

# N.J.A.C. 6A:16, Programs to Support Student Development

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## **Chapter 16. Programs to Support Student Development**

### **Subchapter 1. General Provisions**

#### **6A:16-1.1 Purpose**

The rules specify minimum standards for district boards of education in establishing policies and procedures and in operating programs to support the social, emotional, and physical development of students. Programs to support student development include school health services; physical examinations; intervention and referral services; programs of substance use prevention, intervention, and treatment referral; school safety and security; student discipline; reporting of potentially missing, abused, or neglected child situations; and home instruction and approved alternative education programs. Included in the rules are standards for the delivery of home instruction and school health services to nonpublic schools.

#### **6A:16-1.2 Scope**

The rules apply to the provision of programs and services for all students in kindergarten through grade 12 by New Jersey public school districts, charter schools, renaissance school projects, jointure commissions, educational services commissions, and approved private schools for students with disabilities (APSSDs) acting under contract to provide educational services on behalf of New Jersey public school districts, unless otherwise indicated. Throughout the chapter, “district board of education” refers to the governing authority for all of the agencies identified in this section, unless otherwise indicated. “District board of education” at N.J.A.C. 6A:16-7.7 shall not refer to APSSDs, which shall be governed by N.J.A.C. 6A:16-7.8.

#### **6A:16-1.3 Definitions**

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

“Abused children” means the categories of children enumerated in N.J.S.A. 9:6-8.21.

"Advanced practice nurse" means a person who holds a current license as either an advanced practice nurse or a nurse practitioner/clinical nurse specialist from the State Board of Nursing.

"Alternative education program" means a comprehensive educational program designed to address the individual learning, behavior, and health needs of students who are not succeeding in the general education program or who have been mandated for removal from general education, pursuant to N.J.A.C. 6A:16-5.5, 5.6 and, as appropriate, 5.7. The alternative education program shall provide a variety of approaches to meet the State-adopted standards, such as, through non-traditional programs, services, and methodologies to ensure curriculum and instruction are delivered in a way that enables students to demonstrate the knowledge and skills specified for all students in N.J.A.C. 6A:8.

"Assessment" means procedures used by school staff to make a preliminary determination of a student’s need for educational programs, supportive services, or referral for outside services that extend beyond the general school program by virtue of learning, behavioral, or health difficulties of the student or the student’s family.

“Asthma treatment plan” means a form approved by the Commissioner and completed by the medical home that is specifically designed to indicate differentiated symptoms and appropriate action to be taken by school staff to manage the care of a student who suffers from asthma-related illnesses pursuant to N.J.S.A. 18A:40-12.8(b). The asthma treatment plan shall serve as an accompaniment to the student’s Individualized Healthcare Plan.

"Automated external defibrillator (AED)" means a medical device heart monitor and defibrillator that is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia, and is capable of determining, without intervention by an operator, whether defibrillation should be performed and upon determining that defibrillation should be

performed, automatically charges and requests delivery of an electrical impulse to an individual's heart, pursuant to N.J.S.A. 18A:40-41a.

“Case management” means advocacy for and coordination of student services, including, but not limited to, counseling, health services, referrals to community-based agencies, and monitoring of academic progress.

"Certified school nurse" means a person who holds a current license as a registered professional nurse from the State Board of Nursing and an educational services certificate, school nurse or school nurse/non-instructional endorsement from the Department of Education pursuant to N.J.A.C. 6A:9B-14.3 and 14.4.

“Code of student conduct” means standards, policies, and procedures established by district boards of education for positive student development and student behavioral expectations on school grounds, including on school buses or at school-sponsored functions, and, as appropriate, conduct away from school grounds, in accordance with N.J.A.C. 6A:16-7.5.

"Do Not Resuscitate order" or "DNR order" means a written directive signed by the parent or guardian of a student who, after consultation with the pediatrician and other advisors, declines emergency administration of cardiopulmonary resuscitation (CPR) and automated external defibrillator (AED) to the student.

“Electronic communication” means a communication transmitted by means of an electronic device, including, but not limited to, a telephone, cellular phone, computer, or remotely activating paging device.

"Evaluation" means procedures used by a certified or licensed professional to make a positive determination of a student's need for programs and services that extend beyond the general

school program by virtue of learning, behavior, or health difficulties of the student or the student's family.

“Expulsion” means the discontinuance of educational services or the discontinuance of payment of educational services for a student.

"Firearms" means items enumerated in N.J.S.A. 2C:39-1(f) and 18 U.S.C. §921.

“General education” means the educational programs and services provided to students other than students determined to be eligible for special education and related services pursuant to N.J.A.C. 6A:14-3.5 and 3.6.

“Guided-learning experiences” mean structured learning tasks that are assigned to the student to perform without the teacher being present, aligned to the school district curriculum and New Jersey Student Learning Standards, and designed to help the student to learn new or reinforce prior knowledge, practice skills, integrate knowledge and skills, or demonstrate mastery.

“Harassment, intimidation, or bullying” means any gesture, any written, verbal, or physical act, or any electronic communication, whether it be a single incident or a series of incidents, in accordance with N.J.S.A. 18A:37-14, that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical, or sensory disability, or by any other distinguishing characteristic, that takes place on school property, at any school-sponsored function, on a school bus, or off school grounds as provided for at N.J.S.A. 18A:37-14 and 15.3, that substantially disrupts or interferes with the orderly operation of the school or the rights of other students and that a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student or damaging the student's property or placing a student in reasonable fear of physical or emotional harm to a student's person or damage to a student's property; has the effect of insulting or demeaning any

student or group of students; or creates a hostile educational environment for a student by interfering with the student's education or by severely or pervasively causing physical or emotional harm to the student.

"Home instruction" means the provision of one-to-one, small-group, or online instruction in the student's place of residence or other appropriate setting due to a health condition, need for treatment, court order, or exclusion from general education for conduct or safety reasons.

"Individualized emergency healthcare plan" means a plan written by the certified school nurse that specifies the delivery of healthcare accommodations and services needed by a student in the event of an emergency.

"Individualized Program Plan" (IPP) means a written plan developed for a general education student who has been assigned by the district board of education to home instruction, an alternative education program or who is being provided other educational services either in or out of school that are comparable to those provided in the public schools for students of similar grades and attainments, pursuant to N.J.S.A. 18A:38-25. The IPP sets forth the student's present level of performance, measurable goals and short-term objectives or benchmarks that encompass behavioral and social competency as well as curriculum, and individually designed instructional activities to achieve the goals and objectives.

"Informal hearing" means a discussion between a school administrator and a student regarding the student's alleged misconduct, pursuant to N.J.A.C. 6A:16-7.2, Short-term suspensions, in which the student is informed of the student's alleged violation of the district board of education's code of student conduct, pursuant to N.J.A.C. 6A:16-7.1, Code of student conduct, and the basis for the accusation. During the informal hearing, the student is given the opportunity to explain the student's version of the facts and events regarding the alleged violation.



“Long-term suspension” means removal of a student for more than 10 consecutive school days from the general education program, or the special education program when the appropriate procedures set forth in N.J.A.C. 6A:14-2.8 have been followed, but not the cessation of the student’s educational services.

"Medical home" means a health care provider, including NJ FamilyCare providers as defined by N.J.S.A. 30:4J-12 and the provider’s practice site chosen by the student’s parent or guardian for the provision of health care.

"Medical staff" means employees of the district board of education serving as school physician, certified school nurse, noncertified nurse, advanced practice nurse, registered nurse, or licensed practical nurse.

"Medication" means a drug approved by the Federal Food and Drug Administration for preventing, caring for, and assisting in the cure of disease and injury that has a written order from a physician licensed in medicine, dentistry or osteopathy, or from an advanced practice nurse. Medication does not include herbal remedies.

“Multi-Tiered System of Supports” or “MTSS” means a framework used by school-based teams for prevention, intervention, and enrichment. Student data are used to inform the provision of appropriate instruction, support, and interventions based on a continuum of student needs in academics and behavior. With MTSS, student supports are typically provided through three tiers, with tier one consisting of core programs and practices provided to all students; tier two consisting of group-based interventions; and tier three consisting of intensive, individualized interventions. MTSS models typically include the following three components: utilization of universal screening to evaluate needs; implementation of diagnostic and progress monitoring assessments to identify students’ improvement or ongoing needs; and use of regular data-based decision making to inform ongoing planning for each tier of support.

“NJ FamilyCare” means the Federal- and State-funded health insurance program created to help qualified New Jersey residents of any age access affordable health insurance.

"Noncertified nurse" means a person who holds a current license as a professional nurse from the State Board of Nursing and is employed by a district board of education or nonpublic school, and who is not certified as a school nurse by the Department of Education.

“Nursing services plan” means a plan that describes in detail the nursing services to be provided throughout the school district based on the needs of its students, potential emergency situations, basic nursing services requirements, and the assignment of medical staff to provide the services.

"Parent" means the natural parent(s), adoptive parent(s), legal guardian(s), resource family parent(s), or surrogate parent(s) of a student. When parents are separated or divorced, "parent" means the person or agency who has legal custody of the student, as well as the natural or adoptive parent(s) of the student, provided parental rights have not been terminated by a court of appropriate jurisdiction.

"Physical examination" means the examination of the body by a professional licensed to practice medicine or osteopathy, or by an advanced practice nurse, or physician assistant. The term includes specific procedures required by statute as stated in N.J.A.C. 6A:16-2.2.

“Physician assistant” means a health care professional licensed to practice medicine with physician supervision.

"Referral for evaluation" means programs and services suggested to a student or the student’s family to make a positive determination regarding a student’s need for services that extend beyond the general school program.

“Referral for treatment” means programs and services suggested to a student or to the student’s family:

1. To help implement the recommendations resulting from an evaluation, pursuant to N.J.A.C. 6A:16-1.3 and 4.1(c)5 and 6; or
2. In response to a positive alcohol or other drug test result, pursuant to N.J.A.C. 6A:16-4.4; or
3. In response to the family's request for assistance with a learning, behavior, or health difficulty, pursuant to N.J.A.C. 6A:16-4.1(c)7 and 8.

“Response to Intervention” or “RTI” means a framework for intervention and prevention that focuses on collecting data to identify students’ instructional and behavioral needs, providing appropriate interventions (typically within a multi-tiered system of support), and monitoring progress over time to make ongoing adjustments to student supports/services.

“School grounds” means and includes land, portions of land, structures, buildings, and vehicles, when used for the provision of academic or extracurricular programs sponsored by the school district or community provider. School grounds also includes school buses, school-sponsored functions, structures that support the buildings, such as school district wastewater treatment facilities; generating facilities; and other central service facilities including, but not limited to, kitchens and maintenance shops. School grounds also includes other facilities as defined in N.J.A.C. 6A:26-1.2, playgrounds, and recreational places owned by municipalities, private entities or other individuals during times when the school district has exclusive use of a portion of the land.

“School safety/school climate team” means the designated individuals collectively responsible in each school to develop, foster, and maintain a positive school environment by focusing on the ongoing systemic process and practices in the school and to address school climate issues.

“School-sponsored function” means any activity, event or program occurring on or off school grounds, whether during or outside of regular school hours, that is organized and/or supported by the school.

“Short-term suspension” means removal of a student for one but not more than 10 consecutive school days from the general education program or the special education program, in accordance with N.J.A.C. 6A:14-2.8, but not the cessation of the student’s educational services.

“Standing orders” means directives and protocols written by the school physician to carry out medical procedures for all students and staff.

“Student health record” means documented information relevant to the health of the student to manage the routine and emergency care of the student while school is in session.

“Student Safety Data System” or “SSDS” means the electronic system, or other similar system developed by the Department, used to collect information from school districts to fulfill the requirements of N.J.S.A. 18A:17-46 and 48, as amended by P.L. 2010, c.122.

"Student with a disability" means a student who has been determined to be eligible for special education and related services according to N.J.A.C. 6A:14-3.5 or 3.6. In Subchapters 4 and 5 and N.J.A.C. 6A:16-7.2, 7.3, and 7.4, “student with a disability” includes students identified as possibly having a disability pursuant to the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§1400 et seq., and 34 C.F.R. § 300.534.

"Substitute school nurse” means a person who holds a current license from the State Board of Nursing as a registered professional nurse and who has been issued a certificate to serve as a substitute for a certified school nurse in accordance with N.J.A.C. 6A:9B-7.6(a).

“Truancy” means 10 or more cumulative unexcused student absences, as determined by the district board of education pursuant to N.J.A.C. 6A:16-7.6(a)3 and the definition of a school day, pursuant to N.J.A.C. 6A:32-8.3.

“Universal precautions” means a set of procedures designed to prevent transmission of human immunodeficiency virus (HIV), hepatitis B virus, and other bloodborne pathogens.

“Weapon” means items enumerated in N.J.S.A. 2C:39-1(r), except a firearm as defined by N.J.S.A. 2C:39-1(f).

“Written order” means a directive and protocol written by the student’s medical home to address a healthcare need or provide a medical service for a specific student.

## **Subchapter 2. General Provisions for School Health Services**

### **6A:16-2.1 Health services policy and procedural requirements**

- (a) Each district board of education shall develop and adopt the following written policies, procedures, and mechanisms for the provision of health, safety, and medical emergency services, and shall ensure staff are informed as appropriate:
1. The review of immunization records for completeness pursuant to N.J.A.C. 8:57-4.1 through 4.20;
  2. The administration of medication to students in the school setting by the following authorized individuals:
    - i. The school physician;
    - ii. A certified school nurse or noncertified nurse;
    - iii. A substitute school nurse employed by the school district;
    - iv. The student's parent;

- v. A student approved to self-administer medication pursuant to N.J.A.C. 6A:16-2.1(a)5iii and 9 and N.J.S.A. 18A:40-12.3 and 12.4;
  - vi. Other school employees who volunteer to be trained and designated by the certified school nurse to administer epinephrine in an emergency pursuant to N.J.S.A. 18A:40-12.5 and 12.6; and
  - vii. Other employees who volunteer to be designated as a delegate and trained to administer glucagon pursuant to N.J.S.A. 18A:40-12.14.
3. The review of DNR orders received from the student's parent or medical home;
  4. The provision of health services in emergency situations, including:
    - i. The emergency administration of epinephrine via epinephrine auto-injector pursuant to N.J.S.A. 18A:40-12.5;
    - ii. The emergency administration of glucagon pursuant to N.J.S.A. 18A:40-12.14;
    - iii. The care of any student who becomes injured or ill while at school or participating in school-sponsored functions;
    - iv. The transportation and supervision of any student determined to be in need of immediate care;
    - v. The notification to parents of any student determined to be in need of immediate medical care; and
    - vi. The establishment and implementation of an emergency action plan for responding to a sudden cardiac event, including the use of an AED, pursuant to N.J.S.A. 18A:40-41b;
  5. The treatment of asthma in the school setting, which shall include, but not be limited to, the following requirements:
    - i. Each school nurse shall be authorized to administer asthma medication through use of a nebulizer pursuant to N.J.S.A. 18A:40-12.8(a);

- ii. Each school nurse shall receive training in airway management and in the use of nebulizers and inhalers consistent with nationally recognized standards, including, but not limited to, those of the National Institutes of Health and the American Academy of Allergy, Asthma and Immunology, pursuant to N.J.S.A. 18A:40-12.8(a); and
  - iii. Each student authorized to use asthma medication pursuant to N.J.S.A. 18A:40-12.3 or a nebulizer shall have an asthma treatment plan prepared by the student's medical home and submitted to the certified school nurse. The treatment plan shall identify, at a minimum, asthma triggers and shall be included in the individualized healthcare plan and individualized emergency healthcare plan, pursuant to N.J.A.C. 6A:16-2.3(b), for meeting the medical needs of the student while attending school or a school-sponsored function;
6. Administration of student medical examinations, pursuant to N.J.S.A. 18A:40-4, N.J.S.A. 18A:35-4.8, and N.J.A.C. 6A:16-2.2;
  7. Utilization of sanitation and hygiene when handling blood and bodily fluids pursuant to N.J.A.C. 12:100-4.2, Safety and Health Standards for Public Employees, and in compliance with 29 CFR 1910.1030, Occupational Safety and Health Bloodborne Pathogens Standards;
  8. Provision of nursing services to nonpublic schools located in the school district as required by N.J.S.A. 18A:40-23 et seq. and N.J.A.C. 6A:16-2.5;
  9. Self-administration of medication by a student for asthma or other potentially life-threatening illness or life-threatening allergic reaction pursuant to N.J.S.A. 18A:40-12.3, 12.5, and 12.6, and the self-management and care of a student's diabetes as needed pursuant to N.J.S.A. 18A:40-12.15;

10. Development of an individualized healthcare plan and individualized emergency healthcare plan for students with chronic medical conditions, including diabetes, asthma, and life-threatening allergies, requiring special health services in accordance with N.J.S.A. 18A:40-12.11.c, 12.12, 12.13, and 12.15; and N.J.A.C. 6A:16-2.3(b)3xii; and
  11. Management of food allergies in the school setting and the emergency administration of epinephrine to students for anaphylaxis pursuant to N.J.S.A. 18A:40-12.6a through 12.6d.
- (b) Each district board of education shall annually adopt the school district's nursing services plan at a regular meeting.

#### **6A:16-2.2 Required health services**

- (a) Each school district shall ensure immunization records are reviewed and updated annually pursuant to N.J.A.C. 8:57-4.1 through 4.24.
- (b) Each school district shall ensure a principal or the principal's designee does not knowingly admit or retain in the school building a student whose parent has not submitted acceptable evidence of the child's immunization, according to the schedule specified at N.J.A.C. 8:57-4, Immunization of Pupils in School.
- (c) Each school district shall perform tuberculosis tests on students using methods required by and when specifically directed to do so by the New Jersey Department of Health based upon the incidence of tuberculosis or reactor rates in specific communities or population groups pursuant to N.J.S.A. 18A:40-16.
- (d) Each school district shall immediately report by telephone to the health officer of the jurisdiction in which the school is located any communicable diseases identified as reportable pursuant to N.J.A.C. 8:57-1, whether confirmed or presumed.



- (e) Each public and nonpublic school in the State shall have and maintain for the care of students at least one nebulizer in the office of the school nurse or a similar accessible location, pursuant to N.J.S.A. 18A:40-12.7.
- (f) Each student medical examination shall be conducted at the medical home of the student. If a student does not have a medical home, the school district shall provide the examination at the school physician's office or other comparably equipped facility, pursuant to N.J.S.A. 18A:40-4.
- (g) The findings of required examinations under (h)2 through 5 below shall include the following components:
1. Immunizations pursuant to N.J.A.C. 8:57-4.1 through 4.24;
  2. Medical history, including allergies, past serious illnesses, injuries, operations, medications, and current health problems;
  3. Health screenings including height, weight, hearing, blood pressure and vision;  
and
  4. Physical examinations.
- (h) Each school district shall ensure that students receive medical examinations in accordance with (f) above and:
1. Prior to participation on a school-sponsored interscholastic or intramural athletic team or squad for students enrolled in any grades six to 12;
    - i. The examination shall be conducted within 365 days prior to the first day of official practice in an athletic season and shall be conducted by a licensed physician, advanced practice nurse (APN), or physician assistant (PA).
    - ii. The physical examination shall be documented using the [Preparticipation Physical Evaluation \(PPE\) form](#) developed jointly by the American Academy of Family Physicians, American Academy of Pediatrics,

American College of Sports Medicine, American Medical Society for Sports Medicine, American Orthopaedic Society for Sports Medicine, and American Osteopathic Academy of Sports Medicine and available at, <http://www.state.nj.us/education/students/safety/health/records/athleticphysicalsform.pdf>, in accordance with N.J.S.A. 18A:40-41.7.

- (1) Prior to performing a preparticipation physical examination, the licensed physician, APN, or PA who performs the student-athlete's physical examination shall complete the Student-Athlete Cardiac Screening professional development module and shall sign the certification statement on the PPE form attesting to the completion, pursuant to N.J.S.A. 18A:40-41d.
  - (A) If the PPE form is submitted without the signed certification statement and the school district has confirmed that the licensed physician, APN, or PA from the medical home did not complete the module, the student-athlete's parent may obtain a physical examination from a physician who can certify completion of the module or request that the school physician provides the examination.
- (2) The medical report shall indicate if a student is allowed or not allowed to participate in the required sports categories and shall be completed and signed by the original examining physician, APN, or PA.
- (3) An incomplete form shall be returned to the student's medical home for completion unless the school nurse can provide documentation to the school physician that the missing information is available from screenings completed by the school nurse or physician within the prior 365 days.

