

Notice of Proposal Regarding

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

The following is the accessible version of the notice of proposal regarding the readoption with amendments of N.J.A.C. 6A:16, Programs to Support Student Development.

Education

State Board of Education

Programs to Support Student Development

Proposed Readoption with Amendments: N.J.A.C. 6A:16

Authorized By: New Jersey State Board of Education, Dr. Angelica Allen-McMillan,
Commissioner, Department of Education, Secretary, State Board of Education.

Authority: N.J.S.A. 2A:4A-60, 2C:33-19, 18A:4-15, 18A:17-46, 18A:25-2, 18A:36-5.1, 18A:36-19, 18A:36-19a, 18A:36-25, 18A:37-1 through 12, 18A:37-13 et seq., 18A:38-25 through 31, 18A:40A-7.1, and 18A:46A-1 et seq.; 20 U.S.C. § 1232g, 20 U.S.C. § 1232h, and 20 U.S.C. §§ 1400 et seq.; Section 504 of the Rehabilitation Act of 1973; Health Insurance and Portability and Accountability Act; and the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015 (P.L. 115-141).

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

Proposal Number: PRN 2021-016.

Submit written comments by April 17, 2021, to:

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The agency proposal follows:

Summary

The Department of Education (Department) proposes to readopt with amendments N.J.A.C. 6A:16, Programs to Support Student Development. The chapter provides and specifies minimum standards for district boards of education to establish policies and procedures and to operate programs to support the social, emotional, and physical development of students. The chapter was scheduled to expire on February 18, 2021. As the Department filed this notice of readoption with the Office of Administrative Law prior to that date, the expiration date of the chapter was extended 180 days to August 17, 2021, pursuant to N.J.S.A. 52:14B-5.1.c(2).

The chapter details the requirements for programs to support student development, including 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.

N.J.A.C. 6A:16, Programs to Support Student Development, was first adopted by the State Board of Education in 2001, as part of the Department's comprehensive review of Title 6 of the New Jersey Administrative Code. The chapter incorporated rules regarding extra-curricular student support policies and services from the repealed chapters N.J.A.C. 6:29, Health, Safety and Physical Education, and 6:26, Intervention and Referral Services for General Education Pupils. The new chapter included rules from the repealed chapters concerning student health services, school health personnel, programs of substance abuse prevention, reporting allegations of child abuse, and systems of student intervention and referral. The chapter also included new rules concerning student health records, school safety, coordination with law enforcement agencies, approved programs of alternative education, and standards for home instruction for general education students for reasons other than a health condition. Rules

concerning the supervision of athletic programs, safety of school facilities, employee physical examinations, and employee drug testing were codified in other chapters within Title 6A. The resulting chapter, N.J.A.C. 6A:16, provided the regulatory framework for district boards of education in implementing schoolwide and targeted programs to assure that all students have the opportunity to achieve by providing safe and supportive learning conditions and addressing student needs. The rules at N.J.A.C. 6A:16 became effective upon publication in the New Jersey Register on May 7, 2001, and were readopted with amendments effective September 15, 2006, and again with amendments, effective February 18, 2014.

The chapter was amended, effective October 5, 2015, to align the chapter with new laws related to the health of student athletes, the mandate for public and nonpublic schools to have automated external defibrillators (AEDs), children's exposure to media violence, and the provision of emergency care and nursing services to nonpublic school students.

The chapter was last amended in 2018, to clarify the rules related to the Anti-Bullying Bill of Rights Act, P.L. 2010, c. 122. The amendments also extended protections against harassment, intimidation, and bullying (HIB) to students attending approved private schools for students with disabilities (APSSDs). The amendments were informed by the recommendations of the Anti-Bullying Task Force that was first established in 2012.

The Department recognizes that major revisions to the existing rules at N.J.A.C. 6A:16 may be disruptive to schools and school district operations due to the increased demands in response to the COVID-19 state of emergency. The Department plans to consider the experience of educators and other stakeholders in New Jersey's response to COVID-19 to inform amendments in a future rulemaking. At this time, the Department proposes to readopt the chapter with minimal amendments to ensure the existing rules do not expire and to avoid additional stress on schools and school districts during the 2020-2021 school year. The future rulemaking also will take into account the comments received during the readoption process and

recommendations from the Anti-Bullying Task Force, which was reestablished in July 2019, pursuant to P.L. 2019, c. 179.

