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Health and Safety Requirements of Nonpublic School Facilities Attestation Instructions & Guidance

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Overview

To help ensure the health and safety of New Jersey’s nonpublic school students and staff, the New Jersey Department of Education (NJDOE) requires that all nonpublic schools registered with the NJDOE comply with the health and safety facilities laws and regulations. As steward of State and Federal funds for nonpublic schools, the NJDOE is in the unique position to help ensure the nonpublic schools’ compliance.

The New Jersey Department of Community Affairs (DCA) is the agency that has purview over all public and nonpublic K-12 school facilities requirements¹. The Division of Codes and Standards provides a [current list of municipal construction code officials](#). The Division of Fire Safety provides a [list of fire code officials](#) responsible for the enforcement of the fire prevention and fire safety code.

The list of health and safety facilities requirements in this document apply to all nonpublic schools in New Jersey (with the exception noted below)². The list is not comprehensive; however, it includes the major health and safety facilities requirements, pursuant to the following regulatory organizations:

- [National Electric Code \(NFPA 70, NEC\)](#)
- [International Building Code \(IBC\)](#)
- [National Standard Plumbing Code \(NSPC\)](#)
- Uniform Fire Code (UFC) ([N.J.A.C. 5:70-1.1 – 5:70-4.20](#))
- Uniform Construction Code (UCC) ([N.J.A.C. 5:23-1.1 – 5:23-12A.6](#))

¹For most of the requirements listed in this document, local code officials have purview over the review and enforcement of public and nonpublic school facilities health and safety laws.

² These requirements apply to each school building used for instructional purposes and may not apply to buildings used only for non-instructional purposes (i.e., administrative offices; maintenance; warehousing, etc.).



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- NJDOE [Office of School Preparedness & Emergency Planning \(OSPEP\)](#)
- [NJ Department of Environmental Protection](#)
- [NJ Department of Community Affairs Division of Codes and Standards](#)
- [NJ Department of Community Affairs Division of Fire Safety](#)
- US federal agencies, including the Department of Agriculture and the Environmental Protection Agency.

Note: The entire list of health and safety requirements for school facilities in this document does not apply to nonpublic schools with five or fewer students (designated as Use Group R-3 with regard to the applicable requirements). These nonpublic schools need to comply with the requirements herein that are applicable, *and* need to notify their local/municipal building and fire officials for the requirements to operate as a school.

NJDOE Processes to Ensure Compliance

New nonpublic schools that register with NJDOE:

All new nonpublic schools that [register with NJDOE](#) must include a copy of their Certificate of Occupancy (CO) or Certificate of Continued Occupancy (CCO). This applies to Use Groups E and R-3³.

All nonpublic schools already registered with NJDOE:

Beginning with the December 2023 Nonpublic Enrollment Report, the lead school administrator of each school must attest to:

1. Compliance with the CO/CCO or official document from the local code enforcement authority with the maximum occupancy set by the fire official, including attesting that their enrollment does not exceed the maximum occupancy number listed⁴.
2. Compliance with the requirements listed in this document, or indication of the area/s of noncompliance and the scheduled date/s for follow-up by the appropriate authority (documentation required). *Note: By December 2023, all New Jersey nonpublic schools are required to have contacted the Critical Response Group (CRG) to initiate critical incident mapping, pursuant to [N.J.S.A 18A:41-7.1](#). (See Attestation Guidance #5.)*

Failure to attest to compliance with these requirements may result in the withholding of State funds.

In addition, as part of the annual consultation process between nonpublic schools and school districts, nonpublic schools must provide their school district a signed copy of the attestation.

Certificates, inspection plans, and reports must be made available upon request to the public school district of residence and the NJDOE.