- iii. Each student whose medical examination was completed more than 90 days prior to the first day of official practice in an athletic season shall provide a health history update questionnaire completed and signed by the student's parent or guardian. The completed health history update questionnaire shall include information as required by N.J.S.A. 18A:40-41.7.b.
- iv. Each school district shall provide to the parent written notification signed by the school physician stating approval of the student's participation in athletics based upon the medical report or the reasons for the school physician's disapproval of the student's participation.
- v. A district board of education, or a governing board or chief school administrator of a nonpublic school, shall not permit a student enrolled in grades six to 12 to participate on a school-sponsored interscholastic or intramural athletic team or squad unless the student submits a PPE form signed by the licensed physician, APN, or PA who performed the physical examination and, if applicable, a completed health history update questionnaire, pursuant to N.J.S.A. 18A:40-41.7.c;
- vi. Each school district and nonpublic school shall distribute to a student-athlete and the student-athlete's parent or guardian the sudden cardiac arrest pamphlet developed by the Commissioner, in consultation with the Commissioner of Health, the American Heart Association, and the American Academy of Pediatrics, pursuant to N.J.S.A. 18A:40-41.
  - (1) A student-athlete and the student-athlete's parent or guardian annually shall sign the Commissioner-developed form that they received and reviewed the pamphlet, and shall return it, to the student's school pursuant to N.J.S.A. 18A:40-41.d.

- (2) The Commissioner shall update the pamphlet, as necessary, pursuant to N.J.S.A. 18A:40-41.b.
  - (3) The Commissioner shall distribute the pamphlet, at no charge, to all school districts and nonpublic schools, pursuant to N.J.S.A. 18A:40-41.b.
2. Upon enrollment in school;
  - i. Each school district shall require parents to provide within 30 days of enrollment entry-examination documentation for each student.
  - ii. When a student transfers to another school, the sending school district shall ensure the entry-examination documentation is forwarded to the receiving school district pursuant to N.J.A.C. 6A:16-2.4(d).
  - iii. Students transferring into a New Jersey school from out-of-State or out-of-country may be allowed a 30-day period to obtain entry-examination documentation.
  - iv. Each school district shall notify parents through its website or other means about the importance of obtaining subsequent medical examinations of the student at least once during each developmental stage: at early childhood (preschool through grade three), pre-adolescence (grade four through six), and adolescence (grade seven through 12);
3. When applying for working papers;
  - i. Pursuant to N.J.S.A. 34:2-21.7 and 21.8(3), the school district may provide for the administration of a medical examination for a student pursuing a certificate of employment.
  - ii. The school district shall not be held responsible for the costs for examinations at the student's medical home or other medical providers;

4. For the purposes of the comprehensive child study team evaluation pursuant to N.J.A.C. 6A:14-3.4; and
  5. When a student is suspected of being under the influence of alcohol or controlled dangerous substances, pursuant to N.J.S.A. 18A:40A-12 and N.J.A.C. 6A:16-4.3.
    - i. If a student who is suspected of being under the influence of alcohol or controlled dangerous substances is reported to the certified school nurse, the certified school nurse shall monitor the student's vital signs and general health status for emergent issues and take appropriate action pending the medical examination pursuant to N.J.A.C. 6A:16-4.3.
    - ii. No school staff shall interfere with a student receiving a medical examination for suspicion of being under the influence of alcohol or controlled dangerous substances pursuant to N.J.A.C. 6A:16-4.3.
- (i) Each public and nonpublic school shall have available and maintain an automated external defibrillator (AED), pursuant to N.J.S.A. 18A:40-41a.a(1) and (3), that is:
1. In an unlocked location on school property, with an appropriate identifying sign;
  2. Accessible during the school day and any other time when a school-sponsored athletic event or team practice is taking place in which pupils of the school district or nonpublic school are participating; and
  3. Within a reasonable proximity of the school athletic field or gymnasium, as applicable.
- (j) The district board of education shall make accessible information regarding the NJ FamilyCare Program to students who are knowingly without medical coverage pursuant to N.J.S.A. 18A:40-34.
- (k) Information concerning a student's HIV/AIDS status shall not be required as part of the medical examination or health history pursuant to N.J.S.A. 26:5C-1 et seq.
- (l) Each district board of education shall ensure that students receive health screenings.

1. Screening for height, weight and blood pressure shall be conducted annually for each student in kindergarten through grade 12.
2. Screening for visual acuity shall be conducted biennially for students in kindergarten through grade 10.
3. Screening for auditory acuity shall be conducted annually for students in kindergarten through grade three and in grades seven and 11 pursuant to N.J.S.A. 18A:40-4.
4. Screening for scoliosis shall be conducted biennially for students between the ages of 10 and 18 pursuant to N.J.S.A. 18A:40-4.3.
5. Screenings shall be conducted by a school physician, school nurse, or other school personnel properly trained.
6. The school district shall notify the parent of any student suspected of deviation from the recommended standard.

**6A:16-2.3 Health services personnel**

- (a) The district board of education shall appoint a school physician pursuant to N.J.S.A. 18A:40-1.
  1. The school district shall conduct a criminal history background check on any physician before entering into an agreement for delivery of services.
  2. The school physician shall be currently licensed by the New Jersey Board of Medical Examiners in medicine or osteopathy and shall have a training and scope of practice that includes child and adolescent health and development.
  3. A contract between a school district and a school physician appointed pursuant to N.J.S.A. 18A:40-1 shall include a statement of assurance that the school physician has completed the Student-Athlete Cardiac Screening professional development

module developed pursuant to N.J.S.A. 18A:40-41d and has read the sudden cardiac arrest pamphlet developed pursuant to N.J.S.A. 18A:40-41.

4. The school physician shall provide, at a minimum, the following services:
  - i. Consultation in the development and implementation of school district policies, procedures and mechanisms related to health, safety and medical emergencies pursuant to N.J.A.C. 6A:16-2.1(a);
  - ii. Consultation to school district medical staff regarding the delivery of school health services, which includes special health care needs of technology-supported and medically fragile children, including students covered by 20 U.S.C. §§ 1400 et seq., Individuals with Disabilities Education Act;
  - iii. Physical examinations conducted in the school physician's office or other comparably equipped facility for students who do not have a medical home;
  - iv. Provision of written notification to the parent stating approval or disapproval of the student's participation in athletics based upon the medical report;
  - v. Direction for professional duties of other medical staff;
  - vi. Written standing orders that shall be reviewed and reissued before the beginning of each school year;
  - vii. Establishment of standards of care for emergency situations and medically related care involving students and school staff;
  - viii. Assistance to the certified school nurse or noncertified nurse in conducting health screenings of students and staff and assistance with the delivery of school health services;

- ix. Review, as needed, of reports and orders from a student's medical home regarding student health concerns;
  - x. Authorization of tuberculin testing for conditions outlined in N.J.A.C. 6A:16-2.2(c);
  - xi. Review, approval, or denial with reasons of a medical home determination of a student's anticipated confinement and resulting need for home instruction; and
  - xii. Consultation with the school district certified school nurse(s) to obtain input for the development of the school nursing services plan, pursuant to N.J.A.C. 6A:16-2.1(b).
- (b) The district board of education shall employ a certified school nurse to provide nursing services while school is in session pursuant to N.J.S.A. 18A:40-1 and 3.3.
- 1. The certified school nurse shall work under the direction of the school physician and chief school administrator.
  - 2. The certified school nurse shall receive training in airway management and in the use of nebulizers and inhalers consistent with nationally recognized standards including, but not limited to, those of the National Institutes of Health and the American Academy of Allergy, Asthma and Immunology.
  - 3. The role of the certified school nurse shall include, but not be limited to:
    - i. Carrying out written orders of the medical home and standing orders of the school physician;
    - ii. Conducting health screenings, which include height, weight, blood pressure, hearing, vision, and scoliosis pursuant to N.J.A.C. 6A:16-2.2; and monitoring vital signs and general health status for emergent issues for students suspected of being under the influence of alcohol and



- controlled dangerous substances pursuant to N.J.S.A. 18A:40-4 and 18A:40A-12;
- iii. Maintaining student health records, pursuant to N.J.S.A. 18A:40-4 and N.J.A.C. 6A:16-2.4;
  - iv. Recommending to the school principal students who shall not be admitted to or retained in the school building based on a parent's failure to provide evidence of the child's immunization according to the schedules specified in N.J.A.C. 8:57-4;
  - v. Annually reviewing student immunization records to confirm with the medical home that the medical condition for the exemption from immunization continues to be applicable, pursuant to N.J.A.C. 8:57-4.3;
  - vi. Recommending to the school principal exclusion of students who show evidence of communicable disease, pursuant to N.J.S.A. 18A:40-7, 8, and 10;
  - vii. Directing and supervising the emergency administration of epinephrine and glucagon, and training school staff designated to serve as delegates, pursuant to N.J.S.A. 18A:40-12.6 and 12.14;
  - viii. Administering asthma medication through use of a nebulizer;
  - ix. Directing and supervising the health services activities of any school staff to whom the certified school nurse has delegated a nursing task;
  - x. Classroom instruction in areas related to health education pursuant to N.J.A.C. 6A:9B-14.3;
  - xi. Reviewing and summarizing available health and medical information regarding the student and transmitting a summary of relevant health and medical information to the child study team pursuant to N.J.A.C. 6A:14-3.4(h);

- xii. Writing and updating, at least annually, the individualized health care plans and the individualized emergency healthcare plans for students' medical needs, and instructing staff as appropriate;
- xiii. Writing and updating, at least annually, any written healthcare provisions required under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794(a), for any student who requires them;
- xiv. Assisting in the development of and implementing healthcare procedures for students in the event of an emergency;
- xv. Instructing teachers on communicable disease and other health concerns, pursuant to N.J.S.A. 18A:40-3; and
- xvi. Reviewing completed health history update questionnaires and sharing with the school athletic trainer for review, if applicable, pursuant to N.J.S.A. 18A:40-41.7; and
- xvii. Providing other nursing services consistent with the nurse's educational services certification endorsement as a school nurse issued by the State Board of Examiners and current license approved by the State Board of Nursing.

- (c) School districts may appoint a noncertified nurse under the supervision of a certified school nurse to supplement the services of a certified school nurse provided that:
- 1. The noncertified nurse shall be assigned to the same school building or complex as the certified school nurse pursuant to N.J.S.A. 18A:40-3.3.a.
  - 2. A noncertified nurse is limited to providing services only as permitted under the noncertified nurse's license issued by the State Board of Nursing.

#### **6A:16-2.4 Required student health records**

- (a) Each school district shall maintain for each student pursuant to N.J.A.C. 6A:32 a student health record that includes the following mandated records:
1. Findings of health histories, medical examinations and health screenings pursuant to N.J.A.C. 6A:16-2.2 and 4.3; and
  2. Documentation of immunizations against communicable diseases or exemption from these immunizations pursuant to N.J.A.C. 8:57-4.1, 4.3, and 4.4.
- (b) Any district board of education employee with knowledge of, or access to, the following health information shall comply with restrictions for sharing information as required by Federal and State statutes and regulations.
1. Information that identifies a student as having HIV infection or AIDS shall be shared only with prior written informed consent of the student age 12 or greater, or of the student's parent as required by N.J.S.A. 26:5C-1 et seq. and only for the purpose of determining an appropriate educational program for the student.
  2. Information obtained by the school's alcohol and other drug program that would identify the student as an alcohol or other drug user may be disclosed only for those purposes and under conditions permitted by 42 CFR Part 2.
  3. Information provided by a secondary school student while participating in a school-based alcohol or other drug counseling program that indicates that a parent, guardian or other person residing in the student's household is dependent upon or illegally using a substance shall be shared only for those purposes and conditions permitted by N.J.S.A. 18A:40A-7.1.
- (c) Access to and disclosure of information in the student health record shall meet the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g and 34 CFR Part 99, incorporated herein by reference, as amended and supplemented, and N.J.A.C. 6A:32-7.

- (d) The school district shall provide access to the student health record to licensed medical personnel not holding educational certification who are working under contract with, or as employees of, the school district only to the extent necessary to enable the licensed medical personnel to perform their duties.
  - 1. Secretarial or clerical personnel under the supervision of the certified school nurse shall be permitted access to portions of the student health record necessary for entry and recording of data and for conducting routine clerical tasks as outlined in N.J.S.A. 18A:40-3.4 and N.J.A.C. 6A:32-7.5.
- (e) Nothing in this section shall be construed to prohibit school personnel from disclosing to students or adults in connection with an emergency the information contained in the student health record if the release is necessary to protect the immediate health or safety of the student or other persons pursuant to N.J.A.C. 6A:32-7.4.

**6A:16-2.5 School health services to nonpublic schools**

- (a) The district board of education having nonpublic schools within school district boundaries shall provide nursing services to students enrolled in a nonpublic school, pursuant to N.J.S.A. 18A:40-23 et seq., as follows:
  - 1. The school district shall provide services to students who are enrolled full-time;
  - 2. Services shall be made available only to students of a nonpublic school that provided to the district board of education a report of the type and number of services provided during the previous school year;
  - 3. The provision of nursing services shall include:
    - i. Assistance with medical examinations including dental screening;
    - ii. Screening of hearing;

- iii. Maintenance of student health records and notification of local or county health officials of any student who has not been properly immunized, pursuant to N.J.A.C. 8:57-4.1 through 4.20; and
    - iv. Scoliosis examinations of students between the ages of 10 and 18; and
  4. The district board of education shall make every attempt to provide nursing services for students in nonpublic schools beginning at the start of the school year and continuing throughout the school year.
- (b) The district board of education in which the nonpublic school is located shall adopt written policies and procedures for the extension of emergency care provided to public school students to full-time nonpublic school students who are injured or become ill at school or during participation on a school team or squad pursuant to N.J.A.C. 6A:16-2.1(a)4. The district board of education may include in its adopted written policies and procedures the provision of nursing services to preschool students enrolled in nonpublic schools in the event of an emergency, pursuant to N.J.S.A. 18A:40-27.1.
- (c) The district board of education having nonpublic schools within school district boundaries may provide to nonpublic students additional medical services pursuant to N.J.S.A. 18A:40-26.a, including necessary equipment, materials, and services for immunizing from diseases students who are enrolled full-time in the nonpublic school pursuant to N.J.S.A. 18A:40-26.b and as required by N.J.A.C. 8:57-4.
  1. Equipment comparable to that used in the school district may be loaned without charge to the nonpublic school for the purpose of providing services under this section. However, such equipment shall remain the property of the district board of education.
  2. Costs of supplies comparable to that used in the school district and transportation may be charged to the funds allocated for each participating nonpublic school

provided the costs are directly related to the required basic nursing services and the permitted additional medical services.

- (d) Nursing services funded by the district board of education pursuant to N.J.S.A. 18A:40-23 et seq. shall be provided by a registered nurse licensed by the New Jersey State Board of Nursing who is an employee of the school district or a third-party contractor or is an independent contractor.
- (e) A district board of education either shall employ a qualified independent contractor to provide nursing services or shall contract, pursuant to N.J.S.A. 18A:40-28, with other district boards of education or with a public or private agency approved by the Commissioner to provide nursing services, pursuant to N.J.A.C. 6A:14-5.2. Prior to any change in the provision of nursing services, the district board of education shall provide timely and meaningful consultation with appropriate nonpublic school representatives, including parents, pursuant to N.J.S.A. 18A:40-28.
- (f) The nursing services provided to nonpublic school students shall not include instructional services.
- (g) A nonpublic school may decline nursing services required or permitted under this subchapter by submitting to the district board of education notification signed by the chief school administrator of the nonpublic school pursuant to N.J.S.A. 18A:40-29 and still may request additional services pursuant to (c) above.
- (h) A student who is enrolled in a nonpublic school and whose parent objects to the student receiving any service provided under this subchapter shall not be compelled to receive the service except for a physical or medical examination to determine whether the student is ill or infected with a communicable disease pursuant to N.J.S.A. 18A:40-30.
- (i) The district board of education shall provide health services based upon the following:
  - 1. The funding for services shall be based upon the nonpublic school enrollment on the last school day prior to October 16 of the preceding school year;

2. The funding for services shall be based on a report provided to the Department by the school district or nonpublic school that includes the nonpublic school enrollment on the last school day prior to October 16 of the preceding school year; and
  3. The funds expended by the district board of education for administrative costs shall be limited to the actual costs or six percent of the funds allocated annually for each participating nonpublic school, whichever is less. Administrative costs shall include, but not be limited to, the costs related to the school district's annual consultation, bidding, program and contract management, and oversight and quality control.
- (j) The chief school administrator, or designee, of the school district in which a nonpublic school is located shall confer annually with the administrator of the nonpublic school for the following purposes:
1. To advise the nonpublic school of the amount of funds allocated to it by the Department for the provision of health services for full-time students enrolled in the nonpublic school;
  2. To agree on the basic health services that shall be provided and the additional medical services, equipment, or supplies that may be provided as set forth in N.J.S.A. 18A:40-23 et seq.;
  3. To discuss the criteria to be used in the school district's selection of a nursing service provider for the nonpublic school;
  4. To ascertain the level of satisfaction of the nonpublic school with the current nursing service provider;
  5. If the chief school administrator or designee and the nonpublic school administrator cannot reach agreement regarding the health services and additional

medical services to be provided, the county office of education shall provide assistance;

6. To assure that a description of the provision of nursing services is reflected in the school district's nursing services plan; and
7. To ensure nonpublic school students in the school district who are knowingly without medical coverage have access to the NJ FamilyCare program and to make accessible information regarding the program to the students, pursuant to N.J.S.A. 18A:40-34.

(k) For the purposes of monitoring and recordkeeping, the district board of education providing health services to nonpublic schools shall submit to the executive county superintendent on or before October 1 annually the following information and shall provide a copy to the chief school administrator of each nonpublic school within school district boundaries:

1. A written statement verifying that the required conference was held with the nonpublic school;
2. A copy of the contract with an independent contractor or agency to provide services, if applicable, and approved minutes of the district board of education meeting approving the contract that describes the methods by which the health services will be provided to nonpublic school students for the ensuing year, including a rationale for the distribution of funds; and
3. A description of the type and number of services that were provided during the previous school year on a Commissioner-approved form.

### **Subchapter 3. Comprehensive Alcohol, Tobacco, and Other Drug Abuse Programs**

#### **6A:16-3.1 Establishment of comprehensive alcohol, tobacco, and other drug abuse programs**



- (a) Each district board of education shall establish a comprehensive program of prevention, intervention, referral for evaluation, referral for treatment, and continuity of care for student alcohol, tobacco, and other drug abuse in the school district's public elementary and secondary schools, in accordance with N.J.S.A. 18A:40A-3, 10, and 15.
1. The purpose of the prevention component of the program shall be to:
    - i. Keep students from using alcohol, tobacco or other drugs;
    - ii. Reduce or eliminate the incidence and prevalence of student alcohol, tobacco and other drug abuse;
    - iii. Reduce the factors that place students at risk for involvement with alcohol, tobacco or other drugs through school and community-based planning processes;
    - iv. Contribute to the development of school environments and alternative activities that are alcohol, tobacco and other drug-free;
    - v. Increase the knowledge and skills of students, staff and community members for avoiding the harmful effects of alcohol, tobacco and other drug use; and
    - vi. Actively involve staff, students, parents, and other community members in the development and implementation of prevention program plans.
  2. The purpose of the intervention, referral for evaluation, and referral for treatment components of the program shall be to:
    - i. Identify students who are at risk for, or who have exhibited, alcohol, tobacco or other drug abuse or related problems;
    - ii. Help students or their parents who have requested assistance for alcohol, tobacco or other drug abuse problems;
    - iii. Make a preliminary assessment of a student's need for educational programs, supportive services or treatment that extends beyond the general

- school program by virtue of the use of alcohol, tobacco, or other drugs by the student or the student's parents;
- iv. Refer students for evaluation to make a positive determination regarding a student's need for alcohol, tobacco, or other drug treatment;
  - v. Help a student or a student's parents follow through on the recommendations resulting from an evaluation that has positively determined the harmful use of alcohol, tobacco, or other drugs by the student or the student's parents; and
  - vi. Assist a student or a student's parents with a referral for treatment.
3. The purpose of the continuity of care component of the program shall be to:
- i. Assist with the provision of educational programs and services for students in treatment; and
  - ii. Plan and provide supportive services for students who are returning from treatment.
4. Each district board of education shall ensure that all educational staff members receive in-service training in alcohol, tobacco, and other drug abuse prevention and intervention, in accordance with N.J.S.A. 18A:40A-3 and 15.
- i. The in-service training shall be updated annually to ensure educational staff members have the most current information available on the subject of substance abuse and on the school district's comprehensive alcohol, tobacco, and other drug abuse program, policies, and procedures.
5. Pursuant to N.J.S.A. 18A:40A-18.c, student assistance coordinators employed by district boards of education shall assist school districts in the effective implementation of N.J.S.A. 18A:40A-1 through 18.
6. When a student assistance coordinator is not employed or contracted by a district board of education, the board shall assign school staff with appropriate

educational services certificates to perform the student assistance coordinator functions, pursuant to N.J.S.A. 18A:40A-18.c and (a)5 above, and to assist in the effective implementation of the requirements of N.J.S.A. 18A:40A-1 through 17.

- i. The district board of education shall maintain documentation of school staff with appropriate educational services certificates who will perform the student assistance coordinator functions.
7. Each district board of education shall establish educational programs on alcohol, tobacco, and other drug abuse for parents, pursuant to N.J.S.A. 18A:40A-16 and 17(a), and offered at times and places convenient to the parents of enrolled students.
8. Each district board of education shall make and enforce rules to prohibit any person from smoking or carrying lighted tobacco at any time on school grounds or on school buses or other vehicles owned or contracted by the board of education, pursuant to P.L. 2009, c. 182, P.L. 2005, c. 383, N.J.A.C. 13:28-6.14, and N.J.A.C. 8:6.