The proposed amendments will align the chapter to N.J.S.A. 18A:37-2a, which was enacted in 2016, to prohibit the suspension of students in kindergarten to second grade, unless required by the “Zero Tolerance for Guns Act,” P.L. 1995, c. 127 (N.J.S.A. 18A:37-7 et seq.), or for conduct of a violent or sexual nature that endangers other students or adults. The proposed amendments will also clarify reporting requirements for the Student Safety Data System (formerly called the Electronic Violence and Vandalism Reporting System) to align the rules with the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act of 2015 (ESSA). The proposed amendments include corrections to New Jersey Administrative Code cross-references and the names of State or Federal statutes, rules, or regulations, where necessary, and updates to language and terms to be consistent with current titles and other chapters of Title 6A of the New Jersey Administrative Code.

The following is a brief summary of each section within the chapter and the proposed amendment(s).

N.J.A.C. 6A:16-1.1 Purpose

The section explains the intent of the chapter in assuring school programs address the health, safety, social, and emotional needs of students.

N.J.A.C. 6A:16-1.2 Scope

The section establishes the agencies and programs that are regulated under the rules of the chapter. The rules govern programs and services for students in kindergarten through grade 12 of New Jersey public school districts and for services to preschool children with disabilities. They apply to educational services commissions, jointure commissions, charter schools, and

approved private schools for students with disabilities acting under contract with public school districts to provide these services.

The Department proposes an amendment to add “renaissance school projects” after “charter schools” because the rules of the chapter apply to renaissance school projects.

N.J.A.C. 6A:16-1.3 Definitions

The section provides definitions for key words and terms used in the chapter, listed in alphabetical order.

The Department proposes to amend the definition of “advanced practice nurse,” which means a person who holds a current license as nurse practitioner/clinical nurse specialist from the State Board of Nursing. The Department proposes to add “either an advanced practice nurse or a” after “current license as” to reflect that “advanced practice nurse” is the title in New Jersey for nurse practitioners and clinical nurse specialists.

The Department proposes to replace the term “Electronic Violence and Vandalism Reporting System,” which means the electronic system 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, with “Student Safety Data System.” The Department also proposes to relocate the term to the correct alphabetical order. The Department further proposes throughout the chapter to replace “Electronic Violence and Vandalism Reporting System” or “EVVRS” with “Student Safety Data System” or “SSDS,” respectively, to reflect the system’s current name.

The Department proposes to add the term “Multi-Tiered System of Supports” or “MTSS” to mean 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 via three tiers. Tier one consists of core programs and practices provided to all students, tier two consists of group-based interventions, and tier three

consists 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.

The Department proposes to amend the definition of "parent," which, in part, means the natural parent(s), adoptive parent(s), legal guardian(s), foster parent(s), or parent surrogate(s) of a student. The Department proposes to replace "foster parent(s)" with "resource family parent(s)" because "resource family care" is synonymous with "foster care," as defined in the ESEA, as reauthorized by ESSA. The Department also proposes to replace "parent surrogate(s)" with "surrogate parent(s)." The proposed amendments will align N.J.A.C. 6A:16 with other chapters in Title 6A of the New Jersey Administrative Code and with the State statute.

The Department proposes to delete the term "parent surrogate(s)," which means an individual or individuals approved by the district board of education in accordance with N.J.A.C. 6A:32 to act on behalf of a student whose parent(s) is not available to assure the student's education rights. The term "parent surrogate(s)" is included in the existing definition of "parent" and is not defined at N.J.A.C. 6A:32. The proposed deletion will align N.J.A.C. 6A:16 with other chapters in Title 6A of the New Jersey Administrative Code.

The Department proposes to add the term "Response to Intervention" or "RTI" to mean 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 and services.

The Department proposes to add the term "student with a disability" to mean "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. At N.J.A.C. 6A:14-4 and 5 and 6A:16-7.2, 7.3, and 7.4, 'student with

disability' is inclusive of 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 CFR 300.534.” Under the IDEA, students who are identified as possibly having a disability are afforded the same protections as students with disabilities in circumstances related to student removals. The proposed amendment will emphasize that school districts must adhere to the provisions included in the IDEA.