³ Educational Group E occupancy includes, among others, the use of a building or structure, or a portion thereof, by six or more persons at any one time for educational purposes through the 12th grade. Group R-3 is a facility within a dwelling unit and having five or fewer children receiving care and shall comply with the International Residential Code. ([2021 International Building Code](#))

⁴ The maximum occupancy listed in the CO/CCO includes all staff and students, so the number of students enrolled in the school and submitted in the Nonpublic Enrollment Report *must be less than the number in the CO/CCO*.



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Attestation Guidance

1. **A valid Certificate of Occupancy (CO) or Certificate of Continued Occupancy (CCO) must be issued prior to operation.** (See [N.J.A.C. 5:23-2.1 et seq.](#))
 - The following designations, termed Use Groups, determine the applicable requirements for nonpublic schools:
 - "Use Group E:" This Use Group shall include all buildings and structures used for educational purposes serving six or more students in any or all the grades from kindergarten through grade 12. (See N.J.A.C 5:23-6.18 and 5:23-6.18A) This includes trailers, mobile units and any other temporary or permanent structures⁵.
 - "Use Group R-3:" This Use Group includes residential buildings used for education purposes serving five or fewer students in a residential home.
 - The CO/CCO for nonpublic schools with Use Group E includes a maximum occupancy number. This number includes staff and students and *cannot be less than the number of students enrolled in the school*, nor the number of students submitted in the Nonpublic Enrollment Report.
 - All plans for changes in classroom use, alterations, repairs, construction or installation of new equipment must be reviewed and approved by the local Uniform Construction Code (UCC) Enforcement Official prior to implementation.
 - The municipal code enforcing agency within the jurisdiction in which the facility is located shall be responsible for construction permit issuance, construction inspection and certificate of occupancy issuance. Enforcement responsibility shall be as indicated in N.J.A.C. 5:23-3.4. (See N.J.A.C 5:23-3.3 through 3.4)
2. **Included in CO/CCO: Student toilet facilities are accessible at all times during occupancy of the building and bathroom fixtures are all operational; stall partitions are secured, and doors are provided.**
 - Toilet facilities shall meet existing UCC requirements for the E Use Group as determined by the construction official.
3. **A current certificate of inspection has been issued by the local or State fire official/inspector within the year and posted in a conspicuous location.** (See [N.J.A.C. 5:70-2.5\(d\)](#))
 - [Registration with the Division of Fire Safety](#) is required before a certificate of inspection will be issued.
 - All public and nonpublic schools (Use Group E buildings) must submit to the NJ Department of Community Affairs a registration application for "Life Hazard Use," pursuant to N.J.A.C. 5:70-2.4 through 2.6.

⁵ If the public school district or service provider is utilizing a trailer or mobile unit placed on nonpublic school property to provide the Chapter 192 and 193 services, the trailer or mobile unit must be approved by the County Superintendent in accordance with N.J.A.C. 6A:14-6.2(i). The facility approval requires a certificate of occupancy as well as health and fire inspection certificates (see N.J.A.C. 5:70-2.6 to register). Trailers and mobile units used for Chapter 192 and Chapter 193 services must be accessible to individuals with disabilities in accordance with the Barrier Free Code of the Uniform Construction Code [N.J.A.C. 5:23-7.1 and 7.2 (a)].