### **6A:16-3.2 Confidentiality of student alcohol and other drug information**

- (a) Each district board of education shall assure compliance with the following confidentiality requirements consistent with the implementation of 20 U.S.C. § 1232g, the Family Educational Rights and Privacy Act, and 34 CFR Part 99:
  1. Confidentiality of substance use disorder patient records, pursuant to 42 CFR Part 2; and
  2. Confidentiality of information provided by an elementary or secondary school student while participating in a school-based drug and alcohol counseling program that indicates the student's parent or other person residing in the student's

household is dependent upon or illegally using substances pursuant to N.J.S.A.

18A:40A-7.1 and 7.2.

#### **Subchapter 4. Procedures for Alcohol and Other Drug Abuse Intervention**

##### **6A:16-4.1 Adoption of policies and procedures for the intervention of student alcohol and other drug abuse**

- (a) Each district board of education shall adopt and implement policies and procedures for the assessment, intervention, referral for evaluation, referral for treatment, and enforcement of the code of student conduct, pursuant to N.J.A.C. 6A:16-7, for students whose use of alcohol or other drugs has affected their school performance, or for students who consume or who are suspected of being under the influence of or who possess or distribute the following substances on school grounds pursuant to N.J.S.A. 18A:40A-9, 10, and 11:
1. Alcoholic beverages;
  2. Any controlled dangerous substance, including anabolic steroids, as defined in N.J.S.A. 24:21-2 and 2C:35-2;
  3. Any chemical or chemical compound that releases vapor or fumes causing a condition of intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system, including, but not limited to, glue containing a solvent having the property of releasing toxic vapors or fumes, as defined in N.J.S.A. 2C:35-10.4; and
  4. Over-the-counter and prescription medications that are improperly used to cause intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system.
- (b) In adopting and implementing policies and procedures for assessment, intervention, referral for evaluation, and referral for treatment of alcohol or other drug-affected

students, district boards of education shall consult with a local organization licensed by the New Jersey Department of Human Services, and may consult with out-of-State agencies licensed by the appropriate state regulatory agency for alcohol and other drug services, or private practitioners certified by the appropriate drug and alcohol licensing board, as appropriate, pursuant to N.J.S.A. 18A:40A-11.

- (c) Each district board of education's policies for students using, possessing, or distributing alcohol and other drugs, as defined in (a) above, shall include the following components:
1. The role of appropriate school staff when handling a variety of possible alcohol or other drug-related situations involving students on school grounds;
  2. Specific procedures, sanctions and due process provisions, consistent with N.J.A.C. 6A:16-4.4 and 7, as appropriate, for violations of the alcohol and other drug policy requiring action by the district board of education to apply the code of student conduct pursuant to N.J.A.C. 6A:16-7, including consequences for not following through on the recommendations of an evaluation for alcohol or other drug abuse and related behaviors;
  3. Appropriate steps for ameliorating student problems related to alcohol and other drug use;
  4. Appropriate steps for providing support for student transitions to and from health and social service agencies;
  5. Specific procedures to govern instances where emergency room services are required in treating alcohol- or other drug-affected students;
  6. Assessment or evaluation services for students who are affected by alcohol or other drug use. The services shall include one or more of the following:
    - i. Assessments by an individual who holds the educational services certificate with the student assistance coordinator endorsement issued by the New Jersey State Board of Examiners, or by an individual who holds

- one of the following educational services certificate endorsements: school nurse; school nurse/non-instructional; school psychologist; school counselor; school social worker; or student personnel services and is trained to assess alcohol and other drug abuse;
- ii. Examinations by a physician for the purpose of determining whether alcohol or other drug use interferes with students' physical and mental abilities to perform in school or students are under the influence of alcohol or other drugs;
  - iii. Referrals for evaluation to community agencies, as defined in (b) above, out-of-State agencies licensed by the appropriate state regulatory agency for alcohol and other drug services, or private practitioners certified by the appropriate alcohol or other drug licensing board; or
  - iv. Evaluations by the child study team to determine students' eligibility for special education and related services, pursuant to N.J.A.C. 6A:14-3.5 and 3.6;
7. The provision of intervention, referral for evaluation, and referral for treatment services for students who are affected by alcohol or other drug use.
- i. The intervention, referral for evaluation, and referral for treatment services shall be provided by an individual who holds the educational services certificate with the student assistance coordinator endorsement issued by the New Jersey State Board of Examiners, or by an individual who holds one of the following educational services certificate endorsements: school nurse; school nurse/non-instructional; school psychologist; school counselor; school social worker; or student personnel services and is trained in alcohol and other drug abuse intervention, assessment, referral for evaluation, and referral for treatment skills.

- ii. The intervention, referral for evaluation, and referral for treatment services shall include one or more of the following:
  - (1) Provisions for a program of instruction, counseling, and related services provided by the district board of education while a student receives medical treatment for a diagnosed alcohol or other drug dependency problem;
  - (2) Referral to a community agency, as defined in (b) above, out-of-State agencies licensed by the appropriate state regulatory agency for alcohol and other drug services, or private practitioners authorized by the appropriate drug and alcohol licensing board;
  - (3) Provisions for support services for students who are in, or returning from, medical treatment for alcohol and other drug dependency; or
  - (4) A special class, course or educational program designed to meet the needs of students with alcohol or other drug use problems;
- 8. Provisions for assisting parents who believe their child might be involved with alcohol or other drug use, in accordance with N.J.S.A. 18A:40A-17(b);
- 9. Provisions, pursuant to N.J.A.C. 6A:16-4.3(a)3i and (b)3i and 6.3(a)4, for when to contact law enforcement officials to disclose the identities of students reasonably believed to be in possession of a controlled dangerous substance, including anabolic steroids, or related paraphernalia or involved or implicated in distribution activities regarding controlled dangerous substances, including anabolic steroids.
  - i. Pursuant to N.J.A.C. 6A:16-4.3(a)3 and (b)3 and 6.3(a)4, the chief school administrator or designee may disclose to law enforcement authorities the

identities of students suspected of being under the influence of alcohol or other drugs; and

10. Provisions for reporting to and cooperating with law enforcement authorities, pursuant to N.J.A.C. 6A:16-6, for the unlawful possession, distribution, and disposition of substances, as set forth in this section and N.J.A.C. 6A:16-6.1(a)1.

**6A:16-4.2 Review and availability of policies and procedures for the intervention of student alcohol or other drug abuse**

- (a) Each district board of education shall establish a process for the annual review of the effectiveness of its policies and procedures regarding student alcohol and other drug abuse. The district board of education may solicit parent, student, and community input, as well as consult in the review process with local alcohol and other drug abuse prevention, intervention and treatment agencies licensed by the New Jersey Department of Human Services.
- (b) Each district board of education shall annually disseminate to all school staff, students and parents through its website or other means its adopted policies and procedures for implementing N.J.A.C. 6A:16-4.

**6A:16-4.3 Reporting, notification, and examination procedures for students suspected of being under the influence of alcohol or other drugs**

- (a) In instances involving alcoholic beverages, controlled dangerous substances other than anabolic steroids, or any other chemical or chemical compound as identified at N.J.S.A. 18A:40A-9 and N.J.A.C. 6A:16-4.1(a), the following shall apply:
  1. Any educational staff member or other professional to whom it appears that a student may be currently under the influence of alcohol or other drugs on school grounds shall report the matter as soon as possible to the principal or, in the



principal's absence, to the principal's designee and either the certified school nurse, noncertified nurse, school physician, or student assistance coordinator, pursuant to N.J.S.A. 18A:40A-12.

- i. In instances where the principal and either the certified school nurse, non-certified nurse, school physician, or student assistance coordinator are not in attendance, the staff member responsible for the school function shall be immediately notified.
2. In response to every report by an educational staff member or other professional of suspected student alcohol or other drug use, including instances when a report is made to law enforcement, the principal or the principal's designee shall:
  - i. Immediately notify the parent and the chief school administrator or the chief school administrator's designee; and
  - ii. Arrange for an immediate medical examination of the student for the purposes of providing appropriate health care and for determining whether the student is under the influence of alcohol or other drugs, other than anabolic steroids.
3. The chief school administrator or designee may disclose to law enforcement authorities the identity of a student suspected to be under the influence of alcohol or other drugs, pursuant to (a)1 above.
  - i. The chief school administrator shall disclose to law enforcement authorities the identity of a student reasonably believed to be in possession of a controlled dangerous substance or related paraphernalia or a student reasonably believed to be involved or implicated in distribution activities regarding controlled dangerous substances.

4. The medical examination, pursuant to (a)2ii above, shall be performed by a physician licensed to practice medicine or osteopathy who is selected by the parent.
  - i. The school district, in cooperation with medical professionals licensed to practice medicine or osteopathy, shall establish minimum requirements for the medical examination.
  - ii. The examination shall be at the expense of the parent and not the district board of education.
5. If the physician chosen by the parent is not immediately available, the medical examination shall be conducted by the school physician.
  - i. If the school physician is not available, the student shall be accompanied by a member of the school staff designated by the principal to the emergency room of the nearest hospital for examination.
  - ii. The student's parent, if available, also shall accompany the student.
  - iii. When the medical examination is conducted by the school physician or a physician at the emergency room of the nearest hospital, the examination shall be at the expense of the district board of education.
6. Each district board of education shall have a plan in place for the appropriate supervision of the student:
  - i. While waiting for a parent to take the student to the physician selected by the parent, or while the student is waiting for and receiving the medical examination by the school physician or a physician in an emergency room; and
  - ii. Provisions shall be made for the appropriate care of the student while awaiting the results of the medical examination.

7. A written report of the medical examination shall be furnished to the student's parent, the principal, and the chief school administrator by the examining physician within 24 hours of the referral of the student for suspected alcohol or other drug use.
  - i. The school district, in cooperation with the school physician or medical professionals licensed to practice medicine or osteopathy, shall establish minimum requirements for the medical report.
  - ii. The report's findings shall verify whether the student's alcohol or other drug use interferes with the student's physical and mental ability to perform in school.
8. When the medical examination is performed by a physician other than the school physician or a physician at the emergency room of the nearest hospital, the school district shall require the parent to verify within 24 hours of the notification that the student is suspected of alcohol or other drug use that a medical examination was performed in compliance with (a)7i above.
  - i. The verification shall include, at a minimum, the signature, printed name, address, and phone number of the examining physician, the date and time of the medical examination, and the date by which the report required in (a)7 above will be provided.
  - ii. Refusal or failure by a parent to comply with this requirement shall be treated as a policy violation and handled in accordance with (d) below.
9. If the written report of the medical examination is not submitted to the parent, principal, and chief school administrator within 24 hours of the referral of the student for suspected alcohol or other drug use, the student shall be allowed to return to school until such time as a positive determination of alcohol or other

drug use is received from the examining physician, unless the student was also removed for violating the code of student conduct.

10. If the written report of the medical examination verifies that alcohol or other drugs do not interfere with the student's physical and mental ability to perform in school, the student shall be immediately returned to school.
11. If there is a positive determination from the medical examination indicating the student's alcohol or other drug use interferes with the student's physical or mental ability to perform in school:
  - i. The student shall be returned as soon as possible to the care of a parent;
  - ii. Attendance at school shall not resume until a written report has been submitted to the parent, the principal, and chief school administrator from a physician licensed to practice medicine or osteopathy who has examined the student to determine whether alcohol or other drug use interferes with the student's physical or mental ability to perform in school;
    - (1) The report shall verify that the student's alcohol or other drug use no longer interferes with the student's physical and mental ability to perform in school; and
  - iii. Removal of a student with a disability shall be made in accordance with N.J.A.C. 6A:14 and the IDEA, 20 U.S.C. §§ 1400 et seq.
12. While the student is at home because of the medical examination or after the student returns to school, an individual who holds the educational services certificate with the student assistance coordinator endorsement issued by the New Jersey State Board of Examiners, or an individual who holds one of the following educational services certificate endorsements: school nurse; school nurse/non-instructional; school psychologist; school counselor; school social worker; or

student personnel services and is trained to assess alcohol and other drug abuse shall:

i. Conduct an alcohol and other drug assessment of the student and a reasonable investigation of the situation, which may include interviews with the student's teachers and parents and consultation with experts in student alcohol or other drug abuse, for the purpose of making a preliminary determination of the student's need for educational programs, supportive services, or treatment that extend beyond the general school program by virtue of the student's use of alcohol or other drugs.

(1) The findings of the assessment alone shall not be used to prevent a student from attending school; and

ii. Cooperate with community agencies as defined in N.J.A.C. 6A:16-4.1(b) and juvenile justice officials in providing evaluation, referral and continuity of care for alcohol or other drug abuse treatment.

13. While the student is at home because of the medical examination or after the student's return to school, the principal or chief school administrator may recommend or require alcohol and other drug assessment of the student or evaluation by appropriately certified or licensed professionals to make a positive determination of a student's need for programs and services that extend beyond the general school program, as necessary.

i. The findings of additional evaluations alone shall not be used to prevent a student from attending school.

14. If at any time it is determined that the student's use of alcohol or other drugs presents a danger to the student's health and well-being, an individual who holds the educational services certificate with the student assistance coordinator endorsement issued by the New Jersey State Board of Examiners or an individual

who holds one of the following educational services certificate endorsements: school nurse; school nurse/non-instructional; school psychologist; school counselor; school social worker; or student personnel services and is trained in alcohol and other drug abuse treatment referral shall initiate a referral for alcohol or other drug abuse treatment.

15. The district board of education may provide additional intervention and referral services for the student according to N.J.S.A. 18A:40A-10 and N.J.A.C. 6A:16-8.

(b) In instances involving the suspected use of anabolic steroids, the following shall apply according to N.J.S.A. 18A:40A-12(b):

1. Whenever a teaching staff member, certified or non-certified school nurse, or other educational personnel has reason to believe that a student has used or may be using anabolic steroids, the person shall report the matter as soon as possible to the principal or, in the principal's absence, to the principal's designee and either the certified or non-certified school nurse, school physician, or student assistance coordinator.

2. In response to a report of suspected anabolic steroid use pursuant to (b)1 above, including instances when a report is made to law enforcement, the principal or the principal's designee shall immediately notify the parent and the chief school administrator and shall arrange for an examination of the student by a physician licensed to practice medicine or osteopathy selected by the parent.

i. If the physician chosen by the parent is not available to perform the examination, it shall be conducted by the school physician or other physician identified by the principal.

ii. The student shall be examined as soon as possible for the purpose of determining whether the student has been using anabolic steroids.

3. The chief school administrator or designee may disclose to law enforcement authorities the identity of a student suspected to have used or to be using anabolic steroids, pursuant to (b)1 above.
  - i. The chief school administrator shall disclose to law enforcement authorities the identity of a student reasonably believed to be in possession of anabolic steroids or related paraphernalia or a student reasonably believed to be involved or implicated in distribution activities involving anabolic steroids.
4. The examining physician shall provide to the parent, principal, and chief school administrator a written report of the examination.
5. If it is determined the student has used anabolic steroids, an individual who holds the educational services certificate with the student assistance coordinator endorsement issued by the New Jersey State Board of Examiners or an individual who holds one of the following educational services certificate endorsements: school nurse; school nurse/non-instructional; school psychologist; school counselor; school social worker; or student personnel services and is trained to assess alcohol and other drug abuse shall interview the student and others, as necessary, for the purpose of determining the extent of the student's involvement with and use of anabolic steroids and the possible need for referral for treatment.
  - i. To make this determination, school staff members identified in (b)5 above may conduct a reasonable investigation, which may include interviews with the student's teachers and parents and consultation with experts in student alcohol or other drug abuse.
6. If results of a referral for evaluation positively determine the student's involvement with and use of anabolic steroids represents a danger to the student's health and well-being, an individual who holds the educational services certificate

with the student assistance coordinator endorsement issued by the New Jersey State Board of Examiners or an individual who holds one of the following educational services certificate endorsements: school nurse; school nurse/non-instructional; school psychologist; school counselor; school social worker; or student personnel services and is trained to assess alcohol and other drug abuse shall initiate a referral for treatment to appropriate community agencies, as defined in N.J.A.C. 6A:16-4.1(b), to out-of-State agencies licensed by the appropriate state regulatory agency for alcohol and other drug services, or to private practitioners certified by the appropriate drug and alcohol licensing board.

- (c) Any educational or non-educational district board of education employee who in good faith reports to the principal or the principal's designee a student in compliance with the provisions of this subsection shall not be liable in civil damages as a result of making a report, as specified at N.J.S.A. 18A:40A-13 and 14.
- (d) Refusal or failure by a parent to comply with the provisions of N.J.S.A. 18A:40A-12 and this section shall be treated as a policy violation of the Compulsory Education Act, pursuant to N.J.S.A. 18A:38-25 and 31, and child neglect laws, pursuant to N.J.S.A. 9:6-1 et seq. and N.J.A.C. 6A:16-11.
- (e) Refusal or failure of a student to comply with the provisions of N.J.S.A. 18A:40A-12 and this section shall be treated by the school district as a policy violation and handled in accordance with N.J.A.C. 6A:16-4.1(c)2.

#### **6A:16-4.4 Voluntary policy for random testing of student alcohol or other drug use**

- (a) Each district board of education that chooses to adopt policies and procedures for the random testing of students, pursuant to N.J.S.A. 18A:40A-22 et seq., for the use of controlled dangerous substances, including anabolic steroids, as defined in N.J.S.A. 2C:35-2 and 24:21-2, or alcoholic beverages, as defined in N.J.S.A. 33:1-1, shall:



1. Hold a public hearing prior to the adoption of the alcohol or other drug testing policies and procedures.
  - i. The notice of the public hearing shall specifically identify the proposed alcohol or other drug testing policies and procedures as an agenda item; and
  - ii. Copies of the proposed alcohol or other drug testing policies and procedures shall be made available upon request prior to the public hearing;
2. Apply the alcohol or other drug testing policies and procedures only to students in grades nine through 12 who participate in extra-curricular activities, including interscholastic athletics, or who possess parking permits;
3. Be responsible for all costs of the alcohol or other drug testing, including any costs associated with the transportation of students;
4. Ensure that the voluntary alcohol or other drug testing conducted pursuant to this section is separate and distinct from any other alcohol or other drug testing that might be administered by the district board of education, including the required medical examination of students currently suspected of being under the influence of alcohol or other drugs, pursuant to N.J.S.A. 18A:40A-12 and N.J.A.C. 6A:16-4.3;
5. Ensure that the policies and procedures for the alcohol or other drug testing program, pursuant to (b) below, are included in and are consistent with the policies and procedures for the intervention of student alcohol or other drug abuse, pursuant to N.J.S.A. 18A:40A-10 and 11 and N.J.A.C. 6A:16-4.1; and
6. Provide written notice to all ninth-through-12th-grade students and their parents at the beginning of each school year that the active written consent of students and parents for random student alcohol or other drug testing is required for students to

participate in extracurricular activities, including interscholastic athletics, or to possess a school parking permit.