Subchapter 2. General Provisions for School Health Services

The subchapter establishes minimum requirements and procedural standards for district boards of education to provide students public health and individual health services, including the handling of screenings, mandated medical examinations, and student health records. The subchapter also establishes the roles and responsibilities of mandated school health services staff (that is, the school physician and the certified school nurse) relative to other school district staff. The subchapter further prescribes rules for the assignment of school health services staff under the school district’s nursing services plan. Finally, the subchapter establishes rules for the provision of health services to nonpublic schools as required pursuant to N.J.S.A. 18A:40-23 through 31.

N.J.A.C. 6A:16-2.1 Health services policy and procedural requirements

The section includes rules concerning district board of education policies for student immunizations, administration of medication, student self-administration of medication, emergency care, treatment of asthma, student individualized healthcare plans, administration of epinephrine, administration of glucagon, universal precautions for handling blood and bodily fluids, and the nursing services plan.

N.J.A.C. 6A:16-2.2 Required health services

The section contains rules concerning required health services, including student immunizations, tuberculosis testing, communicable disease reporting, availability of a nebulizer, medical examinations, and health screenings.

N.J.A.C. 6A:16-2.3 Health services personnel

The rules in this section prescribe the roles and responsibilities of the school physician, certified school nurse, certified school nurse/non-instructional, and noncertified nurse.

The Department proposes an amendment at N.J.A.C. 6A:16-2.3(b)3xi, which requires a certified school nurse to review and summarize available health and medical information regarding the student and to transmit a summary of relevant health and medical information to the child study team for the meeting pursuant to N.J.A.C. 6A:14-3.4(h). The Department proposes to delete “for the meeting” because N.J.A.C. 6A:14-3.4(h) sets forth the requirements for a written report to be provided to the child study team, rather than a meeting.

N.J.A.C. 6A:16-2.4 Required student health records

The section prescribes the school district’s responsibility in maintaining and transferring student health records while limiting access to, and disclosure of, information in accordance with State and Federal law.

N.J.A.C. 6A:16-2.5 School health services to nonpublic schools

The rules in this section prescribe the school district’s responsibility in providing school health services to eligible nonpublic school students.

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

The subchapter sets forth requirements for establishment of comprehensive programs of prevention, intervention, referral for evaluation, referral for treatment, and continuity of care for student alcohol, tobacco, and other drug abuse in schools.

N.J.A.C. 6A:16-3.1 Establishment of comprehensive alcohol, tobacco, and other drug abuse programs

The section requires district boards of education to establish comprehensive programs of prevention, intervention, referral for evaluation, referral for treatment, and continuity of care for student alcohol, tobacco, and other drug abuse in schools, pursuant to N.J.S.A. 18A:40A-3, 10, and 15.

The Department proposes an amendment at N.J.A.C. 6A:16-3.1(a)5, which requires student assistance coordinators employed by district boards of education to assist school districts in the effective implementation of N.J.S.A. 18A:40A-1 through 18 and N.J.A.C. 6A:9B-12.2. The Department proposes to add “[p]ursuant to N.J.S.A. 18A:40A-18.c” at the beginning of the regulation to cite the statutory authority. The Department also proposes to delete “and N.J.A.C. 6A:9B-12.2” as the cross-referenced section sets forth requirements for administrative certificates and is not related to the implementation of N.J.S.A. 18A:40A-1 through 18.

N.J.A.C. 6A:16-3.2 Confidentiality of student alcohol and other drug information

The section establishes provisions to assure compliance with Federal and State confidentiality requirements related to students receiving intervention, evaluation, or treatment for alcohol, tobacco, and other drug abuse.

Subchapter 4. Procedures for Alcohol and Other Drug Abuse Intervention

The subchapter sets forth requirements for district board of education policies and procedures regarding the assessment, intervention, referral for evaluation, referral for treatment, and discipline of students whose use of alcohol or other drugs has affected their school performance.

N.J.A.C. 6A:16-4.1 Adoption of policies and procedures for the intervention of student alcohol and other drug abuse

The section requires district boards of education to adopt and implement policies and procedures for the intervention of student alcohol and other drug abuse. The rules also establish the required elements of the policies and procedures.

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

This section mandates an annual review of the alcohol and other drug abuse intervention policy by the district board of education, along with the process for conducting the review. The section also requires the district board of education to make available the adopted policies and procedures to all school staff, students, and parents.

