [those] **the key** components of school district effectiveness for which the school district satisfied 80 to 100 percent of the [weighted] quality performance indicators and shows evidence the progress will be sustained.
 - [1. This section's procedures regarding transition to partial State intervention or to local control also shall apply to school districts that were State-operated prior to February 22, 2007.]
- (b) If the State Board grants approval to initiate the transition to withdrawal from State intervention, the Commissioner shall notify the school district of the State Board's decision.
- (c) As an initial step in the transition process, the Department shall develop, in collaboration with the school district, a transition plan that shall contain the components at N.J.A.C. 6A:30-7.3 and shall address the transition to local control of the **key component(s) of school district effectiveness** for which the school district has met the requirements [of] **at** N.J.A.C. 6A:30-7.1(b).

6A:30-7.3 Components of the transition plan

- (a) The transition plan shall address, but need not be limited to, the following:

1. A timetable for the activities relating to and leading to the withdrawal from State intervention in the [area(s)] **key component(s) of school district effectiveness** under transition;
2. Provisions regarding the continued employment status of the State district superintendent appointed during the period of intervention, provided the State district superintendent shall continue to hold the position until the school district satisfies the factors at N.J.A.C. 6A:30-7.1(b) with respect to governance and the **key component of school district effectiveness in the area of governance** is returned to local control;
3. Provisions regarding the continued provision of technical assistance by highly skilled professionals;
4. Provisions regarding the continued use of and any change(s) in the duties, authority, and responsibilities of highly skilled professionals appointed to provide direct oversight in the school district. The transition plan also shall establish a decision-making hierarchy if conflicts arise between persons appointed and school district personnel regarding school district operations;
5. Specific goals and benchmarks to assist the school district in satisfying the factors at N.J.A.C. 6A:30-7.1(b) with respect to the remaining [areas] **key component(s)** of school district effectiveness under intervention;
6. When the [governance] **key component of school district [effectives] effectiveness in the area of governance** is being returned to local control, provisions regarding the status of Commissioner-appointed district board of education members;
7. Provisions regarding the receipt of and payment for technical assistance by the school district; and
8. Provisions for discontinuance of the Capital Projects Control Board, if applicable.

6A:30-7.4 Implementation of the transition plan

- (a) Upon Commissioner approval, the transition plan shall be presented at a public district board of education meeting and officially noted in the minutes. The district board of education shall be immediately required to implement the transition plan's provisions.
- (b) During the transition period, the Department shall continue to monitor the school district, pursuant to N.J.A.C. 6A:30-5.6, to ensure progress is sustained and the transition plan is being implemented.
- (c) The transition plan shall be updated and amended as the school district achieves compliance with N.J.A.C. 6A:30-7.2(a) with respect to the other **key components of school district effectiveness** or as other circumstances warrant.

6A:30-7.5 Transition process for the [governance] **key component of school district effectiveness in the area of governance** for school districts under full State intervention

- (a) A district board of education transitioning from full State intervention will continue to have the rights, powers, and duties of an advisory district board of education notwithstanding it may be placed in partial State intervention as part of the transition to local control, unless and until the **key component of school district effectiveness in the area of governance** has been returned to local control.
- (b) Despite the continuation of the district board of education as an advisory board, the State Board may return, upon Commissioner recommendation, some voting functions to the district board of education as part of and in furtherance of the process of transition to local control of the [governance] **key component of school district effectiveness in the area of governance**. If some voting functions are returned to the district board of education, the Commissioner or [his or her] **the Commissioner's** designee shall have the authority to veto any action by the district board of education in accordance with N.J.S.A. 18A:7A-53.c.

- (c) Not more than one year following the return of the **key** component of **school district effectiveness in the area of** governance to local control, the district board of education shall call a special election for purposes of placing the question of classification status, pursuant to N.J.S.A. 18A:9-1 et seq., before the school district’s voters. The special election shall be conducted in accordance with the provisions of Title 19 of the Revised Statutes concerning school elections.

6A:30-7.6 Completion of the transition process

- (a) Upon successful implementation of a full transition plan to local control, the Commissioner shall recommend to the State Board the withdrawal from intervention be completed and the school district be returned fully to local control.
- (b) Upon State Board approval, the Commissioner shall make a determination regarding the school district’s placement on the performance continuum, notify the school district of the placement, and issue a letter to the school district designating it as a “high performing” school district.

Subchapter 8. Observation of Instructional Practices and Evaluation of School District Facilities

6A:30-8.1 Observation of instructional practices and evaluation of school district facilities

Nothing in this chapter shall limit the Department’s ability to monitor school district practices by, among other things, conducting on-site visits to observe instructional practices and school facilities, or to take other action the Commissioner or [his or her] **the Commissioner’s** designee deems necessary to ensure the satisfaction of any statutory or constitutional obligation.