(b) Each district board of education's written alcohol or other drug testing policies and procedures, pursuant to this section, shall include, but need not be limited to, the following components:

1. A statement that the purposes of the alcohol and other drug testing policies are to deter alcohol and other drug use and to provide a means for the early detection of students with alcohol or other drug problems so referral for evaluation or referral for treatment, pursuant to (b)10 below and N.J.A.C. 6A:16-1.3 and 4.1, or other appropriate assistance may be offered;
2. A description of the procedures for randomly selecting students for alcohol or other drug testing, which shall include, at a minimum:
  - i. The manner in which students shall be randomly selected for alcohol or other drug testing;
  - ii. An explanation of the sampling statistical principles supporting the random selection process; and
  - iii. An explanation of how implementation of the random selection process shall be documented and verified;
3. A description of the procedures for the acquisition and management of student's alcohol or other drug test specimens, which shall address the following, at a minimum and as appropriate to the method selected under (c) below:
  - i. Student monitoring;
  - ii. Student transportation;
  - iii. The acquisition and handling of students' specimens;
  - iv. The chain of custody of students' specimens;
  - v. The testing and analysis of students' specimens; and

- vi. The storage of students' specimens;
4. The standards for ensuring confidentiality and scope of authorized disclosure of alcohol or other drug testing information that protect, at a minimum:
  - i. The identities of students who have been selected to be tested or who have been tested;
  - ii. The results of alcohol or other drug tests;
  - iii. The billing and management reports associated with alcohol or other drug tests; and
  - iv. Information, prior to the time of an alcohol or other drug test, that a test is to take place;
5. A description of the consequences for violating confidentiality and disclosure standards, pursuant to (b)4 above;
6. The parent providing consent to alcohol or other drug testing, pursuant to (a)6 above, shall be notified each time the parent's child has been tested under the alcohol or other drug testing policy, pursuant to this section.
  - i. The school district shall establish procedures ensuring confidentiality of the notification;
7. The procedures for reporting results of alcohol or other drug tests, including written notification to students and their parents concerning test findings, that are consistent with (b)4 above.
  - i. Law enforcement authorities shall not be notified of test results;
8. The specific actions pursuant to N.J.A.C. 6A:16-7.1, as appropriate, N.J.A.C. 6A:16-4.1, and this section to be taken against students who test positive for alcohol or other drug use.
  - i. Actions to be taken against students who test positive for alcohol or other drug use shall be limited to:

- (1) Removal from or prohibition against participation in extracurricular activities, including interscholastic athletics; or
      - (2) Disapproval or revocation of student parking permits.
    - ii. Prior to actions being taken pursuant to (b)8i(1) or (2) above, all positive alcohol or other drug test results shall be confirmed by the laboratory using a methodology recommended by the laboratory instrument's manufacturer;
  - 9. The procedures for students or their parents to challenge a positive result from the alcohol or other drug tests;
  - 10. The guidelines for referral for evaluation or referral for treatment, pursuant to N.J.A.C. 6A:16-1.3 and 4.1 and this section, or the provision of other appropriate assistance for students who test positive for alcohol or other drug use; and
  - 11. The specific actions, pursuant to N.J.A.C. 6A:16-7.1, to be taken against students who refuse to consent to alcohol or other drug testing.
    - i. Actions to be taken against students who refuse to consent to alcohol or other drug testing shall be limited to:
      - (1) Removal from or prohibition against participation in extracurricular activities, including interscholastic athletics; or
      - (2) Disapproval or revocation of student parking permits.
- (c) Each district board of education shall provide for the collection and testing of alcohol or other drug specimens by implementing one of the following methods, in accordance with N.J.S.A. 45:9-42.26 et seq. and N.J.A.C. 8:44 and 8:45:
- 1. Transporting randomly selected students, pursuant to (b)2 and 3ii above, to a State-licensed clinical laboratory to perform specimen collection and alcohol or other drug testing;

2. Choosing a State-licensed clinical laboratory to operate an onsite licensed collection station and to transport the specimens to the offsite licensed laboratory for alcohol or other drug testing;
  3. Choosing to obtain a State license to operate the school district's own collection station for the collection of specimens, pursuant to (a)3 above, as appropriate, and (b)3 and 4 above, and contract with a licensed clinical laboratory for transportation and alcohol or other drug testing of the specimens;
  4. Choosing to obtain a State license to operate a clinical laboratory for onsite collection and alcohol or other drug testing of specimens; or
  5. Choosing to contract with a State-licensed clinical laboratory to provide for both the onsite collection and alcohol or other drug testing of specimens.
- (d) The district board of education shall limit the collection of specimens for alcohol or other drug testing in a State-licensed collection station or clinical laboratory, in accordance with N.J.S.A. 45:9-42.26 et seq., N.J.A.C. 8:44 and 8:45, and (c)1 above to the following persons:
1. A school physician;
  2. A physician, other than the school physician, licensed to practice medicine or osteopathy other than the school physician;
  3. A certified school nurse or noncertified nurse, pursuant to N.J.A.C. 6A:9B-14.3 and 14.4; or
  4. The staff of a State-licensed clinical laboratory or health care facility, in accordance with (c) above, as designated by the district board of education.

## **Subchapter 5. School Safety And Security**

### **6A:16-5.1 School safety and security plans**

- (a) Each school district shall develop and implement comprehensive plans, procedures, and mechanisms that provide for safety and security in the school district's public elementary and secondary schools. Plans and procedures, which shall be in written form, and mechanisms shall provide for, at a minimum:
1. The protection of the health, safety, security and welfare of the school population;
  2. The prevention of, intervention in, response to and recovery from emergency and crisis situations;
  3. The establishment and maintenance of a climate of civility; and
  4. Support services for staff, students and their families.
- (b) The chief school administrator shall consult with law enforcement agencies, health and social services provider agencies, emergency management planners, and school and other community resources, as appropriate, in the development of the school district's plans, procedures, and mechanisms for school safety and security.
1. The plans, procedures, and mechanisms shall be consistent with the provisions of this section and the format and content established by the Domestic Security Preparedness Task Force, pursuant to N.J.S.A. App. A:9-64 et seq., and the Commissioner.
  2. The plans, procedures, and mechanisms shall be reviewed annually and updated as appropriate.
- (c) The district board of education shall disseminate to its employees a copy of the school safety and security plan.
1. New district board of education employees shall receive a copy of the school safety and security plan, as appropriate, within 60 days of the effective date of their employment.
  2. All district board of education employees shall be notified in writing, as appropriate, regarding updates and changes to the school safety and security plan.

- (d) The district board of education shall develop and provide an in-service training program for all district board of education employees to enable them to recognize and appropriately respond to safety and security concerns, including emergencies and crises, consistent with the district board of education's plans, procedures, and mechanisms for school safety and security and the provisions of this section.
1. New district board of education employees shall receive the in-service training within 60 days of the effective date of their employment.
  2. The in-service training program for all district board of education employees shall be reviewed annually and updated as appropriate.

#### **6A:16-5.2 Violence awareness**

- (a) Each district board of education annually shall observe "School Violence Awareness Week" during the week beginning with the third Monday in October by organizing activities to prevent school violence according to N.J.S.A. 18A:36-5.1.
- (b) Each district board of education shall disseminate to students' parents or guardians an informational pamphlet prepared by the Department on how a parent can limit a child's exposure to violence on television, cell phones, computers, and other electronic devices, pursuant to N.J.S.A. 18A:40-44.

#### **6A:16-5.3 Incident reporting of violence, vandalism, and alcohol and other drug abuse**

- (a) For purposes of reporting information at the school level, any school employee who observes or has direct knowledge from a participant or victim of an act of violence, including harassment, intimidation, and bullying; vandalism; possession, use, or sale or

distribution of a weapon; or the possession or distribution of alcohol or other drugs on school grounds, and any school employee who reports a student for being under the influence of alcohol or other drugs, pursuant to N.J.S.A. 18A:40A-12, shall file with the principal a report describing the incident.

1. The report shall be on a form adopted for such purposes by the district board of education.
  - i. The form shall include all information necessary for complete, accurate reporting on the Student Safety Data System (SSDS).
- (b) The district board of education shall not discharge or subject to any manner of discrimination a school employee who files a report pursuant to this section.
- (c) The majority representative of the school employees' bargaining units shall have access monthly to the number and disposition of all reported acts of school violence, including harassment, intimidation, and bullying, and vandalism pursuant to N.J.S.A. 18A:17-46.
  1. Personally identifying information may be provided to the majority representative of the school employees' bargaining units only in instances when school administrators have reason to believe the safety of a school staff member is at risk.
- (d) The chief school administrator shall:
  1. Submit to the Commissioner reports of each incident of violence, including harassment, intimidation, and bullying, vandalism, and alcohol and other drug offenses, pursuant to N.J.A.C. 6A:16-4.3, in the school district utilizing the SSDS.
    - i. The reports shall be submitted twice each school year, once for all incidents occurring between September 1 and December 31, and once for all incidents occurring between January 1 and June 30, and shall include, at a minimum, all information pursuant to N.J.S.A. 18A:17-46.
    - ii. Prior to submission, the chief school administrator shall verify the accuracy of the reported information.



- iii. The grade regarding the harassment, intimidation, and bullying efforts of each school and each school district shall be posted on the homepage of the school district's website, in accordance with the guidelines promulgated by the Commissioner pursuant to N.J.S.A. 18A:17-46.
2. Provide for annual training of staff to prepare them to fulfill the reporting requirements set forth in this section.
- (e) Twice each school year, once between September 1 and December 31, and once between January 1 and June 30, the chief school administrator shall report to the district board of education at a public hearing all acts of violence, including harassment, intimidation, and bullying, vandalism, and alcohol and other drug offenses that occurred during the previous reporting period, according to the provisions of N.J.S.A. 18A:17-46.
  - (f) Each district board of education shall adopt and implement procedures regarding a school employee who knowingly falsifies reported information on acts of violence or vandalism or any incident included in the annual report on violence and vandalism required under N.J.S.A. 18A:17-46, including the establishment of grievance procedures of section 8 of N.J.S.A. 34:13A-5.3 and 34:13A-29.
  - (g) Approved private schools for students with disabilities and public-college-operated programs for students with disabilities shall take action regarding a school employee who knowingly falsifies the reporting of violence, including harassment, intimidation, and bullying, vandalism, and alcohol or other drug abuse required under N.J.S.A. 18A:17-46, which may be in accordance with the provisions set forth at (f) above.
  - (h) Each district board of education shall submit and implement a corrective action plan for high incidences of violence, vandalism, or alcohol or other drug abuse upon notification by the Commissioner.

**6A:16-5.4 Access to juvenile justice information**

Each district board of education shall adopt and implement policies and procedures protecting access to information related to juvenile justice proceedings, pursuant to N.J.S.A. 2A:4A-60.

**6A:16-5.5 Removal of students for firearms offenses**

(a) Each district board of education shall adopt and implement policies and procedures regarding student offenses involving firearms, as defined at N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, pursuant to the Zero Tolerance for Guns Act, N.J.S.A. 18A:37-7 through

12. The policies and procedures shall apply to a student who is:

1. Convicted or adjudicated delinquent for possession of a firearm on school grounds;
2. Convicted or adjudicated delinquent for committing a crime while in possession of a firearm on school grounds; or
3. Found knowingly in possession of a firearm on school grounds.

(b) Each district board of education shall immediately remove a student from the school's general education program for a period of not less than one calendar year, as set forth at (a) above.

1. The chief school administrator may modify on a case-by-case basis the removal of a general education student.
  - i. The chief school administrator shall develop and maintain a written record of case-by-case modifications of the removal requirement in this subsection, which shall be made available to the Commissioner upon request.
2. Nothing in this section shall be construed to prohibit the expulsion of a general education student.

- (c) Each district board of education shall immediately remove students with disabilities for offenses involving firearms in accordance with N.J.A.C. 6A:14 and applicable Federal regulations incorporated therein.
- (d) The principal or the principal's designee shall:
1. Remove a student as set forth in (a) through (c) above;
  2. Isolate the student and place him or her under the supervision of school staff until the student's parent or a law enforcement official takes custody of the student;
  3. Immediately report to the chief school administrator the removal of the student;
  4. Notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice; and
  5. Notify the student's parent of the following information:
    - i. The removal action;
    - ii. The law enforcement notification;
    - iii. The change of custody, if it occurs; and
    - iv. A general education student's due process rights, as set forth in N.J.A.C. 6A:16-7.2 through 7.6, or the due process rights of a student with a disability, as set forth in N.J.A.C. 6A:14-2.7 and 2.8 and N.J.A.C. 6A:16-7.2 through 7.5.
- (e) A student, other than a student with a disability, removed from the general education program pursuant to this section shall be placed in an alternative education program, according to the requirements of N.J.A.C. 6A:16-9.
1. If placement in an alternative education program is not available, the general education student shall be provided home or other out-of-school instruction, according to N.J.A.C. 6A:16-10, until placement is available.
- (f) A student with a disability removed pursuant to (a) and (c) above shall receive a placement in accordance with N.J.A.C. 6A:14 and the IDEA, 20 U.S.C. §§ 1400 et seq.

- (g) A student removed pursuant to (b) above shall be entitled to a hearing before the district board of education in accordance with N.J.A.C. 6A:16-7.3 through 7.5.
- (h) If it is found that the removed student did not commit the offenses at (a) and (c) above, the student shall be immediately returned to the program from which the student was removed.
- (i) The chief school administrator shall make the final determination on whether the general education student is prepared to return to the general education program, or will remain in an alternative education program, pursuant to N.J.A.C. 6A:16-9, or receive home or other out-of-school instruction, pursuant to N.J.A.C. 6A:16-10, based on the following criteria:
  - 1. The nature and severity of the offense;
  - 2. The district board of education's removal decision;
  - 3. The results of relevant testing, assessment, or evaluation of the student; and
  - 4. The recommendation of the principal or director of the alternative education program or home or other out-of-school instruction program in which the student has been placed.
- (j) This section shall not apply to a firearm that is lawfully stored in a locked vehicle on school grounds, or when it is for activities approved and authorized by the district board of education, as long as the district board of education adopts appropriate safeguards to ensure student safety.
  - 1. All students shall obtain written authorization from the chief school administrator to possess a firearm stored inside a locked vehicle on school grounds or used for participation in a school-sponsored function.
    - i. The chief school administrator shall not provide authorization to a student who has been convicted or adjudicated delinquent for possession of a firearm or for a crime involving the use of a firearm.

- (k) Each chief school administrator biannually shall submit to the Commissioner a report on each incident under this section utilizing the Student Safety Data System, pursuant to N.J.A.C. 6A:16-5.3(d)1.
- (l) Each district board of education shall annually disseminate to all school staff, students, and parents the adopted policies and procedures for implementing this section.

**6A:16-5.6 Removal of students for assaults with weapons offenses**

- (a) Each district board of education shall adopt and implement policies and procedures regarding a student who commits an assault, as defined under N.J.S.A. 2C:12-1(a)1, with a weapon, which includes, but is not limited to, items enumerated in N.J.S.A. 2C:39-1(r), except a firearm as defined by N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, upon a teacher, administrator, other school board employee, district board of education member, or another student on school grounds, pursuant to N.J.S.A. 18A:37-2.2 through 2.5.
- (b) A student as set forth in (a) above, other than a student with a disability, shall be immediately removed from the school's general education program for a period not exceeding one calendar year.
  - 1. The chief school administrator may modify on a case-by-case basis the removal of a general education student.
  - 2. Nothing in this section shall be construed to prohibit the expulsion of a general education student.
- (c) Each district board of education shall immediately remove students with disabilities for assaults with weapons offenses in accordance with N.J.A.C. 6A:14 and applicable Federal regulations incorporated therein.
- (d) The principal or the principal's designee shall:
  - 1. Remove a student as set forth in (a) through (c) above;

2. Isolate the student and place him or her under the supervision of school staff until the student's parent or a law enforcement official takes custody of the student;
  3. Immediately report to the chief school administrator the removal of the student;
  4. Notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice; and
  5. Notify the student's parent of the following information:
    - i. The removal action;
    - ii. The law enforcement notification;
    - iii. The change of custody, if it occurs; and
    - iv. A general education student's due process rights, pursuant to N.J.A.C. 6A:16-7.2 through 7.5 or a student with a disability's due process rights, as set forth in N.J.A.C. 6A:14-2.7 and 2.8 and N.J.A.C. 6A:16-7.2 through 7.5.
- (e) A student, other than a student with a disability, removed from the general education program pursuant to (b) above shall be placed in an alternative education program, according to the requirements of N.J.A.C. 6A:16-9.
1. If placement in an alternative education program is not available, the general education student shall be provided home or other out-of-school instruction, according to N.J.A.C. 6A:16-10, until placement is available.
- (f) A student with a disability removed pursuant to (a) and (c) above shall receive a placement in accordance with N.J.A.C. 6A:14 and the IDEA, 20 U.S.C. §§ 1400 et seq.
- (g) A student removed pursuant to (b) above shall be entitled to an informal hearing, pursuant to N.J.A.C. 6A:16-7.2 and 7.3, and a hearing before the district board of education pursuant to N.J.A.C. 6A:16-7.3.
- (h) If it is found that the removed student did not commit the offense(s), the student shall be immediately returned to the program from which the student was removed.

- (i) The chief school administrator shall make the final determination on whether the general education student is prepared to return to the general education program or will remain in an alternative education program or receive home or other out-of-school instruction based on the following criteria:
  - 1. The nature and severity of the offense;
  - 2. The district board of education's removal decision;
  - 3. The results of relevant testing, assessment or evaluation of the student; and
  - 4. The recommendation of the principal or director of the alternative education program or home or other out-of-school instruction program in which the student has been placed.
- (j) This section does not apply to a student who has obtained the chief school administrator's written authorization to lawfully possess a firearm or other weapon while participating in a school-sponsored function.
  - 1. The chief school administrator shall not provide authorization to a student who has been convicted or adjudicated delinquent for possession of a firearm or weapon or for a crime involving the use of a firearm.
- (k) Each chief school administrator biannually shall submit to the Commissioner a report on each incident and the circumstances surrounding the removal of students pursuant to (b) above utilizing the Student Safety Data System, pursuant to N.J.A.C. 6A:16-5.3(e)1.
- (l) Each district board of education annually shall disseminate to all school staff, students, and parents its adopted policies and procedures for implementing this section.

#### **6A:16-5.7 Assaults on district board of education members or employees**

- (a) Each district board of education shall adopt and implement policies and procedures regarding a student who commits an assault, as defined under N.J.S.A. 2C:12-1(a)1, not involving the use of a weapon or firearm, upon a teacher, administrator, other school

board employee, or district board of education member acting in the performance of their duties and in a situation where their authority to act is apparent, or as a result of the victim's relationship to a public education institution, pursuant to N.J.S.A. 18A:37-2.1.

- (b) A student, other than a student with a disability, who commits an assault pursuant to (a) above, shall be immediately removed from school consistent with due process procedures, pending a hearing, pursuant to N.J.A.C. 6A:16-7.2 through 7.5.
  - 1. Nothing in this section shall be construed as prohibiting the expulsion of a general education student.
- (c) A student with a disability who commits an assault pursuant to (a) above shall be removed in accordance with N.J.A.C. 6A:14 and the IDEA, 20 U.S.C. §§ 1400 et seq.
- (d) The principal or the principal's designee shall:
  - 1. Remove a student as set forth in (a) above;
  - 2. Isolate the student and place him or her under the supervision of school staff until the student's parent or an appropriate agency takes custody of the student;
  - 3. Immediately report to the chief school administrator the removal of the student;
  - 4. Notify the student's parent of the removal action and the student's due process rights; and
  - 5. Notify the appropriate law enforcement official of a possible violation of the New Jersey Code of Criminal Justice.
- (e) The district board of education shall provide due process proceedings for all students in accordance with N.J.A.C. 6A:16-7.2, 7.3, 7.4, and 7.5 and for a student with a disability in accordance with N.J.A.C. 6A:14-2.7 and 2.8.
- (f) Each chief school administrator biannually shall submit to the Commissioner a report on each incident and the circumstances surrounding the removal of students, pursuant to (b) above, utilizing the Student Safety Data System, pursuant to N.J.A.C. 6A:16-5.3(e)1.



- (g) Each district board of education shall annually disseminate to all school staff, students and parents the adopted policies and procedures for implementing this section.

## **Subchapter 6. Law Enforcement Operations for Alcohol, Other Drugs, Weapons, and Safety**

### **6A:16-6.1 Adoption of policies and procedures**

- (a) District boards of education shall adopt and implement policies and procedures to ensure cooperation between school staff and law enforcement authorities in all matters relating to:
  - 1. The unlawful possession, distribution, and disposition of the following:
    - i. Controlled dangerous substances, including anabolic steroids, as defined in N.J.S.A. 24:21-2 and N.J.S.A. 2C:35-2;
    - ii. Drug paraphernalia as defined in N.J.S.A. 2C:36-1;
    - iii. Alcoholic beverages;
    - iv. Firearms, as defined in N.J.S.A. 2C:39-1f; and
    - v. Other deadly weapons, as defined in N.J.S.A. 2C:39-1.r; and
  - 2. The planning and conduct of law enforcement activities and operations occurring on school grounds, including arrest procedures and undercover school operations.

### **6A:16-6.2 Development and implementation of policies and procedures**

- (a) School district policies and procedures developed pursuant to this subchapter shall be:
  - 1. Developed, implemented, and revised, as necessary, in consultation with the county prosecutor and other law enforcement officials as may be designated by the county prosecutor;
  - 2. Reviewed and approved by the executive county superintendent;
  - 3. Made available annually to all school staff, students and parents;

4. Consistent with reporting, notification, and examination procedures of students suspected of being under the influence of alcohol and other drugs pursuant to N.J.A.C. 6A:16-4.3; and
  5. Consistent with N.J.A.C. 6A:16-7, as appropriate.
- (b) School district policies and procedures shall include the following components:
1. Designation by the chief school administrator of liaisons to law enforcement agencies and the description of the liaisons' roles and responsibilities;
  2. Specific procedures for and responsibilities of staff in summoning appropriate law enforcement authorities onto school grounds, for the purpose of conducting law enforcement investigations, searches, seizures, or arrests;
  3. Specific procedures and responsibilities of staff for notifying parents in instances of law enforcement interviews involving their children consistent with the following:
    - i. School officials shall not notify the student's parent(s) in instances of suspected child abuse or neglect;
    - ii. School officials shall notify the student's parent(s) when the student is the target of the law enforcement investigation; and
    - iii. In all other instances, school authorities shall permit law enforcement authorities to determine whether or when a student's parent should be contacted;
  4. Specific procedures for and responsibilities of staff in cooperating with arrests made by law enforcement authorities on school grounds;
  5. Specific procedures for and responsibilities of staff in initiating or conducting searches and seizures of students, their property, and their personal effects.