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

The section establishes requirements for the reporting, notification, and examination procedures that must be followed when students are suspected of being under the influence of alcohol or other drugs.

The Department proposes an amendment at N.J.A.C. 6A:16-4.3(a)1 iii, which requires removal of a student with a disability to be made in accordance with N.J.A.C. 6A:14. The Department proposes to add “and the IDEA, 20 U.S.C. §§ 1400 et seq.” after “N.J.A.C. 6A:14”

to further align the rule with the IDEA. The same amendment is proposed at N.J.A.C. 6A:16-5.5(f), 5.6(f), 5.7(c), 7.2(d), 7.3(a)9iii and (g), and 7.4(c).

N.J.A.C. 6A:16-4.4 Voluntary policy for random testing of student alcohol or other drug use

The section establishes requirements for each district board of education that chooses to adopt policies and procedures for the random testing of students for the use of alcohol and controlled dangerous substances, including anabolic steroids. A district board of education can choose to adopt a policy for the deterrence and early detection of students with drug problems, so counseling and rehabilitative treatment may be offered.

Subchapter 5. School Safety and Security

The subchapter establishes requirements for district boards of education to develop and implement policies regarding the following areas: school safety and security plans; the reporting requirements and procedures for incidents of violence, vandalism, and alcohol and other drug abuse; access to juvenile justice information; and removal of students for firearms, assault with weapons, or assault on board members or employees.

N.J.A.C. 6A:16-5.1 School safety and security plans

The section requires district boards of education to develop and implement school safety and security plans. The section also sets forth the required elements for the school safety and security plans.

N.J.A.C. 6A:16-5.2 Violence awareness

The section establishes requirements for district boards of education to observe School Violence Awareness Week during the week beginning with the third Monday in October, in accordance with N.J.S.A. 18A:36-5.1.

N.J.A.C. 6A:16-5.3 Incident reporting of violence, vandalism, and alcohol and other drug abuse

The section establishes the requirements for when and how school districts report information to the Department related to incidents of violence, vandalism, and alcohol and other drug offenses.

The Department proposes an amendment at N.J.A.C. 6A:16-5.3(a), which, in part, requires school employees who observe or have direct knowledge from a participant or victim of an act of violence, including harassment, intimidation, and bullying, or who observe or have direct knowledge of the possession or distribution of alcohol or other drugs on school grounds, to file an incident report with the principal for purposes of reporting information to the Department, pursuant to N.J.S.A. 18A:17-46. The Department proposes to replace “to the Department, pursuant to N.J.S.A. 18A:17-46” with “at the school level” to clarify that school staff must file a report with the principal and not directly to the Department.

The Department also proposes amendments to the list of incidents school employees must report to the principal. The Department proposes to include vandalism, pursuant to N.J.S.A. 18A:17-46. The Department also proposes to include “possession, use, or sale or distribution of a weapon,” which is required by the Federal Office of Civil Rights and by the Unsafe School Choice Option in ESSA as part of determining persistently dangerous schools. In addition, these types of incidents may lead to in-school suspensions, out-of-school suspensions, expulsions, school-related arrests, or referrals to law enforcement, which are required by ESSA to be included on the School Performance Report.

The Department proposes an amendment at N.J.A.C. 6A:16-5.3(a)1i, which describes the contents of the form used to report incidents to the principal. The regulation states that the form must include all information necessary for complete, accurate reporting on the EVVRS and verification of the incident detail, including an incident description, and offender and victim information. The Department proposes to delete “and verification of the incident detail, including

an incident description, and offender and victim information” because the rule already requires the form used to include all information necessary for complete and accurate reporting.

The Department proposes an amendment at N.J.A.C. 6A:16-5.3(d)1i, which requires chief school administrators to submit to the Commissioner biannual reports of each incident of violence, including harassment, intimidation, and bullying, vandalism, and alcohol and other drug offenses. The reports must be submitted twice each school year, once to include all incidents occurring between September 1 and January 1 and once to include all incidents occurring between January 1 and June 30. The Department proposes to replace the first reference to “January 1” with “December 31” so incidents that occur on January 1 are not included in both reports. The same amendment is proposed at N.J.A.C. 6A:16-5.3(e), which requires the biannual public reporting of incidents to the district board of education in the same timeframes.