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- “Upon receipt of the application, and the required registration fee, the Commissioner shall forthwith issue to the owner of the life hazard use a certificate of registration, which shall be posted by the owner of the use in a conspicuous location therein but only upon subsequent receipt of a certificate of inspection.” [See [N.J.A.C. 5:70-2.6\(c\)](#)]
 - All schools shall be inspected for compliance once every 12 months. [See [N.J.A.C. 5:70-2.5](#)]
 - If no certificate of inspection has been issued due to violations, the abatement schedule that has been implemented to meet the requirements of the local enforcement authority is available.
 - Portable fire extinguishers are required to be visually inspected when initially placed in service and at least monthly thereafter ([NFPA 10 \(2013\), Chapter 7](#)). These visual inspections, intended to help ensure that each extinguisher is in its designated place and will operate if needed, can be performed by facility staff.
4. **One fire drill and one school security drill are held each month for a school of two or more rooms or of a school of one room when located above the first story of a building. The “Security Drill Statement of Assurance” must be on file.**
- [N.J.S.A. 18A:41-1](#) requires the following: “Every principal of a school of two or more rooms, or of a school of one room, when located above the first story of a building, shall have at least *one fire drill and one school security drill each month* within the school hours, *including any summer months during which the school is open for instructional programs*, and shall require all teachers of all schools, whether occupying buildings of one or more stories, to keep all doors and exits of their respective rooms and buildings unlocked during school hours. Where school buildings have been provided with fire escapes, they shall be used by a part or all of the pupils performing every fire drill.”
 - In addition to these provisions, the fire code currently requires two fire drills within the first 10 days of classes per [N.J.A.C. 5:70-3, 403.5.1](#).
 - See the Department’s [School Preparedness and Emergency Planning webpage](#) and the “[School Security Drill Guide](#)” for requirements on:
 - (1) types of security drills to be held;
 - (2) timing: must hold one within first 15 days of the beginning of the school year;
 - (3) notification;
 - (4) recordkeeping; and
 - (5) type(s) of training.
 - “Security Drill Statement of Assurance” must be submitted annually by the nonpublic school to the County Prosecutors Office by June 30.
5. **Critical incident mapping has been provided to local law enforcement authorities.**
- [N.J.S.A 18A:41-7.1](#) requires that each lead school administrator of a nonpublic school provide to local law enforcement authorities critical incident mapping data for all school buildings and grounds.
 - Revised mapping data shall be provided to the applicable law enforcement authorities or designated entities any time that there is a change to the critical incident mapping data.



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- The New Jersey State Police has contracted with the Critical Response Group (CRG) to provide the mapping, which is funded by the State in the 2023-24 school year. Revised mapping done in future years is an allowable expense under the Nonpublic School Security Program.
 - *By December 2023, all New Jersey nonpublic schools are required to have contacted [CRG](#) to initiate the mapping. Note: this action is required for compliance with this attestation.*
- 6. A current inspection report of the kitchen and cafeteria from the local health official is available if the school participates in the Child Nutrition and WIC Reauthorization Act of 2004.**
- Section 111 of the [Child Nutrition and WIC Reauthorization Act of 2004](#) (Public Law 108-265) of the Richard B. Russell National School Lunch Act requires food safety inspections in schools participating in the National School Lunch or School Breakfast Programs.
 - Every nonpublic school must obtain at least two food safety inspections each school year. The inspections must be conducted by a State or local governmental agency responsible for food safety inspections. More frequent inspections may be required by State or local governments. In addition, schools must post in a publicly visible location a report on the most recent food safety inspection and provide a copy of the food safety inspection report to a member of the public upon request.
 - If a rating other than satisfactory has been issued, an abatement schedule has been implemented to meet the requirements of the health official.
- 7. A three-year asbestos management plan, required by the Asbestos Hazard Emergency Response Act (AHERA), is available, including current six-month surveillance letters. If constructed without asbestos, a letter of certification from the architect is available.**
- Public and nonpublic schools have distinct regulatory requirements to protect school children and school employees from asbestos exposure. The US Environmental Protection Agency's [Asbestos and School Buildings Requirements](#) provides information on these requirements as well as resource materials for schools and parents.
 - In 1986, the AHERA Asbestos-Containing Materials in Schools ([40 CFR Part 763, Subpart E](#)) was signed into law. AHERA requires all public and non-profit nonpublic schools to develop and implement an asbestos management plan (AMP). All schools are required to maintain an AMP for each of its buildings. These plans are required to include the type and location of any asbestos in the building, regular updates on the condition of the asbestos, and, if applicable, when it was abated.
 - AHERA and associated Federal regulations require that asbestos in schools must be re-inspected every three years and updated every six months.
 - Current "AHERA Six Month Periodic Surveillance Inspection" must be on file.
 - An architect or engineer responsible for the construction of a new school building built after October 12, 1988, or an accredited inspector must sign a statement that no asbestos-containing building material was specified in any construction document for the building.
- 8. An annual inspection report of the New Jersey Department of Environmental Protection (DEP)**



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for the operation of a sewage treatment plant, where applicable, is available, pursuant to [N.J.A.C. 7:10A-1.12](#).