- i. All searches and seizures conducted by school staff shall comply with the standards prescribed by the United States Supreme Court in *New Jersey v. T.L.O.*, 469 U.S. 325 (1985).
  - ii. Questions concerning searches conducted by school officials shall be directed to the appropriate county prosecutor.
  - iii. School officials may request that law enforcement authorities assume responsibility for conducting a search or seizure.
  - iv. No school staff member shall impede a law enforcement officer engaged in a lawful search, seizure, or arrest whether pursuant to a warrant or otherwise.
  - v. School staff shall permit law enforcement authorities, upon their arrival, to assume responsibility for conducting a search or seizure.
  - vi. All inspections of lockers, desks, or other objects or personal property on school grounds involving the use of law enforcement drug-detection canines may be undertaken with only the express permission of the county prosecutor or the Director of the Division of Criminal Justice or the Director's designee in the New Jersey Department of Law and Public Safety.
  - vii. Questions concerning the legality of a contemplated or ongoing search, seizure, or arrest conducted by a law enforcement officer on school grounds shall be directed to the county prosecutor or in the case of a search, seizure or arrest undertaken by the Division of Criminal Justice's designee in the New Jersey Department of Law and Public Safety, to the assigned assistant attorney general;
6. The procedures for and responsibilities of staff, with regard to interviews of students suspected of possessing or distributing a controlled dangerous substance,

including anabolic steroids, drug paraphernalia or a firearm or other deadly weapon;

7. Procedures for planning, approving, and conducting undercover school operations.
  - i. The chief school administrator and school principal shall cooperate with law enforcement authorities in the planning and conduct of undercover school operations. The chief school administrator shall approve undercover operations without prior notification to the district board of education.
  - ii. All information concerning requests to undertake an undercover school operation, information supplied by law enforcement authorities to justify the need for and explain a proposed undercover school operation, and all other information concerning an ongoing undercover school operation, including the identity of any undercover officer placed in a school, shall be kept strictly confidential by the chief school administrator and school principal.
  - iii. The chief school administrator and principal shall not divulge information concerning an undercover school operation to any person without the prior express approval of the county prosecutor or designee.
  - iv. The chief school administrator, principal, or any other school staff or district board of education member who may have been informed regarding the existence of the undercover school operation shall immediately communicate to the county prosecutor or designee if they subsequently learn of information that suggests the undercover officer's true identity has been revealed, the undercover officer's identity or status as a bona fide member of the school community has been questioned, or

the integrity of the undercover school operation has been in any other way compromised;

8. The procedures for and responsibilities of staff concerning the safe and proper handling of a seized controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon, and the prompt delivery of the items to appropriate law enforcement authorities in accordance with this subchapter;
9. The procedures for and responsibilities of staff in notifying authorities of a suspected violation of laws prohibiting the possession, sale or other distribution of a controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon;
10. Provisions for requesting uniformed police attendance at extracurricular school events;
11. Provisions for notifying parents as soon as possible whenever a student is arrested for violating a law prohibiting the possession, sale or other distribution of a controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon;
12. Provisions for in-service training of school staff concerning policies and procedures established in this subchapter, and the exchange of information regarding the practices of the school district and law enforcement agencies;
13. A memorandum of agreement with appropriate law enforcement authorities.
  - i. The memorandum of agreement shall be consistent with the policies and procedures established in this subchapter and shall be consistent with the format and content established by the State Attorney General and the Commissioner.
  - ii. The memorandum of agreement shall define the reciprocal rights and obligations of students, parents, school staff, and law enforcement officials

with respect to the possession, distribution, and disposition of controlled dangerous substances, including anabolic steroids, drug paraphernalia, and firearms and other deadly weapons; with respect to the planning and conduct of law enforcement activities and operations occurring on school grounds, including arrests and undercover school operations; and with respect to the participation of law enforcement officials in alcohol or other drug abuse prevention programs.

iii. Copies of all memoranda of agreements entered into with law enforcement authorities shall be submitted to and approved by the county prosecutor, executive county superintendent of schools, president of the district board of education, chief school administrator, and chief of the police department or station commander.

14. An annual process for the chief school administrator and appropriate law enforcement officials to discuss the implementation and need for revising the memorandum of agreement, and to review the effectiveness of policies and procedures implemented pursuant to this subchapter.

i. The annual review shall include input from the executive county superintendent, community members, and meeting(s) with the county prosecutor and other law enforcement officials designated by the county prosecutor.

ii. The memorandum of agreement may be revised only to include provisions that are in addition to and do not conflict with the policies and procedures established in this subchapter and that are in addition to and do not conflict with the format and content established by the State Attorney General and the Commissioner;

15. Provisions for contacting the chief executive officer of the involved law enforcement agency, county prosecutor, and/or Division of Criminal Justice, as necessary, to resolve disputes concerning law enforcement activities occurring on school grounds; and
  16. Provisions for directing inquiries or complaints received by school staff regarding interviews, investigations, arrests, or other operations conducted by sworn law enforcement officers to the appropriate law enforcement agency.
- (c) Nothing in the policies and procedures required under this section shall be construed to prohibit school staff from disclosing information, pursuant to N.J.A.C. 6A:32-7.2 and 7.5(f), if necessary to protect the immediate health or safety of a student or other persons.

**6A:16-6.3 Reporting students or staff members to law enforcement authorities**

- (a) Subject to N.J.A.C. 6A:16-6.5, any staff member who, in the course of the staff member's employment, has reason to believe that a student or staff member has unlawfully possessed or in any way been involved in the distribution of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia shall report the matter as soon as possible to the principal or, in the absence of the principal, to the staff member responsible at the time of the alleged violation.
1. Either the principal or the responsible staff member shall notify the chief school administrator, who in turn shall notify as soon as possible the appropriate county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.
  2. The chief school administrator or designee shall provide to the county prosecutor or designee all known information concerning the matter, including the identity of the student or staff member involved.

3. The chief school administrator or designee, however, shall not disclose the identity of a student or staff member who has voluntarily sought and participated in an appropriate treatment or counseling program for an alcohol or other drug abuse problem, provided the student or staff member is not reasonably believed to be involved or implicated in drug-distribution activities.
  - i. For the purpose of this section, an admission by a student or staff member in response to questioning initiated by the principal or teaching staff member, or following the discovery by the principal or teaching staff member of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, shall not constitute a voluntary, self-initiated request for counseling and treatment.
4. The chief school administrator or designee may disclose to law enforcement authorities the identity of a student suspected to be under the influence of alcohol and/or controlled dangerous substances, pursuant to N.J.A.C. 6A:16-4.3(a), or a student suspected to have used or who may be using anabolic steroids, pursuant to N.J.A.C. 6A:16-4.3(b), and who is referred for a medical examination, pursuant to N.J.A.C. 6A:16-4.3(a) or (b), as appropriate, for the purposes of providing appropriate health care for the student and for determining whether the student is under the influence of alcohol or other drugs or has been using anabolic steroids, provided the student is not reasonably believed to be in possession of a controlled dangerous substance or drug paraphernalia, or to be involved or implicated in drug distribution activities.
5. Law enforcement authorities shall not be notified of the findings if a student's alcohol or other drug test, pursuant to N.J.A.C. 6A:16-4.3(a)3i and (b)3i, and (a)4 above, was obtained as a result of the district board of education's voluntary



random drug testing policy, pursuant to N.J.S.A. 18A:40A-22 et seq. and N.J.A.C. 6A:16-4.4.

- (b) Whenever a school employee develops reason to believe a firearm, as defined in N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, or other deadly weapon, whether enumerated in N.J.S.A. 2C:39-1(r), except a firearm as defined by N.J.S.A. 2C:39-1(f) and 18 U.S.C. § 921, has unlawfully been brought onto school grounds or a student or other person is in unlawful possession of a firearm or other deadly weapon on or off school grounds, or a student or other person has committed an offense with or while in possession of a firearm on or off school grounds or during school operating hours, the matter shall be reported as soon as possible to the principal, or in the absence of the principal, to the staff member responsible at the time of the alleged violation.
1. Either the principal or the responsible staff member shall notify the chief school administrator, who in turn shall notify as soon as possible the county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.
  2. The chief school administrator or designee shall provide to the county prosecutor or designee all known information concerning the matter, including the identity of the student or staff member involved.
- (c) The designated school official, as defined at (b)1 above, shall immediately notify the designated law enforcement official whenever a school employee in the course of the school employee's employment develops reason to believe a student has threatened, is planning or otherwise intends to cause death, serious bodily injury, or significant bodily injury to another person under circumstances in which a reasonable person would believe the student genuinely intends at some time in the future to commit the violent act or carry out the threat.

- (d) The designated school official, as defined at (b)1 above, shall immediately notify the designated law enforcement official whenever a school employee in the course of the school employee's employment develops reason to believe a crime involving sexual penetration or criminal sexual conduct has been committed on school grounds, or by or against a student during school operating hours or during school-related functions or activities.
- (e) School employees shall immediately notify the principal and chief school administrator when in the course of their employment they develop reason to believe a bias-related act has been committed or is about to be committed on school grounds, or has been or is about to be committed by a student on or off school grounds, and whether such offense was or is to be committed during operating school hours, or a student enrolled in the school has been or is about to become the victim of a bias-related act on or off school grounds, or during operating school hours.
  - 1. The designated school official, as defined in (b)1 above, shall promptly notify the local police department and the bias investigation officer for the county prosecutor's office in the instances described in (e) above.
  - 2. The designated school official, as defined in (b)1 above, shall immediately notify the local police department and the bias investigation officer for the county prosecutor's office where there is reason to believe a bias-related act that involves an act of violence has been or is about to be physically committed against a student, or there is otherwise reason to believe a life has been or will be threatened.
- (f) All incidents shall be reported under this section utilizing the Student Safety Data System, pursuant to N.J.A.C. 6A:16-5.3(e)1, where appropriate.

**6A:16-6.4 Handling of alcohol or other drugs, firearms, and other items**

- (a) A school employee who seizes or discovers alcohol, other drug, or an item believed to be a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, shall immediately notify and turn over to the principal or designee the alcohol, other drug, or item.
1. The principal or designee shall immediately notify the chief school administrator or the chief school administrator's designee who, in turn, shall notify the appropriate county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.
  2. The school employee, principal or designee shall safeguard the alcohol, other drug or paraphernalia against further use or destruction and shall secure the alcohol, other drug or paraphernalia until it can be turned over to the county prosecutor or designee.
  3. The principal or designee shall provide to the county prosecutor or the county prosecutor's designee all information concerning the manner in which the alcohol, other drug, or paraphernalia was discovered or seized, including:
    - i. The identity of all persons who had custody of the substance or paraphernalia following its discovery or seizure; and
    - ii. The identity of the student or staff member believed to have been in possession of the substance or paraphernalia.
  4. The principal or designee shall not disclose the identity of a student or staff member who voluntarily and on the student's or staff member's own initiative turned over the alcohol, other drug, or paraphernalia to a school employee, provided there is reason to believe the student or staff member was involved with the alcohol, other drug, or paraphernalia for the purpose of personal use and not distribution activities, and further provided the student or staff member agrees to participate in an appropriate treatment or counseling program.

- i. For the purposes of this section, an admission by a student or staff member in response to questioning initiated by the principal or teaching staff member, or following the discovery by the principal or teaching staff member of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia shall not constitute a voluntary, self-initiated request for counseling and treatment.
- (b) Whenever a school employee seizes or comes upon a firearm or dangerous weapon, school officials shall:
  1. In the case of a firearm, immediately advise the county prosecutor or appropriate law enforcement official, and secure the firearm pending the response by law enforcement to retrieve and take custody of the firearm; and
  2. In the case of a dangerous weapon other than a firearm, immediately advise the county prosecutor or appropriate law enforcement official, and secure the dangerous weapon pending the response by law enforcement to retrieve and take custody of the dangerous weapon.
- (c) School employees in custody of a firearm or dangerous weapon shall take reasonable precautions, according to district board of education procedures, to prevent the theft, destruction, or unlawful use of the firearm or dangerous weapon by any person.

**6A:16-6.5 Confidentiality of student or staff member involvement in alcohol or other drug abuse intervention and treatment programs**

- (a) All information concerning a staff member's involvement in a school intervention or treatment program for alcohol or other drug abuse shall be kept strictly confidential, and all information concerning a student's involvement in a school intervention or treatment program for alcohol or other drug abuse shall be kept strictly confidential according to 42 CFR Part 2, N.J.S.A. 18A:40A-7.1 and 7.2, and N.J.A.C. 6A:16-3.2.

- (b) Nothing in this subchapter shall be construed in any way to authorize or require the transmittal of information or records in the possession of an alcohol or other drug abuse counseling or treatment program.
- (c) The principal or designee shall not disclose to law enforcement officials or to any person other than a member of the school district's comprehensive alcohol, tobacco, and other drug abuse program that a student or staff member has received or is receiving services through the program. The principal or designee also shall not disclose information, including the student's or staff member's identity or information about illegal activity, when the information was learned in the course of or as a result of services provided through the school district's comprehensive alcohol, tobacco and other drug abuse program.
- (d) Nothing in this section shall be construed to preclude the disclosure and reporting of information about illegal activity that was learned by a school employee outside of the school district's comprehensive alcohol, tobacco, and other drug abuse program.

## **Subchapter 7. Student Conduct**

### **6A:16-7.1 Code of student conduct**

- (a) Each district board of education shall develop, adopt, disseminate, and implement a code of student conduct that establishes standards, policies, and procedures for positive student development and student behavioral expectations on school grounds and, as appropriate, for conduct away from school grounds.
  - 1. The code of student conduct may be based on parent, student, and community involvement that represents, where possible, the composition of the school district's schools and community.
  - 2. The district board of education shall establish a process for the annual review and update of the code of student conduct.

3. The code of student conduct shall be disseminated annually to all school staff, students and parents.
  4. The district board of education shall provide to all district board of education employees annual training on the code of student conduct, including training on the prevention, intervention, and remediation of student conduct that violates the district board of education's code of student conduct.
    - i. Information on the code of student conduct shall be incorporated into the orientation for new employees.
  5. The district board of education shall provide for the code of student conduct's equitable application.
  6. For students with disabilities subject to individualized education programs (IEPs) in accordance with 20 U.S.C. §§ 1400 et seq., the Individuals with Disabilities Education Act and accommodation plans under 29 U.S.C. §§ 794 and 705(20), the code of student conduct shall be implemented in accordance with the applicable plans.
- (b) The code of student conduct shall be established to achieve the following purposes:
1. Foster the health, safety, and social and emotional well-being of students;
  2. Support the establishment and maintenance of civil, safe, secure, supportive and disciplined school environments conducive to learning;
  3. Promote achievement of high academic standards;
  4. Prevent the occurrence of problem behaviors;
  5. Establish parameters for the intervention and remediation of problem student behaviors at all stages of identification; and
  6. Establish parameters for school responses to violations of the code of student conduct that take into account, at a minimum, the severity of offenses, the

developmental ages of student offenders and students' histories of inappropriate behaviors in accordance with N.J.A.C. 6A:16-7.2 through 7.8, as appropriate.

(c) The code of student conduct shall include, at a minimum:

1. A description of students' responsibilities that includes expectations for academic achievement, behavior and attendance, pursuant to N.J.A.C. 6A:32-8 and 12.1;
2. A description of behaviors that result in suspension or expulsion, pursuant to N.J.S.A. 18A:37-2, including restrictions on suspensions and expulsions for students in kindergarten through grade two, pursuant to N.J.S.A. 18A:37-2a;
3. A description of students' rights to:
  - i. Advance notice of behaviors that result in suspensions and expulsions that have been identified pursuant to N.J.S.A. 18A:37-2;
  - ii. Education that supports students' development into productive citizens;
  - iii. Attendance in safe and secure school environments;
  - iv. Attendance at school irrespective of students' marriage, pregnancy or parenthood;
  - v. Due process appeal procedures and policies, pursuant to N.J.A.C. 6A:3-1.3 through 1.17; N.J.A.C. 6A:4; and, where applicable, N.J.A.C. 6A:14-2.7 and 2.8, and N.J.A.C. 6A:16-7.2 through 7.5;
  - vi. Parent notification consistent with the policies and procedures established pursuant to N.J.A.C. 6A:16-6.2(b)3, this section, and N.J.A.C. 6A:16-7.2 through 7.8; and
  - vii. Protections pursuant to 20 U.S.C. § 1232g, Family Educational Rights and Privacy Act; 34 CFR 99, Family Educational Rights and Privacy; 20 U.S.C. § 1232h, Protection of Pupil Rights; 34 CFR Part 98, Student Rights in Research, Experimental Programs, and Testing; P.L.104-191, Health Insurance Portability and Accountability Act; 45 CFR 160, General

Administrative Requirements; 20 U.S.C. § 7165, Transfer of school disciplinary records; 42 CFR Part 2, Confidentiality of Substance Use Disorder Patient Records; N.J.S.A. 18A:40A-7.1, Confidentiality of certain information provided by pupil, exceptions; N.J.A.C. 6A:16-3.2, Confidentiality of student alcohol and other drug information; N.J.S.A. 18A:36-19, Pupil records, creation, maintenance and retention, security and access, regulations, nonliability; N.J.S.A. 2A:4A-60, Disclosure of juvenile information, penalties for disclosure; N.J.A.C. 6A:32-7, Student Records; N.J.A.C. 6A:14-2.9, Student records; as well as other existing Federal and State laws and rules pertaining to student protections;

4. A description of comprehensive behavioral supports that promote positive student development and the students' abilities to fulfill the behavioral expectations established by the district board of education. The description of comprehensive behavioral supports may include:
  - i. Positive reinforcement for good conduct and academic success;
  - ii. Supportive interventions and referral services;
  - iii. Remediation of problem behavior that takes into account the behavior's nature, the students' developmental ages, and the students' histories of problem behaviors and performance; and
  - iv. For students with disabilities, the behavior interventions and supports shall be determined and provided pursuant to N.J.A.C. 6A:14;
5. A description of school responses to violations of behavioral expectations established by the district board of education that, at a minimum, are graded according to the severity of the offenses, and consider the developmental ages of the student offenders and their histories of inappropriate behaviors that shall:



- i. Include a continuum of actions designed to remediate and, where necessary or required by law, to impose sanctions;
  - ii. Be consistent with other responses, pursuant to N.J.A.C. 6A:16-5.5 through 5.7;
  - iii. Provide for the equitable application of the code of student conduct without regard to race; color; religion; ancestry; national origin; nationality; sex; gender; sexual orientation; gender identity or expression; marital, domestic-partnership, or civil-union; mental, physical, or sensory disability; or any other distinguishing characteristic, pursuant to N.J.S.A. 10:5-1 et seq.; and
  - iv. Be consistent with the provisions of N.J.S.A. 18A:6-1, Corporal punishment of pupils;
6. Expectations and consequences consistent with the district board of education's policies and procedures on attendance, pursuant to N.J.A.C. 6A:16-7.6, and harassment, intimidation, and bullying, pursuant to N.J.A.C. 6A:16-7.7; and
  7. A current list of community-based health and social service provider agencies available to support a student and the student's family, as appropriate, and a list of legal resources available to serve the community.
- (d) A district board of education may deny participation in extracurricular activities, school functions, sports, graduation exercises or other privileges as disciplinary sanctions when designed to maintain the order and integrity of the school environment.

### **6A:16-7.2 Short-term suspensions**

- (a) In each instance of a short-term suspension, a district board of education shall assure the rights of a student suspended for one, but not more than 10 consecutive school days, by providing for the following:
1. As soon as practical, oral or written notice of charges to the student.
    - i. When charges are denied, an explanation of the evidence forming the basis of the charges also shall be provided;
  2. Prior to the suspension, an informal hearing during which the student is given the opportunity to present the student's version of events regarding the student's actions leading to the short-term suspension and is provided notice of the school district's actions taken pursuant to N.J.A.C. 6A:16-7.1(c)2 and 5:
    - i. The informal hearing shall be conducted by a school administrator or the school administrator's designee;
    - ii. To the extent that a student's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the educational process, the student may be immediately removed from the student's educational program and the informal hearing shall be held as soon as practical after the suspension;
    - iii. The informal hearing shall take place even when a school staff member has witnessed the conduct forming the basis of the charge; and
    - iv. The informal hearing and the notice given may take place at the same time;
  3. Oral or written notification to the student's parents of the student's removal from the student's educational program prior to the end of the school day on which the school administrator decides to suspend the student. The notification shall include an explanation of:
    - i. The specific charges;
    - ii. The facts on which the charges are based;

- iii. The provision(s) of the code of student conduct the student is accused of violating;
  - iv. The student's due process rights, pursuant to N.J.A.C. 6A:16-7.1(c)3 and this section; and
  - v. The terms and conditions of the suspension.
- 4. Appropriate supervision of the student while waiting for the student's parent to remove the student from school during the school day; and
- 5. Academic instruction either in school or out of school that addresses the New Jersey Student Learning Standards.
  - i. The student's academic instruction shall be provided within five school days of the suspension.
  - ii. At the completion of a short-term suspension, the district board of education shall return a general education student to the general education program from which the student was suspended.
  - iii. The academic instruction provided to a student with a disability shall be provided consistent with N.J.A.C. 6A:14.
- (b) The suspending principal shall immediately report the suspension to the chief school administrator, who shall report it to the district board of education at its next regular meeting, pursuant to N.J.S.A. 18A:37-4.
- (c) An appeal of the district board of education's decision affecting the general education student's educational program shall be made to the Commissioner, in accordance with N.J.S.A. 18A:37-2.4 and N.J.A.C. 6A:3-1.3 through 1.17.
- (d) For a student with a disability, the provisions of this section shall be provided in addition to all procedural protections set forth at N.J.A.C. 6A:14 and the IDEA, 20 U.S.C. §§ 1400 et seq.