The Department proposes amendments at N.J.A.C. 6A:16-5.3(g), which requires private schools for the disabled and public-college-operated programs for the disabled to 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. The Department proposes to replace “private schools for the disabled” and “programs for the disabled” with “approved private schools for students with disabilities” and “programs for students with disabilities,” respectively, to reflect the current terms.

N.J.A.C. 6A:16-5.4 Access to juvenile justice information

The section requires district boards of education to adopt and implement policies and procedures protecting access to information related to juvenile justice proceedings. The section also sets forth the required elements for the policies and procedures.

N.J.A.C. 6A:16-5.5 Removal of students for firearms offenses

The section establishes requirements for the removal from school of students for firearms offenses.

The Department proposes an amendment at N.J.A.C. 6A:16-5.5(a) to align the section more closely to the New Jersey Zero Tolerance for Guns Act, N.J.S.A. 18A:37-7 through 12. The Federal Gun Free Schools Act requires each state receiving Federal funds under any title of ESSA to have in effect a state law requiring local educational agencies (LEAs) to expel from school, for a period of not less than one year, a student who is determined to have brought a firearm to, or have possessed a firearm at, a school under the LEAs' jurisdiction. The New Jersey Zero Tolerance for Guns Act, N.J.S.A. 18A:37-7 through 12, is the corresponding State law. The proposed amendments will align N.J.A.C. 6A:16-5.5(a)2 with the New Jersey Zero Tolerance for Guns Act.

Existing N.J.A.C. 6A:16-5.5(a)1, 2, and 3 require the district board of education's adopted policies and procedures regarding student offenses involving firearms to apply to a student who is:

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

Therefore, the Department proposes to replace "and" with "or" at the end of N.J.A.C. 6A:16-5.5(a)2 to clarify that the removal of students for firearms offenses applies to students in any of the three circumstances listed.

The Department proposes an amendment at N.J.A.C. 6A:16-5.5(b), which requires each district board of education to immediately remove from the school's general education program for a period of not less than one calendar year, a student other than a student with a disability, as set forth at N.J.A.C. 6A:16-5.5(a). The Department proposes to add "a student" after "remove"

and to delete “a student other than a student with a disability.” The proposed amendment will clarify the subsection, as N.J.A.C. 6A:16-5.5(c) already addresses procedural differences for students with disabilities.

N.J.A.C. 6A:16-5.6 Removal of students for assaults with weapons offenses

The section establishes requirements for the removal from school of students for assaults with weapons offenses.

N.J.A.C. 6A:16-5.7 Assaults on district board of education members or employees

The section establishes requirements for removal from school of students who commit an assault on district board of education members or employees.

The Department proposes an amendment at N.J.A.C. 6A:16-5.7(a), which requires each district board of education to adopt and implement policies and procedures regarding a student who commits an assault 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 his or her duties and in a situation where his or her authority to act is apparent, or as a result of the victim’s relationship to a public education institution. The Department proposes to replace “his or her” with “they” in both instances to delete the gendered pronouns. The Department is proposing throughout the chapter to eliminate gendered pronouns (that is, “his or her” and “he or she”) because individuals may not identify with a singular gender.

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

The subchapter requires district boards of education to adopt and implement policies and procedures to ensure cooperation between school staff and law enforcement authorities. The subchapter also establishes district board of education responsibilities under the Uniform State

Memorandum of Agreement between Education and Law Enforcement Officials (memorandum of agreement).

N.J.A.C. 6A:16-6.1 Adoption of policies and procedures

The section establishes requirements related to the adoption and implementation of district board of education policies and procedures to ensure cooperation between school staff and law enforcement authorities.

N.J.A.C. 6A:16-6.2 Development and implementation of policies and procedures

The section requires district boards of education to develop policies and procedures regarding law enforcement operations. The section also sets forth the required elements for the policies and procedures.

The Department proposes an amendment at N.J.A.C. 6A:16-6.2(b)7iv, which requires 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 he or she subsequently learns 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. The Department proposes to replace "he or she subsequently learns" with "they subsequently learn" to delete the gendered pronouns.

N.J.A.C. 6A:16-6.3 Reporting students or staff members to law enforcement authorities

The section establishes requirements related to the reporting by staff members to law enforcement officials regarding the illegal conduct of students or other staff members.