9. Current boiler inspection certificate(s) is posted at site of boiler.

- [N.J.S.A. 34:1 through 7](#) and [N.J.A.C. 12:90-4.10](#) require that all steam or hot water boilers or similar equipment potentially capable of generating steam shall be inspected and be subjected to a hydrostatic test, if necessary, at least once each year at 12-month intervals. This inspection shall be a complete internal and external inspection as construction conditions will permit. All hot water heating boilers shall be inspected internally at 24-month intervals and shall be inspected externally every 12 months (N.J.S.A. 34:7-14).
- The New Jersey Department of Labor issues a "Certificate of Inspection" for each pressure vessel inspected. The "Certificate of Inspection" is the document issued by the Chief Inspector indicating that the pressure retaining items meet the requirements (N.J.S.A. 34:7-24).
- N.J.A.C. 12:90 establishes the requirements for the maintenance of boiler logbooks.

10. National Standard Plumbing Code requires the availability of potable drinking water through sanitary means in all school facilities at all times.

- ***Not required in nonpublic schools but recommended: Current drinking water supply inspection reports are available to comply with the Safe Drinking Water Act.***
 - Testing of school drinking water quality shall be in accordance with the Safe Drinking Water Act, [N.J.S.A. 58:12A-1 et seq.](#), the rules promulgated pursuant thereto, N.J.A.C. 7:10 and N.J.A.C. 6A:26-6, Planning and Construction Standards for School Facilities.
 - Submittal of the annual Statement of Assurance for Lead testing in water.

11. Right to Know (RTK) Requirements are properly posted and Safety Data Sheets (SDS) reporting materials are on file.

- The New Jersey Worker and Community [Right to Know Act](#) requires public and private employers to provide information about hazardous substances at their workplaces. See the [New Jersey Health Workplace Health and Safety website](#), including the [RTK FAQ](#).

12. Janet's Law requires that a nonpublic school have an automated external defibrillator.

- [Janet's Law \(N.J.S.A 18A:40-41a-41c\)](#) requires that a nonpublic school have an automated external defibrillator (AED) which is:
 - identified with appropriate signage,
 - placed and made available in an unlocked location on school property,
 - accessible during the school day and any other time in which a school-sponsored athletic event or team practice is taking place and
 - within reasonable proximity of the school athletic field or gymnasium, as applicable.

13. All playground equipment, layout, and surfacing must comply with the U.S. Consumer Product Safety Commission latest approved "[Handbook for Public Playground Safety](#)" (Pub #325). Compliance certification is on file, pursuant to N.J.A.C. 5:23-11.3 (c).



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- See the [Playground Safety Subcode \(N.J.A.C. 5:23-11 et seq.\)](#), and the [Playground Safety webpage](#), NJ Department of Community Affairs
- Playground inspections must be performed by a Certified Playground Safety Inspector.

14. Lighting levels in all areas, as measured with a light meter, comply with code and lamps/bulbs are covered with a lens cover or equivalent protection.

- Instructional areas must have a minimum lighting intensity of 10 foot-candles, pursuant to ANSI/IES-TM-30, but 30-50 foot candles are recommended for classrooms.



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Attestation

By signing this attestation, a nonpublic school is ensuring accountability and compliance with applicable laws, regulations, and requirements provided herein.

Instructions

1. On the annual Nonpublic Enrollment Report, the lead school administrator of each school must attest to compliance with the requirements listed in this document.
2. As part of the annual consultation process between nonpublic schools and school districts, nonpublic schools must provide to their school district a signed copy of this attestation.