**6A:16-7.3 Long-term suspensions**

(a) In each instance of a long-term suspension, the district board of education shall assure the rights of a student suspended for more than 10 consecutive school days by providing the following:

1. Notification to the student of the charges prior to the student's removal from school;
2. Prior to the suspension, an informal hearing during which the student is given the opportunity to present the student's version of events regarding the student's actions leading to the long-term suspension and is provided notice of the school district's actions taken pursuant to N.J.A.C. 6A:16-7.1(c)2 and 5;
3. Immediate notification to the student's parents of the student's removal from school;
4. Appropriate supervision of the student while waiting for the student's parents to remove the student from school during the school day;
5. Written notification to the parents by the chief school administrator or the chief school administrator's designee within two school days of the initiation of the suspension, stating:
  - i. The specific charges;
  - ii. The facts on which the charges are based;
  - iii. The student's due process rights, pursuant to N.J.A.C. 6A:16-7.1(c)3 and this section; and
  - iv. Further engagement by the student in conduct warranting expulsion, pursuant to N.J.S.A. 18A:37-2, shall amount to a knowing and voluntary waiver of the student's right to a free public education, in the event that a decision to expel the student is made by the district board of education, pursuant to N.J.S.A. 18A:37-2 and N.J.A.C. 6A:16-7.4.

(1) The district board of education shall request from the parent(s) and student written acknowledgement of the notification provided

pursuant to (a)5iv above subsequent to the removal of the student from the student's educational program, pursuant to this section;

6. A list of witnesses and their statements or affidavits, if any, no later than five days prior to the formal hearing, pursuant to (a)10 below;
7. For a student with a disability, a manifestation determination, pursuant to N.J.A.C. 6A:14-2.8 and the Federal rules incorporated by reference therein;
8. Information on the student's right to secure an attorney and legal resources available in the community identified pursuant to N.J.A.C. 6A:16-7.1(c)7;
9. Either in- or out-of-school educational services that are comparable to those provided in the public schools for students of similar grades and attainments, pursuant to N.J.S.A. 18A:38-25, which may include a public education program provided in accordance with N.J.A.C. 6A:16-9 or 10.
  - i. The student's educational services shall be provided within five school days of the suspension.
  - ii. The district board of education shall make decisions regarding the appropriate educational program and support services for the suspended general education student based on the New Jersey Student Learning Standards and the following considerations:
    - (1) A behavioral assessment or evaluation including, but not limited to, a referral to the child study team, as appropriate;
    - (2) The results of relevant testing, assessments, or evaluations of the student;
    - (3) The student's academic, health and behavioral records;
    - (4) The recommendation of the chief school administrator, principal or other relevant school or community resource;
    - (5) Considerations of parental input; or

- (6) Consultation with the intervention and referral services team, in accordance with N.J.A.C. 6A:16-8.
  - iii. Educational services provided to a student with a disability shall be provided consistent with N.J.A.C. 6A:14 and the IDEA, 20 U.S.C. §§ 1400 et seq.
- 10. A formal hearing before the district board of education that shall, at a minimum:
  - i. Be conducted by the district board of education or delegated by the board to a board committee, a school administrator, or an impartial hearing officer for the purpose of determining facts or making recommendations.
    - (1) Before taking final action, the district board of education as a whole shall receive and consider either a transcript or detailed report on the hearing;
  - ii. Include the opportunity for the student to:
    - (1) Confront and cross-examine witnesses if there is a question of fact; and
    - (2) Present the student's own defense, and produce oral testimony or written supporting affidavits;
  - iii. Take place no later than 30 calendar days following the day the student is suspended from the general education program; and
  - iv. Result in the district board of education's decision that shall be based, at a minimum, on the preponderance of competent and credible evidence;
- 11. A written statement to the student's parents regarding the district board of education's decision within five school days after the close of the hearing. The statement shall include, at a minimum:
  - i. The charges considered;

- ii. A summary of the documentary or testimonial evidence from both the student and the administration that was brought before the district board of education at the hearing;
  - iii. Factual findings relative to each charge and the district board of education's determination of each charge;
  - iv. Identification of the educational services to be provided to the student, pursuant to (a)9 above;
  - v. The terms and conditions of the suspension; and
  - vi. The right to appeal to the Commissioner the district board of education's decision regarding the student's general education program, in accordance with N.J.S.A. 18A:37-2.4 and N.J.A.C. 6A:3-1.3 through 1.17;
12. If at any time it is found that the student did not commit the offense, the student shall be immediately returned to the program from which the student was removed; and
13. At the completion of a long-term suspension, the district board of education shall return a general education student to the general education program.
- (b) An appeal of the district board of education's decision regarding the general education student's program shall be made to the Commissioner, in accordance with N.J.S.A. 18A:37-2.4 and N.J.A.C. 6A:3-1.3 through 1.17.
- (c) Suspension of a general education student shall not be continued beyond the district board of education's second regularly scheduled meeting following the suspension, unless the district board of education so determines, pursuant to N.J.S.A. 18A:37-5.
- 1. The district board of education shall determine whether to continue the suspension, pursuant to (a) above, based on the following criteria:
    - i. The nature and severity of the offense;
    - ii. Its removal decision;

- iii. The results of relevant testing, assessments, or evaluations of the student; and
    - iv. The recommendation of the chief school administrator, after considering input from the principal or director of the alternative education program or home or other in-school or out-of-school instruction program in which the student has been placed.
  - 2. The district board of education shall develop and adopt policies and procedures providing for action on the continuation of student suspensions in the event of cancellation of the first or second regular board meeting pursuant to N.J.S.A. 18A:37-4 and 5.
- (d) When the district board of education votes to continue a general education student's suspension, it shall review the case, in consultation with the chief school administrator, at each subsequent district board of education meeting for the purpose of determining:
  - 1. The status of the student's suspension;
  - 2. The appropriateness of the suspended student's current educational program; and
  - 3. Whether the suspended student's current placement, pursuant to (a)9 above, should continue or whether the student should return to the general education program.
- (e) When the district board of education votes to continue a general education student's suspension, it shall make, in consultation with the chief school administrator, the final determination on:
  - 1. When the student is prepared to return to the general education program;
  - 2. Whether the student will remain in an alternative education program or receive home or other in- or out-of-school instruction, based on the criteria set forth in (c)1i through iv above; or
  - 3. Whether to initiate expulsion proceedings in accordance with N.J.S.A. 18A:37-2 and N.J.A.C. 6A:16-7.4.



- (f) The district board of education shall provide a general education student suspended under this section with an appropriate educational program or services, based on the criteria set forth under (a)9ii above, until the student graduates from high school or reaches the age of 20, whichever comes first.
1. The educational program shall be consistent with N.J.A.C. 6A:16-9.2 and 10.2 and 6A:14-2 and 4.3, whichever is applicable; or
  2. The educational services provided, either in- or out-of-school, shall be comparable to those provided in the public schools for students of similar grades and attainments, pursuant to N.J.S.A. 18A:38-25.
- (g) For a student with a disability who receives a long-term suspension, the district board of education shall proceed in accordance with N.J.A.C. 6A:14 and the IDEA, 20 U.S.C. §§ 1400 et seq., in determining or changing the student's educational placement to an interim or alternate educational setting.
1. All procedural protections set forth in N.J.A.C. 6A:14 and this section shall be afforded to a student with a disability who is subjected to a long-term suspension.
  2. All decisions concerning the student's educational program or placement shall be made by the student's individualized education program team.
  3. The provisions of (b) through (f) above shall not apply to students with disabilities.

#### **6A:16-7.4 Expulsions**

- (a) A district board of education may expel a general education student from school, pursuant to N.J.S.A. 18A:37-2, only after the district board of education has provided the following:
1. The procedural due process rights set forth at N.J.A.C. 6A:16-7.1(c)3 and 7.3, subsequent to a long-term suspension, pursuant to N.J.A.C. 6A:16-7.3; and

2. An appropriate educational program or service, based on the criteria set forth at N.J.A.C. 6A:16-7.3(f).
  - i. The educational program or service shall be consistent with the provisions of N.J.A.C. 6A:16-9.2 and 10.2 and 6A:14-2 and 4.3, whichever are applicable; or
  - ii. The educational services provided, either in or out of school, shall be comparable to those provided in the public schools for students of similar grades and attainments, pursuant to N.J.S.A. 18A:38-25.
- (b) An appeal of the district board of education's decision regarding the cessation of the student's general education program shall be made to the Commissioner in accordance with N.J.S.A. 18A:6-9 and N.J.A.C. 6A:3-1.3 through 1.17.
  1. A district board of education shall continue to provide an appropriate educational program or service in accordance with (a)2 above until a final determination has been made on the appeal of the district board of education's action to expel a student.
- (c) A student with a disability shall only be expelled from the student's current program in accordance with N.J.A.C. 6A:14 and the IDEA, 20 U.S.C. §§ 1400 et seq.

#### **6A:16-7.5 Conduct away from school grounds**

- (a) School authorities have the right to impose a consequence on a student for conduct away from school grounds that is consistent with the district board of education's code of student conduct, pursuant to N.J.A.C. 6A:16-7.1.
  1. This authority shall be exercised only when it is reasonably necessary for the student's physical or emotional safety, security and well-being or for reasons relating to the safety, security and well-being of other students, staff or school grounds, pursuant to N.J.S.A. 18A:25-2 and 18A:37-2.

2. This authority shall be exercised only when the conduct that is the subject of the proposed consequence materially and substantially interferes with the requirements of appropriate discipline in the operation of the school.
  3. The consequence pursuant to (a) above shall be handled in accordance with the district board of education's approved code of student conduct, pursuant to N.J.A.C. 6A:16-7.1, and as appropriate, in accordance with N.J.A.C. 6A:16-7.2, 7.3, or 7.4.
- (b) School authorities shall respond to harassment, intimidation, or bullying that occurs off school grounds, pursuant to N.J.S.A. 18A:37-14 and 15.3 and N.J.A.C. 6A:16-1.3, 7.1, and 7.7.

### **6A:16-7.6 Attendance**

- (a) Each district board of education shall develop, adopt, and implement policies and procedures regarding the attendance of students, pursuant to N.J.S.A. 18A:38-25 through 31 and N.J.A.C. 6A:32-8 and 12.1, at the public schools of the school district or at day schools in which students are provided with equivalent instruction, pursuant to N.J.S.A. 18A:38-25. The policies and procedures shall include, at a minimum:
1. The expectations and consequences regarding students' timely arrival of students to school and classes;
  2. The expectations and consequences regarding attendance at school and classes;
  3. A definition of unexcused absence that counts toward truancy, for the purpose of this section, that, at a minimum, shall be consistent with the definition of a school day, pursuant to N.J.A.C. 6A:32-8.3;
  4. School staff responses for unexcused absences:
    - i. For up to four cumulative unexcused absences, the school district shall:
      - (1) Make a reasonable attempt to notify the student's parents of each unexcused absence prior to the start of the following school day;

- (2) Make a reasonable attempt to determine the cause of the unexcused absence, including through contact with the student's parents;
  - (3) Identify in consultation with the student's parents needed action designed to address patterns of unexcused absences, if any, and to have the child return to school and maintain regular attendance;
  - (4) Proceed in accordance with N.J.S.A. 9:6-1 et seq. and N.J.A.C. 6A:16-11 if a potential missing or abused child situation is detected; and
  - (5) Cooperate with law enforcement and other authorities and agencies, as appropriate;
- ii. For between five and nine cumulative unexcused absences, the school district shall:
- (1) Make a reasonable attempt to notify the student's parents of each unexcused absence prior to the start of the following school day;
  - (2) Make a reasonable attempt to determine the cause of the unexcused absence, including through contact with the student's parents;
  - (3) Evaluate the appropriateness of action taken pursuant to (a)4i(3) above;
  - (4) Develop an action plan to establish outcomes based upon the student's patterns of unexcused absences and to specify the interventions for supporting the student's return to school and regular attendance, which may include any or all of the following:
    - (A) Refer or consult with the building's intervention and referral services team, pursuant to N.J.A.C. 6A:16-8;
    - (B) Conduct testing, assessments or evaluations of the student's academic, behavioral and health needs;
    - (C) Consider an alternate educational placement;

- (D) Make a referral to or coordinate with a community-based social and health provider agency or other community resource;
  - (E) Refer to a court or court program pursuant to (a)4iv below;
  - (F) Proceed in accordance with N.J.S.A. 9:6-1 et seq. and N.J.A.C. 6A:16-10 if a potential missing or abused child situation is detected; and
  - (G) Engage the student's family.
- (5) Cooperate with law enforcement and other authorities and agencies, as appropriate.
- iii. For cumulative unexcused absences of 10 or more, a student between the ages of six and 16 is truant, pursuant to N.J.S.A. 18A:38-25, and the school district shall:
- (1) Make a determination regarding the need for a court referral for the truancy, per (a)4iv below;
  - (2) Continue to consult with the parent and the involved agencies to support the student's return to school and regular attendance;
  - (3) Cooperate with law enforcement and other authorities and agencies, as appropriate; and
  - (4) Proceed in accordance with N.J.S.A. 18A:38-28 through 31, Article 3B, Compelling Attendance at School, and other applicable State and Federal statutes, as required; and
- iv. A court referral may be made as follows:
- (1) When unexcused absences are determined by school officials to be violations of the compulsory education law, pursuant to N.J.S.A. 18A:38-25, and the district board of education's policies, in accordance with (a) above, the parent may be referred to municipal court;

- (A) A written report of the actions the school has taken regarding the student's attendance shall be forwarded to the municipal court; or
  - (2) When there is evidence of a juvenile-family crisis, pursuant to N.J.S.A. 2A:4A-22.g, the student may be referred to Superior Court, Chancery Division, Family Part;
    - (A) A written report of the actions the school has taken regarding the student's attendance shall be forwarded to the juvenile-family crisis intervention unit.
- (b) For a student with a disability, the attendance plan and its punitive and remedial procedures shall be applied, where applicable, in accordance with the student's individualized education program, pursuant to 20 U.S.C. §§ 1400 et seq., the Individuals with Disabilities Education Act; the procedural protections set forth in N.J.A.C. 6A:14; accommodation plan under 29 U.S.C. §§ 794 and 705(20); and individualized healthcare plan and individualized emergency healthcare plan, pursuant to N.J.A.C. 6A:16-2.3(b)3xii.
- (c) All receiving schools pursuant to N.J.A.C. 6A:14-7.1(a), shall act in accordance with (a)4i above for each student with up to four cumulative unexcused absences.
  - 1. For each student attending a receiving school with five or more cumulative unexcused absences, the absences shall be reported to the sending school district.
    - i. The sending school district shall proceed in accordance with the district board of education policies and procedures pursuant to (a) above and the provisions of (a)4ii through iv and (b) above, as appropriate.

**6A:16-7.7 Harassment, intimidation, and bullying**

- (a) Each district board of education shall develop, adopt, and implement a policy prohibiting harassment, intimidation, or bullying on school grounds, pursuant to N.J.S.A. 18A:37-15.

1. Each district board of education shall develop the policy in consultation with, at a minimum, parents and other community members, school employees, school volunteers, students, and school administrators.
2. Each district board of education shall have control over the content of the policy, except that the policy shall contain, at a minimum, the following components:
  - i. A statement prohibiting harassment, intimidation, or bullying of a student;
  - ii. A definition of harassment, intimidation, or bullying no less inclusive than that set forth in the definition at N.J.S.A. 18A:37-14 and N.J.A.C. 6A:16-1.3;
  - iii. A statement that bullying is unwanted, aggressive behavior that may involve a real or perceived power imbalance;
  - iv. A description of the type of behavior expected from each student;
  - v. Appropriate remedial action for a student who commits an act of harassment, intimidation, or bullying that takes into account the nature of the behavior; the nature of the student's disability, if any and to the extent relevant; the developmental age of the student; and the student's history of problem behaviors and performance. The appropriate remedial action also may include the following:
    - (1) A behavioral assessment or evaluation, including, but not limited to, a referral to the child study team, as appropriate; and
    - (2) Supportive interventions and referral services, including those at N.J.A.C. 6A:16-8;
  - vi. Consequences for a student who commits an act of harassment, intimidation, or bullying that are:
    - (1) Varied and graded according to the nature of the behavior; the nature of the student's disability, if any and to the extent relevant;

- the developmental age of the student; and the student's history of problem behaviors and performance; and
- (2) Consistent with the provisions of N.J.A.C. 6A:16-7, as appropriate;
- vii. Appropriate consequences and remedial action for a staff member who commits an act of harassment, intimidation, or bullying;
- viii. A procedure that allows for reporting, verbally and in writing, an act of harassment, intimidation, or bullying committed by an adult or youth against a student. The procedure also shall include a provision that permits a person to report anonymously consistent with N.J.S.A. 18A:37-15.b(5).
- (1) The district board of education shall not take formal disciplinary action based solely on the anonymous report;
- (2) The school district official shall take into account the circumstances of the incident when providing notification to parents and guardians of all students involved in the reported harassment, intimidation, or bullying incident and when conveying the nature of the incident, including the actual or perceived protected category motivating the alleged offense;
- ix. A procedure for prompt investigation of violation and complaint reports consistent with N.J.S.A. 18A:37-15.b(6)(a) through (f) and 16.d.
- (1) The procedure set forth in the district board of education policy may include a process prior to initiating an investigation by which the principal, or the principal's designee, in consultation with the anti-bullying specialist, makes a preliminary determination as to whether a reported incident or complaint, assuming all facts presented are true, is a report within the scope of N.J.S.A. 18A:37-14.



- (A) If a preliminary determination finds the incident or complaint is a report outside the scope of N.J.S.A. 18A:37-14, the determination may be appealed to the district board of education, pursuant to district board of education policies and procedures governing pupil grievances, and thereafter to the Commissioner in accordance with N.J.A.C. 6A:3.
  - (2) The procedure also shall include a process by which the district board of education will investigate a complaint or report of harassment, intimidation, or bullying, pursuant to (a)2ix above, occurring on district board of education school buses, at district board of education school-sponsored functions, and off school grounds involving a student who attends an APSSD.
    - (A) The investigation conducted by the district board of education's anti-bullying specialist shall be in consultation with the APSSD.
  - (3) To protect the victim, the procedure also shall take into account the circumstances of the incident when communicating with parents and when following the provisions of N.J.S.A. 18A:37-15.
  - (4) Investigations of complaints concerning adult conduct shall not be investigated by a member of the same bargaining unit as the individual who is the subject of the investigation.
- x. A requirement for the principal, in conjunction with the school anti-bullying specialist, to define the range of ways in which a school will respond once an incident of harassment, intimidation, or bullying is identified, consistent with the range of responses adopted by the board of education, pursuant to N.J.S.A. 18A:37-15.b(7);

- (1) The school district official shall take into account the circumstances of the incident when responding and, at a minimum, include support for victims of harassment, intimidation, or bullying and corrective actions for documented systemic problems related to harassment, intimidation, or bullying;
- xi. A requirement that within five school days after the results of the harassment, intimidation, or bullying investigation are reported to the district board of education, information about the investigation shall be provided in writing to the parents or guardians of students who are party to a harassment, intimidation, or bullying investigation.
  - (1) Any request by the parents or guardians for a hearing before the district board of education concerning the written information about a harassment, intimidation, or bullying investigation, pursuant to N.J.S.A. 18A:37-15.b(6)(d), shall be filed with the district board of education secretary no later than 60 calendar days after the written information is received by the parents or guardians.
  - (2) The hearing shall be held within 10 business days of receipt of the request.
- xii. A statement that prohibits a district board of education member, school employee, student, or volunteer from engaging in reprisal, retaliation, or false accusation against a victim, witness, or any person who reports or has reliable information about an act of harassment, intimidation, or bullying.
  - (1) The statement shall include the consequence(s) and appropriate remedial action(s) for a person who engages in reprisal or retaliation;

- xiii. Consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or harassment, intimidation, or bullying;
- xiv. A statement of how the harassment, intimidation, and bullying policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions and on school buses.
  - (1) Notice of the district board of education's policy shall appear in any publication of the school district that sets forth the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1, for schools within the school district;
- xv. A requirement that a link to the harassment, intimidation, and bullying policy be posted prominently on the home page of the school district's and each school's website;
- xvi. A requirement that the harassment, intimidation, and bullying policy be distributed annually to all school staff, students, and parents;
- xvii. A requirement that the name of the school district's anti-bullying coordinator and the anti-bullying coordinator's school phone number, school address, and school e-mail address be listed on the home page of the school district's website;
- xviii. A requirement that the name of the school's anti-bullying specialist and the anti-bullying specialist's phone number, school address, and school e-mail address be listed on the home page of the school's website; and
- xix. Provisions for appropriate responses to harassment, intimidation, or bullying, as defined in N.J.S.A. 18A:37-14 and N.J.A.C. 6A:16-1.3, that occurs off school grounds in cases in which a school employee is made

aware of the actions or a school administrator should have known of an incident of harassment, intimidation, or bullying.