N.J.A.C. 6A:16-6.4 Handling of alcohol or other drugs, firearms, and other items

The section establishes requirements for staff members in handling alcohol or other drugs, firearms, and other items believed to be a controlled dangerous substance, including anabolic steroids, or drug paraphernalia.

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

The section establishes provisions to assure compliance with Federal and State confidentiality requirements related to a student's or staff member's involvement in a school intervention or treatment program for alcohol or other drug abuse.

Subchapter 7. Student Conduct

The subchapter establishes requirements for district boards of education to develop and implement a code of student conduct. The subchapter also sets forth the minimum requirements for the code's content and for instances of short- and long-term suspensions, expulsions, and student conduct away from school grounds. The subchapter further establishes rules related to student attendance and truancy procedures to enable district boards of education to promote consistent responses to recurrent unexcused absences by students and truant behavior. The subchapter also includes requirements to address HIB issues in schools. Finally, the subchapter sets forth rules for the transfer of student disciplinary records and to ensure the privacy of student records.

N.J.A.C. 6A:16-7.1 Code of student conduct

The section requires a district board of education to develop, adopt, disseminate, and implement a code of student conduct. The section also sets forth the minimum requirements of the code of student conduct.

The Department proposes an amendment at N.J.A.C. 6A:16-7.1(c)2, which requires the code of student conduct to include a description of behaviors that result in suspension or expulsion, to add “including restrictions on suspensions and expulsions for students in kindergarten through grade two, pursuant to N.J.S.A. 18A:37-2a.” The proposed amendment will align the section with P.L. 2016, c. 45, which prohibits a school district or charter school from expelling or suspending students enrolled in kindergarten through grade two, except as provided in the New Jersey Zero Tolerance for Guns Act. The proposed amendment will also emphasize the importance of not removing early elementary students from their learning environment.

N.J.A.C. 6A:16-7.2 Short-term suspensions

The section establishes requirements related to instances of short-term suspensions of students.

N.J.A.C. 6A:16-7.3 Long-term suspensions

The section establishes requirements related to instances of long-term suspensions of students.

N.J.A.C. 6A:16-7.4 Expulsions

This section establishes requirements related to instances of expulsion of students.

N.J.A.C. 6A:16-7.5 Conduct away from school grounds

The section sets forth requirements addressing when and how a district board of education should impose consequences on a student for conduct away from school grounds that is not consistent with the district board of education’s code of student conduct.

N.J.A.C. 6A:16-7.6 Attendance

The section requires district boards of education to adopt and implement student attendance and truancy policies and procedures. The section also establishes the requirements for the policies and procedures.

N.J.A.C. 6A:16-7.7 Harassment, intimidation, and bullying

The section establishes requirements for district boards of education to develop, adopt, and implement policies prohibiting harassment, intimidation, and bullying.

N.J.A.C. 6A:16-7.8 Harassment, intimidation, and bullying in approved private schools for students with disabilities (PSSDs)

The section sets forth requirements for approved private schools for students with disabilities (APSSDs) to develop, adopt, and implement policies prohibiting harassment, intimidation, and bullying.

The Department proposes to amend the section heading to replace “(PSSDs)” with “(APSSDs).” The proposed amendment will align the chapter with N.J.A.C. 6A:14, Special Education, and other chapters at Title 6A of the New Jersey Administrative Code. The Department also proposes to replace “PSSD” and “approved PSSD” with “APSSD” throughout the chapter, where necessary.

N.J.A.C. 6A:16-7.9 Student records and confidentiality

The section establishes requirements for procedures related to the transfer of student discipline records and to ensure the confidentiality of student records.

Subchapter 8. Interventions and Referral Services

The subchapter requires district boards of education to establish and implement in each school building a coordinated system for the planning and delivery of intervention and referral services.

N.J.A.C. 6A:16-8.1 Establishment of intervention and referral services

The section requires district boards of education to establish and implement a coordinated system of intervention and referral services in each school building where general education students are served. The section also sets forth the required elements of the coordinated system.