Lead School Administrator Signature

As the authorized representative of the nonpublic school, and by signing this Attestation, I certify that:

I have read the *Health and Safety Requirements of Nonpublic School Facilities Attestation Instructions & Guidance* and to the best of my knowledge and belief the nonpublic school is in compliance with or is actively working with the local code enforcement authority to comply with the applicable requirements therein. If my nonpublic school is designated as Use Group R-3, I also have notified my local/municipal building and fire officials and my facility is in compliance with the requirements to operate as a school.

If my nonpublic school is not in full compliance with the requirements listed in this document, I have attached documentation that indicates the area/s of noncompliance and the scheduled date/s for follow-up by the appropriate authority.

I further understand that knowingly making a false statement or misrepresentation on this attestation may subject me to criminal or civil penalties under applicable State and Federal laws.

Nonpublic School Name:

Nonpublic School Four-digit Code (available on the [NJ School Directory](#)):

Name of Lead School Administrator

Signature of Lead School Administrator (Electronic signature is accepted)

Date (mm/dd/yyyy)



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Appendix A: Required Certificates, Postings, etc.

Generally Required of All Nonpublic Schools with "Use Group E"	Attestation/Facility Requirements Reference
Certificate of Occupancy (CO or CCO) for permanent and temporary facilities	1
Current Fire Inspection Certificate (aka "Life Hazard Use") per UFC N.J.A.C. 5:70-2.6	3
Fire Extinguisher Service (annual and monthly checks)	3
Evacuation Procedures and/or Signage Properly Posted in Building, including: "exit," "not an exit," "utility room(s)," "storage room(s)," "smoke door must remain closed," etc.	3
Fire and School Security Drills Records (one each per month per building)	4
Critical incident mapping has been provided to local law enforcement authorities.	5
Current Health Inspection Report of the Kitchen & Cafeteria, if applicable	6
Asbestos Management Plan per AHERA	7
Annual DEP Inspection for Sewage Treatment Plant, if applicable	8
Current Annual Boiler Inspection Certificate	9
Right to Know Implemented & Properly Posted in Building	11
AED Automated External Defibrillator Inspection Report	12
Playground Equipment: Evidence of Regular Inspections, if applicable	13
Elevator/Chair Lift Inspection /Records per UCC N.J.A.C. 5:23-12.3	As Applicable
Emergency Generator Test/Load records per UFC N.J.A.C. 5:70-3, 604.4.2	As Applicable

Certificate/signage must be posted in appropriate parts of the school building. Copies need to be kept in each school building and made available upon request.



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Appendix B: Common Fire Code Violations and Requirements Often Overlooked in School Buildings

[N.J.A.C., Title 5, Chapter 70 — Uniform Fire Code](#)