- (1) Responses to harassment, intimidation, or bullying that occurs off school grounds shall be consistent with N.J.A.C. 6A:16-7.1 and 7.5 and this section.
- (b) A district board of education shall not be prohibited from adopting a harassment, intimidation, and bullying policy that includes components more stringent than components set forth in N.J.S.A. 18A:37-15 and (a) above.
  - (c) A district board of education member, school employee, contracted service provider, student, or volunteer who has witnessed an incident of harassment, intimidation, or bullying, or has reliable information that a student has been subject to harassment, intimidation, or bullying shall report the incident to the appropriate school official designated by the district board of education's policy, pursuant to N.J.S.A. 18A:37-15 and (a)2viii above, or to any school administrator or safe schools resource officer, who shall immediately initiate the school district's procedures concerning harassment, intimidation, and bullying.
    1. A district board of education member or school employee who promptly reports an incident of harassment, intimidation, or bullying to the appropriate school official designated by the district board of education's policy, or to any school administrator or safe schools resource officer, and who makes the report in compliance with the district board of education's policy, is immune from a cause of action for damages arising from a failure to remedy the reported incident, as set forth in N.J.S.A. 18A:37-16.c.
  - (d) A school administrator who receives a report of harassment, intimidation, or bullying, or who determines a reported incident or complaint, assuming all facts presented are true, is a report within the scope of N.J.S.A. 18A:37-14, pursuant to (a)2ix(1) above, and fails to

initiate or conduct an investigation, or who should have known of an incident of harassment, intimidation, or bullying and fails to take sufficient action to minimize or eliminate the harassment, intimidation, or bullying, may be subject to disciplinary action.

(e) The district board of education shall:

1. Annually examine the training needs of school employees and volunteers who have significant contact with students for the effective implementation of the harassment, intimidation, or bullying policies, procedures, programs, and initiatives of the district board of education and implement training programs for school employees and volunteers who have significant contact with students, consistent with N.J.S.A. 18A:37-17.b.
  - i. The annual examination of training needs shall take into consideration the findings of the annual review and update of the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1(a)2.
  - ii. Information regarding the district board of education's policy against harassment, intimidation, and bullying shall be incorporated into the school district's employee training program.
    - (1) The program shall be provided to full- and part-time staff, volunteers who have significant contact with students, and persons contracted by the school district to provide services to students;
2. Develop a process for annually discussing with students the school district's harassment, intimidation, and bullying policy;
3. Annually conduct a re-evaluation, reassessment, and review of its harassment, intimidation, and bullying policy, and any report(s) and/or finding(s) of the school safety/school climate team(s). The district board of education also shall make any necessary revision(s) to its policy, consistent with N.J.S.A. 18A:37-15.c.

- i. The programs or other responses shall be planned in consultation with, at a minimum, parents and other community members, school employees, law enforcement, school volunteers, students, and school administrators;
  4. Annually establish, implement, document, and assess bullying-prevention programs or approaches and other initiatives designed to create schoolwide conditions to prevent or intervene in harassment, intimidation, and bullying in schools of the school district.
    - i. Programs, approaches, and initiatives shall be planned in consultation with, at a minimum, parents and other community members, school employees, law enforcement, school volunteers, students, and school administrators; and
  5. Submit to the executive county superintendent a copy of its approved harassment, intimidation, and bullying policy within 30 days of its adoption or revision.
- (f) The principal of each school in the school district shall appoint a school anti-bullying specialist to perform the functions established in N.J.S.A. 18A:37-20.a and c.
- (g) The chief school administrator of the school district shall appoint a district anti-bullying coordinator to perform the functions established in N.J.S.A. 18A:37-20.b and c.
- (h) The district board of education shall form a school safety/school climate team in each school in the school district to achieve the purposes and perform the functions established at N.J.S.A. 18A:37-21.
1. Pursuant to N.J.S.A. 18A:37-21.b, the school safety/school climate team shall consist of the principal or the principal's designee and the following members appointed by the principal: a teacher in the school, the school anti-bullying specialist, a parent of a student in the school, and other members determined by the principal. The team shall be chaired by the school anti-bullying specialist.

- i. A parent shall be on the school safety/school climate team only in regard to general school climate issues and shall not participate in activities that may compromise a student's confidentiality, pursuant to N.J.S.A. 18A:37-21.e.
  - ii. Other members of the school safety/school climate team who are not authorized to access student records pursuant to N.J.A.C. 6A:32-7.5 shall be on the team only in regard to general school climate issues and shall not participate in activities that may compromise a student's confidentiality.
- (i) The requirements of this section are promulgated pursuant to N.J.S.A. 18A:37-13 through 32 and shall not be interpreted to prevent a victim of harassment, intimidation, or bullying from seeking redress under any other available civil or criminal law.

**6A:16-7.8 Harassment, intimidation, and bullying in approved private schools for students with disabilities (APSSDs)**

- (a) Each approved private school for students with disabilities (APSSD) shall develop, adopt, and implement a policy prohibiting harassment, intimidation, or bullying on school grounds.
- 1. Each APSSD shall develop the policy to include APSSD school grounds, pursuant to N.J.A.C. 6A:16-1.3;
    - i. The policy shall include a provision for notifying the appropriate sending district board(s) of education personnel of the students involved when the APSSD receives a complaint or report of an act of harassment, intimidation, or bullying occurring on a sending district board of education school bus, at a sending district board of education school-sponsored function, and off school grounds;
  - 2. Each APSSD shall develop the policy in consultation with, at a minimum, parents and other community members, school employees, school administrators, and, as appropriate, school volunteers and students;

3. Each APSSD shall have control over the content of the policy, except that it shall contain, at a minimum, the following components:
  - i. A statement prohibiting harassment, intimidation, or bullying of a student;
  - ii. A definition of harassment, intimidation, or bullying as set forth in the definition at N.J.A.C. 6A:16-1.3, except for incidents occurring on a sending district board of education bus, at a sending district board of education school-sponsored function, and off school grounds;
  - iii. A statement that bullying is unwanted, aggressive behavior that may involve a real or perceived power imbalance;
  - iv. A description of the type of behavior expected from all students;
  - v. Appropriate remedial action for a student who commits an act of harassment, intimidation, or bullying that takes into account the nature of the behavior, the nature of the student's disability, the developmental age of the student, and the student's history of problem behaviors and performance, and that may include the following:
    - (1) A behavioral assessment or evaluation, including, but not limited to, a referral to the individualized education program team of the sending district board of education, as appropriate; and
    - (2) Supportive interventions and referral services, including those at N.J.A.C. 6A:16-8;
  - vi. Consequences for a student who commits an act of harassment, intimidation, or bullying that are:
    - (1) Varied and graded according to the nature of the behavior, the nature of the student's disability to the extent relevant, the developmental age of the student, and the student's history of problem behaviors and performance; and



- (2) Consistent with the provisions of this subchapter, as appropriate, and N.J.A.C. 6A:14-7.6(f).
- vii. Appropriate consequences and remedial action for a staff member who commits an act of harassment, intimidation, or bullying;
- viii. A procedure that allows for reporting, verbally and in writing, an act of harassment, intimidation, or bullying committed by an adult or youth against a student. The procedure shall also include a provision that permits a person to report anonymously.
  - (1) The APSSD shall not take formal disciplinary action based solely on the anonymous report;
  - (2) The full-time non-teaching principal shall take into account the circumstances of the incident when providing notification to parents and guardians of all students involved in the reported harassment, intimidation, or bullying incident and when conveying the nature of the incident, including the actual or perceived category motivating the alleged offense; and
  - (3) Disciplinary action shall be consistent with the provisions of N.J.A.C. 6A:14-7.6(f);
- ix. A procedure for prompt investigation of violation and complaint reports.
  - (1) The full-time non-teaching principal, pursuant to N.J.A.C. 6A:14-7.6(d), or the principal's designee, shall initiate the investigation within one school day of the initial report of the incident. The school anti-bullying specialist shall conduct the investigation and the full-time non-teaching principal may appoint additional personnel who are not school anti-bullying specialists to assist in the investigation. The investigation shall be completed as soon as

possible, but not later than 10 school days from the date of the written report of the incident of harassment, intimidation, or bullying. If information relevant to the investigation is anticipated, but not yet received by the end of the 10-school-day period, the school anti-bullying specialist may amend the initial report of the investigation results to reflect the information.

- (2) The anti-bullying specialist shall report the investigation results to the full-time non-teaching principal within two school days of the investigation's completion.
- (3) The full-time non-teaching principal may provide intervention services; establish training programs to reduce harassment, intimidation, or bullying and to enhance school climate; and, in consultation and conjunction with the sending district board of education pursuant to N.J.A.C. 6A:14-7.6(f), impose discipline, order counseling as a result of the investigation findings, or take or recommend other appropriate action.
- (4) The full-time non-teaching principal shall report to the appropriate sending district board(s) of education personnel of the students who are parties to the harassment, intimidation, or bullying investigation the results of each investigation no later than five school days following the investigation's completion, along with information on any service(s) provided; training established; and, pursuant to N.J.A.C. 6A:14-7.6(f), discipline imposed or other action taken or recommended by the full-time non-teaching principal.
- (5) In accordance with Federal and State law and regulation, the full-time non-teaching principal shall provide parents or guardians of

students who are parties to the harassment, intimidation, or bullying investigation with information about the investigation, including the nature of the investigation, the findings, and whether discipline was imposed or services were provided, as appropriate, to address the incident of harassment, intimidation, or bullying. The full-time non-teaching principal shall provide the information in writing within five school days following the investigation's completion.

- (6) To protect the victim, the procedure also shall take into account the circumstances of the incident when communicating with parents.
- (7) A full-time non-teaching principal who receives a report of harassment, intimidation, or bullying, or who determines a reported incident or complaint, assuming all facts presented are true, is a report of an act of harassment, intimidation, or bullying, pursuant to (a)3ix(8) below, and fails to initiate or conduct an investigation, or who has reason to believe an incident of harassment, intimidation, or bullying occurred and fails to take sufficient action to minimize or eliminate the harassment, intimidation, or bullying, may be subject to disciplinary action.
- (8) The procedure set forth in the APSSD policy may include a process prior to initiating an investigation by which the full-time non-teaching principal, or the principal's designee, in consultation with the anti-bullying specialist, makes a preliminary determination as to whether a reported incident or complaint, assuming all facts presented are true, is a report of an act of harassment, intimidation, or bullying, pursuant to (a)3ii above.

- (A) If a preliminary determination finds the incident or complaint is a report outside the scope of the harassment, intimidation, or bullying definition set forth at (a)3ii above, the determination may be appealed to the sending district board of education pursuant to district board of education policies and procedures governing pupil grievances, and thereafter to the Commissioner in accordance with N.J.A.C. 6A:3.
- (9) The procedure shall also include a process by which the APSSD reports to the appropriate district board of education personnel any complaint or report of harassment, intimidation, or bullying, pursuant to N.J.A.C. 6A:16-7.7(a)2ix, occurring on district board of education school buses, at district board of education school-sponsored functions, and off school grounds involving a student who attends an APSSD.
  - (A) When a complaint or report of harassment, intimidation, or bullying involves students from more than one school district, the sending district board(s) of education of the victim(s) involved shall initiate the investigation.
- x. A requirement for the full-time non-teaching principal and school anti-bullying specialist to define the range of ways in which a school will respond once an incident of harassment, intimidation, or bullying is identified, including an appropriate combination of counseling, support services, intervention services, and other programs;
  - (1) The school district official shall ensure all responses take into account the circumstances of the incident when responding and, at a minimum, shall include support for a victim of harassment,

intimidation, or bullying and corrective actions, pursuant to N.J.A.C. 6A:14-7.6, for documented systemic problems related to harassment, intimidation, or bullying;

(2) Once an incident of harassment, intimidation, or bullying is identified, the full-time non-teaching principal shall determine the appropriate response to address the individual circumstances in consultation and conjunction with appropriate sending district board of education personnel, pursuant to N.J.A.C. 6A:14-7.6(f), as necessary;

xi. A requirement that allows the parents or guardians of students who are parties to a harassment, intimidation, or bullying investigation to request a hearing before the sending district board of education concerning the information received about an investigation, pursuant to (a)3ix(5) above.

(1) Any request for a hearing before the sending district board of education shall be filed within 60 calendar days after the written information about the harassment, intimidation, or bullying investigation, pursuant to (a)3ix(4) and (5) above, is received by the sending district board of education and the parents or guardians.

(2) The hearing before the sending district board of education shall be scheduled in collaboration with the APSSD and held by the sending district board of education within 10 business days of the request. The APSSD and the sending district board of education shall coordinate the policies and procedures for conducting such hearings;

xii. A statement that prohibits an APSSD's employee, student, or volunteer from engaging in reprisal, retaliation, or false accusation against a victim,

witness, or any person who reports or has reliable information about an act of harassment, intimidation, or bullying.

(1) The statement shall include the consequence(s) and appropriate remedial action(s) for a person who engages in reprisal or retaliation;

- xiii. Consequences and appropriate remedial action identified in consultation and conjunction with the sending district board of education and pursuant to N.J.A.C. 6A:14-7.6(f) for a student found to have falsely accused another as a means of retaliation or harassment, intimidation, or bullying;
- xiv. A statement that a parent, student, guardian, or organization may file a complaint with the New Jersey Division on Civil Rights within 180 days of the occurrence of any incident of harassment, intimidation, or bullying based on membership in a protected group as enumerated in the Law Against Discrimination, P.L.1945, c.169 (N.J.S.A. 10:5-1 et seq.);
- xv. A statement of how the harassment, intimidation, and bullying policy is to be publicized, including notice that the policy applies to participation in APSSD-sponsored functions and on school buses operated by the APSSD.
  - (1) Notice of the APSSD's policy shall appear in any publication of the APSSD that sets forth the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1;
- xvi. A requirement that a link to the harassment, intimidation, and bullying policy be posted prominently on the home page of the APSSD's website;
- xvii. A requirement that the harassment, intimidation, and bullying policy be distributed annually to all school staff, students, and parents; and

xviii. A requirement that the name of the school's anti-bullying specialist and the anti-bullying specialist's school phone number, school address, and school e-mail address be listed on the home page of the APSSD's website.

(b) An APSSD employee, contracted service provider, student, or volunteer who has witnessed an incident of harassment, intimidation, or bullying, or has reliable information that a student has been subject to harassment, intimidation, or bullying, shall report the incident to the full-time non-teaching principal, pursuant to (a)3viii above, or to any school administrator or safe schools resource officer, who shall immediately initiate the APSSD's procedures concerning harassment, intimidation, and bullying.

(c) The APSSD shall:

1. Annually examine the training needs of school employees and volunteers who have significant contact with students for the effective implementation of the harassment, intimidation, or bullying policies, procedures, programs, and initiatives and implement training programs for school employees and volunteers who have significant contact with students.

i. The annual examination of training needs shall take into consideration the findings of the annual review and update of the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1(a)2.

ii. Information regarding the APSSD's policy against harassment, intimidation, or bullying shall be incorporated into its training program.

(1) The program shall be provided to full- and part-time staff, volunteers who have significant contact with students, and persons contracted by the APSSD to provide services to students;

2. Develop a process for annually discussing with students the APSSD's harassment, intimidation, and bullying policy;

3. Annually conduct a re-evaluation, reassessment, and review of its harassment, intimidation, and bullying policy, and any report(s) and/or finding(s) of the school safety/school climate team(s). The APSSD also shall make any necessary revision(s) to its policy, consistent with N.J.A.C. 6A:14-7.3(a), to strengthen the policy to prevent, identify, and address harassment, intimidation, and bullying of students.
    - i. The programs or other responses shall be planned in consultation with, at a minimum, parents and other community members, school employees, law enforcement, school administrators, and, as appropriate, school volunteers and students;
  4. Annually establish, implement, document, and assess bullying-prevention programs or approaches and other initiatives designed to create schoolwide conditions to prevent or intervene in harassment, intimidation, and bullying in the APSSD.
    - i. Programs, approaches, and initiatives shall be planned in consultation with, at a minimum, parents and other community members, school employees, law enforcement, school administrators, and, as appropriate, school volunteers and students; and
  5. Submit to the executive county superintendent a copy of its harassment, intimidation, and bullying policy in the 2018-2019 school year or within 30 days of revision.
- (d) The full-time non-teaching principal shall appoint a school anti-bullying specialist from currently employed school staff to act as the primary school official responsible for preventing, identifying, and addressing incidents of harassment, intimidation, and bullying in the school and the functions identified pursuant to (a)3ix, ix(1), and x above.
- (e) The APSSD shall form a school safety/school climate team to develop, foster, and maintain a positive school climate by focusing on the on-going systemic processes and practices in the school and to address school climate issues, such as harassment, intimidation, or bullying and perform the following functions:



1. Meet two times per school year;
  2. Receive any complaint(s) of harassment, intimidation, or bullying of students that has been reported to the full-time non-teaching principal;
  3. Receive copies of any report prepared after an investigation of an incident of harassment, intimidation, or bullying;
  4. Identify and address patterns of harassment, intimidation, or bullying of students in the school;
  5. Review and strengthen school climate and school policies to prevent and address harassment, intimidation, or bullying of students;
  6. Educate the school community, including students, teachers, administrative staff, and parents, to prevent and address harassment, intimidation, or bullying of students; and
  7. Execute other duties related to harassment, intimidation, and bullying as requested by the full-time non-teaching principal;
- (f) The school safety/school climate team shall consist of the full-time non-teaching principal, or the principal's designee, and the following members appointed by the full-time non-teaching principal: a teacher in the school, the school anti-bullying specialist, a parent of a student in the school, and other members determined by the principal. The team shall be chaired by the school anti-bullying specialist.
1. A parent shall be on the school safety/school climate team only in regard to general school climate issues and shall not participate in activities that may compromise a student's confidentiality.
  2. Other members of the school safety/school climate team who are not authorized to access student records pursuant to N.J.A.C. 6A:32-7.5 shall be on the team only in regard to general school climate issues and shall not participate in activities that may compromise a student's confidentiality.

3. The APSSD shall provide school safety/school climate team members with development opportunities that address effective practices of successful school climate programs or approaches.
- (g) The section's requirements shall not be interpreted to prevent a victim of harassment, intimidation, or bullying from seeking redress under any applicable civil or criminal law.

**6A:16-7.9 Student records and confidentiality**

- (a) When a student transfers to a public school district from another public school district, all information in the student's record related to disciplinary actions taken against the student by the school district and any information the school district has obtained pursuant to N.J.S.A. 2A:4A-60, Disclosure of juvenile information; penalties for disclosure, shall be provided to the receiving public school district in accordance with N.J.S.A. 18A:36-19a and N.J.A.C. 6A:32-7.5.
1. The record shall be provided within two weeks of the date the student enrolls in the receiving school district.
  2. Written consent of the parent or adult student shall not be required as a condition of the record transfer.
    - i. Written notice of the transfer shall be provided to the parent or the adult student.
- (b) When a student transfers to a private school, which includes all sectarian or nonsectarian nonprofit institutional day or residential schools that provide education for students placed by their parents and that are controlled by other than public authority, all student disciplinary records with respect to suspensions or expulsions shall be provided by the public school district of residence to the private school upon written request from the private school, in the same manner the records would be provided to a public school

district, pursuant to 20 U.S.C. § 6301, Title IV(A)IV § 4155 of the Elementary and Secondary Education Act.

- (c) A district board of education shall not use a student's past offenses on record to discriminate against the student.
- (d) All records maintained pursuant to this subchapter shall conform with the requirements set forth at 20 U.S.C. § 1232g, Family Educational Rights and Privacy Act; 34 CFR Part 99, Family Educational Rights and Privacy; 20 U.S.C. § 1232h, Protection of Pupil Rights; 34 CFR Part 98, Student Rights in Research, Experimental Programs, and Testing; P.L. 104-191, Health Insurance Portability and Accountability Act; 45 CFR Part 160, General Administrative Requirements; 20 U.S.C. § 7165, Transfer of school disciplinary records; 42 CFR Part 2, Confidentiality of Substance Use Disorder Patient Records; N.J.S.A. 18A:40A-7.1, Confidentiality of certain information provided by pupil, exceptions; N.J.A.C. 6A:16-3.2, Confidentiality of student alcohol and other drug information; N.J.S.A. 18A:36-19, Pupil records, creation, maintenance and retention, security and access, regulations, nonliability; N.J.S.A. 2A:4A-60, Disclosure of juvenile information, penalties for disclosure; N.J.A.C. 6A:32-7, Student Records; N.J.A.C. 6A:14-2.9, Student records; as well as other existing Federal and State laws and rules pertaining to student records and confidentiality.