Existing N.J.A.C. 6A:16-8.1(a) requires district boards of education to 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. The subsection also requires district boards of education to choose the appropriate multidisciplinary team approach for planning and delivering the services required under this subchapter. The Department proposes to amend N.J.A.C. 6A:16-8.1(a) to include Response to Intervention (RTI) and Multi-Tiered System of Supports (MTSS) as frameworks for prevention and intervention services that can be implemented to fulfill the subchapter's requirements. The proposed amendment will align the section with Appendices A and B at N.J.A.C. 6A:30, Evaluation of the Performance of School Districts, which set forth the indicators used for school district monitoring under the New Jersey Quality Single Accountability Continuum (NJQSAC). Instruction and Program Indicator 16 monitors whether the school district has policies and procedures to ensure a coordinated system for planning, delivering, measurement, and whether the school district modifies intervention and referral services in each school through a multidisciplinary team, which addresses the learning, behavioral, and health needs of all students. Indicator 16 also states the requirement may be fulfilled through implementation of other models such as RTI and MTSS. Both frameworks are included in the ESSA and the IDEA.

N.J.A.C. 6A:16-8.2 Functions of intervention and referral services

This section establishes requirements for the function of intervention and referral services in each school building.

Subchapter 9. Alternative Education Programs

The subchapter establishes requirements for district boards of education that choose to operate an alternative education program in middle and/or high schools. The subchapter also sets forth required criteria for student placement in an alternative education program, including Federal- and State-mandated removal from the general education program of students for firearms or assault with weapons offenses.

N.J.A.C. 6A:16-9.1 Establishment of alternative education programs

The section sets forth the requirements for a district board of education to establish an alternative education program. The section also contains the requirements for establishing alternative education programs within a State agency, public college-operated program, or Department-approved school.

N.J.A.C. 6A:16-9.2 Program criteria

The section establishes the minimum program criteria for operating an alternative education program for middle and/or high school students.

N.J.A.C. 6A:16-9.3 Student placements

The section sets forth rules regarding student placement in an alternative education program.

Subchapter 10. Home or Out-of-School Instruction

The subchapter establishes minimum standards for provision of one-on-one or small-group instruction to students who are unable to participate in their usual educational setting due to a temporary or chronic health condition or as a consequence of exclusion from general education due to suspension or legal requirements.

N.J.A.C. 6A:16-10.1 Home or out-of-school instruction due to a temporary or chronic health condition

The section sets forth requirements for school districts providing instruction to a student who is confined to the student's home or other out-of-school setting at the request of a parent due to a temporary or chronic illness.

N.J.A.C. 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

The section establishes requirements for school districts providing instruction to a student who is placed by the school district or court order in an out-of-school setting.

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

The subchapter sets forth uniform requirements for district boards of education regarding potentially missing-, abused-, or neglected-child situations and attempted or completed youth suicide.

N.J.A.C. 6A:16-11.1 Adoption of policies and procedures

The section establishes uniform requirements for district boards of education policies and procedures regarding the reporting of potentially missing-, abused-, or neglected-child situations.

The section requires the policies to include provisions requiring school district employees, volunteers, or interns to immediately notify designated child welfare authorities of incidents of alleged missing, abused, and neglected children. The section also establishes school district responsibilities to notify law enforcement authorities; cooperate in investigations by child welfare and law enforcement authorities; respond to child welfare authorities' actions to remove or transfer a student; protect individuals from reprisal for having made a report; and train employees, volunteers, and interns on school district policies and procedures for reporting allegations of a missing-, abused-, or neglected-child situation. The section further requires district boards of education to 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.

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

Social Impact

The rules proposed for readoption with amendments help assure continuity of programming to support the physical, mental, and behavioral health needs of school-age children. The rules proposed for readoption with amendments ensure that the student support services continue to be provided in a timely and effective manner to prevent interference with students' intellectual, academic, and social development.

Required school health services play an important role in reducing student absenteeism arising from contagious illness, while also supporting Statewide measures to assure that students can participate in school. The rules proposed for readoption with amendments support the rules of other State agencies designed to increase awareness of public health issues and to empower qualified school personnel to inform and support communities in responding to a health crisis.

Other rules within the chapter provide parameters for, and bring consistency to, district board of education efforts that promote prosocial behavior; maintain safe and orderly schools; reduce and manage incidents of alcohol, tobacco, and other drug use and incidents of violence, harassment, intimidation, and bullying; effectively respond to student needs; protect student records and confidentiality; and effectively cooperate with community resources, including law enforcement, to ensure students' safety in school. By establishing consistency across the State, parents and students are better able to understand their rights to public education services and due process for appealing decisions by district boards of education, as well as the obligations of district boards of education to provide student support services.