Category	#	Common Violations and Overlooked Requirements	Code Reference*
Fire Alarm System	1	Furnish records of required fire protection system inspections, tests, and maintenance.	N.J.A.C. 5:70-3, 901.6.2
	2	Fire alarm system not operable.	N.J.A.C. 5:70-3, 901.4
	3	Windowless basement or story sprinkler and/or fire alarm system required.	N.J.A.C. 5:70-4.7(h)
Sprinkler/ Standpipe	4	Furnish records of required fire protection system inspections, tests, and maintenance.	N.J.A.C. 5:70-3, 901.6.2
	5	a. Signage mounted on FDC with letters no less than 1" tall identifying sprinklers, standpipes, test connections, or any combination thereof. b. Where not visible to approaching fire apparatus, signage mounted on building identifying location of FDC.	a. N.J.A.C. 5:70-3, 912.5 b. N.J.A.C. 5:70-3, 912.2.2
	6	Fire Department connection must be maintained without any obstructions.	N.J.A.C. 5:70-3, 912.4
	7	Threads for F.D. connection and standpipe to be compatible with the Fire Departments.	N.J.A.C. 5:70-3, 912.3
Extinguishers	8	Fire extinguishers due for annual inspection.	N.J.A.C. 5:70-3, 906.2
	9	Fire extinguishers not in proper location.	N.J.A.C. 5:70-3, 906.1
	10	Insufficient quantity of extinguishers.	N.J.A.C. 5:70-3, 906.3
Exit Doors	11	Repair/maintain egress doors, their components and corridor leading to same.	N.J.A.C. 5:70-3, 1031.1
	12	Fire doors shall be self-closing and latching.	N.J.A.C. 5:70-3, 703.2.3
	13	Exit doors are operable from the inside without the use of key or other special effort.	N.J.A.C. 5:70-3, 1010.1.9
	14	Repair/maintain fire escapes and similar components.	N.J.A.C. 5:70-3, 1031.6
	15	Door that may be mistaken for an exit shall be properly identified as to its purpose.	N.J.A.C. 5:70-3, 1013.3
	16	Illuminated exit signs shall be maintained.	N.J.A.C. 5:70-3, 1013.1
	17	Emergency lighting required to be operational.	N.J.A.C. 5:70-3, 604.6
	18	Storage shall be removed from means of egress.	N.J.A.C. 5:70-3, 1031.1.1
	19	Test and maintain a monthly report of all emergency lights and exit signs.	N.J.A.C. 5:70-3, 604.6.1.1



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Category	#	Common Violations and Overlooked Requirements	Code Reference*
Storage	20	Approved hazardous materials storage cabinet when required.	N.J.A.C. 5:70-3, 5003.8.7
	21	No storage within 18" of sprinkler head or 2' from the ceiling.	N.J.A.C. 5:70-3,315.3.1
	22	Outside storage not more than 20' high & not less than 15' from any building or lot line.	N.J.A.C. 5:70-3,315.4
Electrical	23	Power strips must not be piggy backed.	N.J.A.C. 5:70-3,605.4.2
	24	Remove all storage from all electrical service equipment.	N.J.A.C. 5:70-3,605.3
	25	Multi-plug adapters & un-fused plug strips are prohibited.	N.J.A.C. 5:70-3,605.4
	26	Remove all extension cords used for permanent wiring.	N.J.A.C. 5:70-3,605.5
	27	Open junction box. Cover with approved cover.	N.J.A.C. 5:70-3,605.6
Heating System	28	Chimneys, vents and connecting pipes should be clean and in working order.	N.J.A.C. 5:70-3,603.6
	29	No storage within 36" of heating equipment or in electric, boiler, or mechanical rooms.	N.J.A.C. 5:70-3,315.3.3
Cooking	30	Kitchen suppression system due for six-month inspection.	N.J.A.C. 5:70-3,904.5.1
	31	Kitchen exhaust system needs cleaning.	N.J.A.C. 5:70-3,609.3.3
Miscellaneous	32	Repair/replace all openings in fire-rated walls/ceilings.	N.J.A.C. 5:70-3,703.1
	33	Compressed gas cylinders must be chained and secured from falling.	N.J.A.C. 5:70-3,5303.5.3
	34	Monthly fire drill log is maintained.	N.J.A.C. 5:70-3,405.5
	35	The hanging of decorative material from a fire rated ceiling is prohibited.	N.J.A.C. 5:70-3,703.3
	36	Truss roof marking required.	N.J.A.C. 5:70-2.20(a)
	37	Signage required identifying utility and storage rooms.	N.J.A.C. 5:70-3,509.1.1
	38	Failure to notify the fire department of a fire.	N.J.A.C. 5:70-3,401.3.1
	39	Electrical appliances and fixtures shall be tested and listed according to laboratory tests and installed and maintained in accordance with manufacturers' instructions.	N.J.A.C. 5:70-3,605.7

* **Code References:** N.J.A.C., Title 5, Chapter 70 — Uniform Fire Code; specific code designations within Chapter 70 may change when code is updated.