## **Subchapter 8. Intervention and Referral Services**

### **6A:16-8.1 Establishment of intervention and referral services**

- (a) District boards of education shall establish and implement in each school building in which general education students are served a coordinated system for planning and delivering intervention and referral services designed to assist students who are experiencing learning, behavior, or health difficulties, and to assist staff who have difficulties in addressing students' learning, behavior, or health needs. District boards of

education shall choose the appropriate multidisciplinary team approach, such as the Response to Intervention (RTI) or a Multi-Tiered System of Support (MTSS) model, for planning and delivering the services required under this subchapter.

1. The intervention and referral services shall be provided to support students in the general education program; and
2. The intervention and referral services may be provided for students who have been determined to need special education programs and services.
  - i. The intervention and referral services provided for students determined to need special education programs and services shall be coordinated with the student's individualized education program team, as appropriate.
3. Child study team members and, to the extent appropriate, specialists in the area of disability may participate on intervention and referral services teams, pursuant to N.J.A.C. 6A:14-3.1(d)6.

#### **6A:16-8.2 Functions of intervention and referral services**

- (a) The functions of the system of intervention and referral services in each school building shall be to:
  1. Identify learning, behavior and health difficulties of students;
  2. Collect information on the identified learning, behavior, and health difficulties;
  3. Develop and implement action plans that provide for appropriate school or community interventions or referrals to school and community resources, based on the collected data and desired outcomes for the identified learning, behavior, and health difficulties;
  4. Provide support, guidance and professional development to school staff who identify learning, behavior and health difficulties;

5. Provide support, guidance and professional development to school staff who participate in each building's system for planning and providing intervention and referral services;
6. Actively involve parents or guardians in the development and implementation of intervention and referral services action plans;
7. Coordinate the access to and delivery of school resources and services for achieving outcomes identified in intervention and referral services action plans;
8. Coordinate the services of community-based social and health provider agencies and other community resources for achieving outcomes identified in intervention and referral services action plans;
9. Maintain records of all requests for assistance and all intervention and referral services action plans and all related student information, according to the requirements of 20 U.S.C. § 1232g, Family Educational Rights and Privacy Act; 34 CFR Part 99, Family Educational Rights and Privacy; 20 U.S.C. § 1232h, Protection of Pupil Rights; 34 CFR Part 98, Student Rights in Research, Experimental Programs, and Testing; P.L. 104-191, Health Insurance Portability and Accountability Act; 45 CFR Part 160, General Administrative Requirements; 20 U.S.C. § 7165, Transfer of school disciplinary records; 42 CFR Part 2, Confidentiality of Substance Use Disorder Patient Records; N.J.S.A. 18A:40A-7.1, Confidentiality of certain information provided by pupil, exceptions; N.J.A.C. 6A:16-3.2, Confidentiality of student alcohol and other drug information; N.J.S.A. 18A:36-19, Pupil records, creation, maintenance and retention, security and access, regulations, nonliability; N.J.S.A. 2A:4A-60, Disclosure of juvenile information, penalties for disclosure; N.J.A.C. 6A:32-7, Student Records; N.J.A.C. 6A:14-2.9, Student records; as well as other existing Federal and State laws and rules pertaining to student records and confidentiality.

10. Review and assess the effectiveness of each intervention and referral services action plan in achieving the identified outcomes, and modify each action plan to achieve the outcomes, as appropriate; and
11. At a minimum, annually review intervention and referral services action plans and the actions taken as a result of the building's system of intervention and referral services, and make recommendations to the principal for improving school programs and services, as appropriate.

**6A:16-8.3 (Reserved)**

**Subchapter 9. Alternative Education Programs**

**6A:16-9.1 Establishment of alternative education programs**

- (a) Each district board of education choosing to operate an alternative education program, pursuant to N.J.A.C. 6A:16-1.3, shall approve the alternative education program.
- (b) Any alternative education program, pursuant to N.J.A.C. 6A:16-1.3, within a State agency, public college operated program or department-approved school shall be approved by the Commissioner of Education.
  1. The agency, pursuant to (b) above, shall submit an initial or renewal application, as appropriate, to the designated county office of education, in accordance with the format prescribed by the Commissioner of Education.
  2. Each alternative education program established by an agency, pursuant to (b) above, shall be separate and distinct from the already existing programs operated by these agencies.
  3. Annually, each agency, pursuant to (b) above, operating an alternative education program, pursuant to N.J.A.C. 6A:16-1.3, shall obtain certificates of fire

inspection and, if applicable, health, sewerage plant and health, ventilation, and air conditioning (HVAC) inspections.

- i. These certificates shall be maintained and available upon request for review by the Department of Education.

### **6A:16-9.2 Program criteria**

(a) Each alternative education program, pursuant to N.J.A.C. 6A:16-1.3, shall fulfill the following program criteria for both high school and middle school programs, unless otherwise noted:

1. A maximum student-teacher ratio of 12:1 for high school programs shall be maintained;
2. A maximum student-teacher ratio of 10:1 for middle school programs shall be maintained;
3. An Individualized Program Plan (IPP) shall be developed for each general education student enrolled in the program.
  - i. The IPP shall be developed by the school district in which the student is enrolled, in consultation with the student's parent and the receiving school district, pursuant to N.J.A.C. 6A:16-9.1(a), or other agency, pursuant to N.J.A.C. 6A:16-9.1(b), as appropriate.
  - ii. The IPP shall be developed by a multidisciplinary team of professionals with knowledge of the student's educational, behavioral, emotional, social and health needs.
  - iii. The IPP shall identify the appropriate instructional and support services for addressing the student's identified needs.

- iv. The IPP shall be developed in accordance with the format prescribed by the Commissioner of Education and implemented within 30 calendar days of the student's placement in the alternative education program.
  - (1) The IPP may, but need not, be developed prior to the student's placement.
- v. A multidisciplinary team shall review and, as appropriate, revise the IPP prior to the completion of the student's anticipated enrollment in the alternative education program or prior to the end of the school year, whichever occurs first.
  - (1) The multidisciplinary team shall review and revise the IPP, as needed, at any time during the student's enrollment in the alternative education program.
  - (2) The multidisciplinary team that reviews the IPP shall include staff from the sending school and the alternative education program who have knowledge of the student's educational, behavioral, emotional, social and health needs.
  - (3) The student's parent shall be advised of revisions to the IPP.
- 4. For a student with a disability, the alternative education program shall be consistent with the student's Individualized Education Program (IEP), pursuant to N.J.A.C. 6A:14, Special Education.
- 5. Individualized instruction to students shall address the New Jersey Student Learning Standards, pursuant to N.J.A.C. 6A:8-3.1;
- 6. Instructional staff shall be appropriately certified, pursuant to N.J.A.C. 6A:9B-5.1;
- 7. Compliance with attendance policies, pursuant to N.J.A.C. 6A:16-7.8 and 6A:32-8.3, shall be required;
- 8. Academic instruction sufficient to fulfill graduation requirements, pursuant to N.J.A.C. 6A:8-5.1, shall be provided to high school students;



9. Comprehensive support services and programs shall address each student's health, social and emotional development and behavior;
10. Case management services including, but not limited to, monitoring and evaluating student progress and coordinating instructional and support services, pursuant to (a)5, 8, and 9 above, shall be provided;
11. Services to facilitate the transition of students returning to the general or special education program shall be provided; and
12. A minimum student enrollment period of not less than two complete marking periods shall be required.
  - i. If the student is enrolled with less than two complete marking periods remaining prior to the end of the school year, the decision regarding continued placement in the alternative education program shall be made in accordance with N.J.A.C. 6A:16-9.3(a).
  - ii. If the student is removed from the general education program and placed in an alternative education program as a result of a firearm or assault with a weapon offense, the chief school administrator may modify the term of removal or placement on a case-by-case basis, pursuant to N.J.A.C. 6A:16-5.5(b)1 and 5.6(b)1.
  - iii. For the student with a disability, the enrollment period shall be determined by appropriate school personnel in accordance with the provisions of N.J.A.C. 6A:14, Special Education, and the Individuals with Disabilities Education Act of 2004, 20 U.S.C. § 1400 et seq.

### **6A:16-9.3 Student placements**

- (a) Student placement in an alternative education program, pursuant to N.J.A.C. 6A:16-1.3 and 9.1(a) and (b), shall be made as follows:

1. For the general education student, the district board of education shall make a determination of the student's risk for school failure and a decision regarding the student's placement in an alternative education program, at a minimum, based on the following:
  - i. The review of the student's academic, health and behavioral records, including the student's IPP, if one has been developed in accordance with N.J.A.C. 6A:16-9.2(a)3i through v, and the results of available testing, assessment or evaluation of the student;
  - ii. Consultation with and notice to the student's parent; and
  - iii. Information provided by the school-based multidisciplinary team responsible to provide intervention and referral services, pursuant to N.J.A.C. 6A:16-8, or other multidisciplinary team, as appropriate.
2. Decisions regarding the placement of the student with a disability in an alternative education program, pursuant to N.J.A.C. 6A:16-9.1(a) and (b), shall be based on the recommendation of appropriate personnel in accordance with N.J.A.C. 6A:14.
3. The district board of education shall provide mandatory placement for a student in an alternative education program for removal due to a firearms offense, pursuant to N.J.A.C. 6A:16-5.5 or an assault with weapons offense, pursuant to N.J.A.C. 6A:16-5.6.
  - i. If placement in an alternative education program, pursuant to N.J.A.C. 6A:16-9.1(a) or (b), is not available in the instance of a mandatory student placement, the student shall be provided home or out-of-school instruction, pursuant to N.J.A.C. 6A:16-10, until placement in an alternative education program is available.
  - ii. For the student with a disability, placement in an alternative education program for a firearm offense or an assault with a weapon offense shall

occur only upon a determination by appropriate school personnel to place the student in accordance with the provisions of N.J.A.C. 6A:14, Special Education Programs and the Individuals with Disabilities Act of 2004, 20 U.S.C. § § 1400 et seq.

- (b) If a district board of education places a student in an alternative education program approved by another district board of education, pursuant to N.J.A.C. 6A:16-9.1(a)1, or another approved agency, pursuant to N.J.A.C. 6A:16-9.1(b), the district board of education of the sending school district shall be responsible for ensuring compliance with the requirements of this subchapter.
- (c) Decisions regarding continued placement in an alternative education program or a change to a student's placement shall be made as follows:
  - 1. For the general education student returning to the general education program, the continued placement decision shall be made in accordance with N.J.A.C. 6A:16-9.2(a)11, as appropriate, and (a)1 above.
  - 2. For a student with disabilities, the continued placement decision shall be made in accordance with N.J.A.C. 6A:16-9.2(a)11, as appropriate, (a)2 above, and N.J.A.C. 6A:14, Special Education.

### **Subchapter 10. Home or Out-of-School Instruction**

#### **6A:16-10.1 Home or out-of-school instruction due to a temporary or chronic health condition**

- (a) The district board of education shall provide instructional services to an enrolled student, whether a general education student in kindergarten through grade 12 or special education student age three to 21, when the student is confined to the home or another out-of-school setting due to a temporary or chronic health condition or a need for treatment that precludes participation in their usual education setting, whether general education or special education.

1. To request home instruction due to a temporary or chronic health condition, the parent shall submit to the school district a request that includes a written determination from the student's physician documenting the projected need for confinement at the student's residence or other treatment setting for more than 10 consecutive school days or 20 cumulative school days during the school year.
    - i. The school district shall forward the written determination to the school physician, who shall verify the need for home instruction. The school physician may contact the student's physician to secure additional information concerning the student's diagnosis or need for treatment, and shall either verify the need for home instruction or shall provide to the district board of education reasons for denial.
  2. The school district shall notify the parent concerning the school physician's verification or reasons for denial within five school days after receipt of the written determination by the student's physician.
  3. The school district shall provide instructional services within five school days after receipt of the school physician's verification or, if verification is made prior to the student's confinement, during the first week of the student's confinement to the home or out-of-school setting.
- (b) The school district shall be responsible for the costs of providing instruction in the home or out-of-school setting either directly, through online services, including any needed equipment, or through contract with another district board of education, educational services commission, jointure commission, or approved clinic or agency for the following categories of students:
1. A student who resides within the area served by the district board of education and is enrolled in a public school program; or

2. A student who is enrolled in a nonpublic school that is located within the area served by the district board of education pursuant to N.J.S.A. 18A:46A-1 et seq.
- (c) Home or out-of-school instruction shall meet the following minimum standards:
1. The school district shall establish a written plan for delivery of instruction to continue the student's academic progress and to maintain a record of delivery of instructional services and student progress.
  2. The teacher providing instruction shall be a certified teacher.
  3. The teacher shall provide instruction for the number of days and length of time sufficient to continue the student's academic progress and dependent upon the student's ability to participate.
  4. For a student with disabilities, the home instruction shall be consistent with the student's individualized education plan (IEP) to the extent appropriate and shall meet the New Jersey Student Learning Standards. When the provision of home instruction will exceed 30 consecutive school days in a school year, the IEP team shall convene a meeting to review and, if appropriate, revise the student's IEP.
  5. For a student without disability, the home instruction shall meet the New Jersey Student Learning Standards, and the requirements of the district board of education for promotion to the next grade level. When the provision of home instruction will exceed 60 calendar days, the school physician shall refer the student to the child study team for evaluation, pursuant to N.J.A.C. 6A:14.
- (d) During all periods of instruction delivered in a student's home, the student's parent or other adult who has been designated by the parent shall be present.

**6A:16-10.2 Home or out-of-school instruction for a general education student for reasons other than a temporary or chronic health condition**

- (a) The district board of education shall provide instructional services to an enrolled general education student at the student's home or other suitable out-of-school setting under the following conditions:
  - 1. The student is mandated by State law and rule for placement in an alternative education program, but placement is not immediately available;
  - 2. The student is placed on short-or long-term suspension from participation in the general education program; or
  - 3. A court order requires the student to receive instructional services in the home or other out-of-school setting.
- (b) The school district shall provide services no later than five school days after the student has left the general education program.
- (c) The school district in which a student resides shall be responsible for the costs of providing instruction in the home or out-of-school setting either directly, or through online services, including any needed equipment, or through contract with another board of education, educational services commission, jointure commission, or approved clinic or agency.
- (d) The services shall meet the following minimum standards:
  - 1. The school district shall establish a written plan for delivery of instruction and maintain a record of instructional services and student progress.
  - 2. The teacher providing instruction shall be a certified teacher.
  - 3. The teacher shall provide one-on-one instruction for no fewer than 10 hours per week on three separate days of the week and no fewer than 10 hours per week of additional guided-learning experiences that may include the use of technology to provide audio and visual connections to the student's classroom.

4. The instruction shall meet the New Jersey Student Learning Standards and the district board of education's requirements for promotion and graduation.
- (e) During all periods of instruction delivered in the student's home, the student's parent or other adult who has been designated by the parent shall be present.

### **Subchapter 11. Reporting Potentially Missing, Abused, or Neglected Children and Attempted or Completed Suicide**

#### **6A:16-11.1 Adoption of policies and procedures**

- (a) The district board of education shall develop and adopt policies and procedures for school district employees, volunteers, or interns to provide for the early detection of missing, abused, or neglected children through notification of, reporting to, and cooperation with appropriate law enforcement and child welfare authorities pursuant to N.J.S.A. 18A:36-25 and 25.2 and 9:6-8.10 and N.J.A.C. 6A:22-4.1(d). At a minimum, the policies and procedures shall include:
  1. A statement indicating the importance of early detection of missing, abused or neglected children;
  2. Provisions requiring school district employees, volunteers, or interns to immediately notify designated child welfare authorities of incidents of alleged missing, abused, and neglected children.
    - i. The person having reason to believe that a child may be missing or may have been abused or neglected may inform the principal or other designated school official(s) prior to notifying designated child welfare authorities if the action will not delay immediate notification.
    - ii. The person notifying designated child welfare authorities shall inform the principal or other designated school official(s) of the notification, if such had not occurred prior to the notification;

- (1) Notice to the principal or other designated school official(s) need not be given when the person believes the notice would likely endanger the reporter or student involved or when the person believes the disclosure would likely result in retaliation against the student or in discrimination against the reporter with respect to the reporter's employment;
3. Provisions requiring the principal or other designated school official(s) to notify designated law enforcement authorities of incidents of potentially missing, abused, or neglected child situations.
  - i. The school district shall identify the school district official(s) and the school district official's designees responsible for reporting to the designated law enforcement authorities.
  - ii. The school district policies and procedures shall be consistent with the memorandum of agreement between education and law enforcement authorities pursuant to N.J.A.C. 6A:16-6.2(b)13.
  - iii. Law enforcement authorities shall be notified about all reports by employees, volunteers, or interns working in the school district made pursuant to (a)2 above;
    - (1) The notification to designated law enforcement authorities on behalf of a student attending a receiving school shall be made to the law enforcement authorities identified in the receiving school's memorandum of agreement as required by N.J.A.C. 6A:16-6.2(b)13;
4. Under no condition shall the school district's policy require confirmation by another person to report the suspected missing-, abused-, or neglected-child situation;



5. Provisions for school district cooperation with designated child welfare and law enforcement authorities in all investigations of potential missing, abused, or neglected children including the following:
  - i. Accommodations permitting the child welfare and law enforcement investigators to interview the student in the presence of the school principal or other designated school official.
    - (1) If the student is intimidated by the presence of the school representative, the student shall be requested to name an employee, volunteer, or intern working in the school district whom the student feels will be supportive and who will be allowed to accompany the student during the interview;
  - ii. Scheduling interviews with an employee, volunteer, or intern working in the school district who may have information relevant to the investigation;
  - iii. The release of all records of the student who is the subject of the investigation that are deemed relevant to the assessment or treatment of a potentially missing, abused, or neglected child pursuant to N.J.S.A. 18A:36-19 and 9:6-8.40 and allowable under the Family Educational Rights and Privacy Act (FERPA), 34 CFR Part 99;
  - iv. The maintenance, security, and release of all confidential information about potential missing, abused, or neglected child situations in accordance with N.J.S.A. 18A:36-19, N.J.S.A. 9:6-8.40, and N.J.A.C. 6A:32-7;
    - (1) All information regarding allegations of potentially missing, abused, or neglected children reported to authorities about an employee, volunteer, or intern working in the school district shall be considered confidential and may be disclosed only as required

to cooperate in investigations pursuant to (a)2 and 3 above or by virtue of a court order.

(A) Records pertaining to such information shall be maintained in a secure location separate from other employee personnel records and accessible only to the school district chief school administrator or the chief school administrator's designee;

v. The release of the student to child welfare authorities while school is in session when it is necessary to protect the student or take the student to a service provider.

(1) Removal shall take place only after the principal or the principal's designee has been provided, either in advance, or at the time removal is sought, with appropriate documentation that the child welfare authority has already removed, or has appropriate authority to remove, the student from the student's home, as specified at N.J.S.A. 9:6-8.27 through 8.30; and

vi. The transfer to another school of a student who has been removed from the student's home by designated child welfare authorities for proper care and protection pursuant to N.J.S.A. 9:6-8.28 and 8.29;

6. A provision for the establishment of a school district liaison to designated child welfare authorities to act as the primary contact person between schools in the school district and child welfare authorities with regard to general information sharing, the development of mutual training and other cooperative efforts;

7. A provision for designating a school district liaison to law enforcement authorities to act as the primary contact person between schools in the school district and law

enforcement authorities, pursuant to N.J.A.C. 6A:16-6.2(b)1, consistent with the memorandum of understanding, pursuant to N.J.A.C. 6A:16-6.2(b)13.

- i. The designation of the school district liaison shall be consistent with the policies and procedures established by the district board of education for ensuring cooperation between school and law enforcement officials, pursuant to N.J.A.C. 6A:16-6.2(b)1;
8. Provisions for training employees, volunteers, and interns working in the school district on the school district's policies and procedures for reporting allegations of missing-, abused-, or neglected-child situations.
  - i. All new employees, volunteers and interns working in the school district shall receive the required information and training as part of their orientation;
9. Provisions regarding due process rights of an employee, volunteer, or intern working in the school district who has been named as a suspect in a notification to child welfare and law enforcement authorities regarding a missing-, abused-, or neglected-child situation.
  - i. Temporary reassignment or suspension of an employee, volunteer, or intern working in a school district named as a suspect pursuant to (a)2 above shall occur only if there is reason to believe that the life or health of the alleged victim or other student is in jeopardy due to continued contact between the school employee, volunteer, or intern and the student.
  - ii. All references to a notification to the designated child welfare authorities of a potential missing-, abused-, or neglected-child situation involving a school district employee shall be removed from the employee's personnel records immediately following the receipt of an official notice from child welfare authorities that the allegation was unfounded pursuant to N.J.S.A. 18A:6-7a; and

10. A statement that prohibits reprisal or retaliation against any person who, in good faith, reports or causes a report to be made of a potential missing-, abused-, or neglected-child situation pursuant to N.J.S.A. 9:6-8.13.
- (b) The district board of education shall develop and adopt policies and procedures for school district employees, volunteers, or interns with reasonable cause to suspect or believe that a student has attempted or completed suicide, to report the information to the Department of Human Services, Division of Mental Health and Addiction Services, in a form and manner prescribed by the Division of Mental Health and Addiction Services pursuant to N.J.S.A. 30:9A-24.a.