The rules proposed for readoption with amendments address problems that can place students at significant risk of school failure due to disruptive or disaffected behaviors, truancy, pregnancy, social or emotional problems, or illness. Provisions for due process prior to expulsion and for continued instruction during suspension work together to reduce the number of students who fall behind and eventually drop out of school.

Economic Impact

New Jersey school districts and APSSDs currently incur a variety of costs associated with the rules proposed for readoption with amendments. The proposed amendments do not add costs for the public, school districts, or APSSDs and instead clarify and emphasize Federal and State statutes authorizing the chapter. The greater efficiency and clarity could reduce the time and resources that school districts utilize to implement the rules.

The most significant costs associated with the chapter are related to the following: provisions requiring a school physician and certified school nurse(s) to provide mandated health services pursuant to N.J.A.C. 6A:16-2.3; intervention and referral for treatment services, which require district boards of education to pay for medical examinations for students suspected of being under the influence of drugs and/or alcohol if parents do not take their children to a

personal physician pursuant to N.J.A.C. 6A:16-4.3; in-service training and professional development requirements at Subchapters 2, 3, 5, 6, 7, 8, and 11; the requirement at Subchapter 7 to provide educational services to students within five days of a short- or long-term suspension; provisions governing program requirements of alternative education programs pursuant to N.J.A.C. 6A:16-9.2; and provision of home instruction to students who are ill or in need of treatment at N.J.A.C. 6A:16-10.1 and to students awaiting placement in an alternative education program at N.J.A.C. 6A:16-10.2.

Federal Standards Statement

The rules proposed for readoption with amendments require that all provisions conform with: the Every Student Succeeds Act of 2015 (ESSA), P.L. 115-141; Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400 et seq.; 29 U.S.C. § 794; the Protection of Pupil Rights Amendment, 20 U.S.C. § 1232h; the Health Insurance Portability and Accountability Act of 1996, 1996 Enacted H.R. 3103; Confidentiality of Substance Use Disorder Patient Records, 42 CFR Part 2; Gun-Free Schools Act, 20 U.S.C. § 7961; 20 U.S.C. § 1232g(a)(4)(ii) and 34 CFR 99.8, Law Enforcement Units; and 20 U.S.C. § 7917. Therefore, the rules proposed for readoption with amendments comply with, and do not exceed, Federal law or regulations. There are no other Federal laws or regulations that impact the chapter.

Jobs Impact

The rules proposed for readoption with amendments will have no impact on the creation or loss of jobs in New Jersey.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments apply to programs and services for all students in kindergarten through grade 12 of New Jersey public school districts and the provision to preschool children with disabilities of services. They also apply to educational services commissions, jointure commissions, charter schools, and APSSDs acting under contract with public school districts to provide services. The rules proposed for readoption with amendments impose reporting, recordkeeping, or other compliance requirements on small business, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. APSSDs could be considered small businesses, as that term is defined by the Regulatory Flexibility Act, and could be impacted by the rules proposed for readoption with amendments. There are approximately 138 APSSDs in New Jersey.

N.J.A.C. 6A:16-5.3 sets forth reporting requirements for incidents of violence, vandalism, and alcohol and other drug use that apply to APSSDs. N.J.A.C. 6A:16-7.6 requires school officials to respond to student absences, which include the investigation of absences, the development of action plans, and the administration of assessments or evaluations, as appropriate. The requirements of this section could impose costs for either staff resources to investigate absences and develop action plans or fees for professionals outside of the school to conduct the recommended assessments or evaluations. N.J.A.C. 6A:16-7.8 requires the reporting of harassment, intimidation, or bullying investigations in writing and the results of investigations within APSSDs and to the appropriate sending school districts; posting and distribution of the harassment, intimidation, and bullying policy; implementation of training programs on

harassment, intimidation, or bullying; and implementation, documentation, and assessment of bullying prevention programs. The section requires the use of existing APSSD school staff and resources to meet the requirements.

The Department contends that the rules at N.J.A.C. 6A:16 that involve recordkeeping, reporting, and compliance requirements are reasonable, necessary, and not fiscally burdensome. The rules serve the best interests of the general public and students ensuring that APSSDs afford students the equivalent protections and services provided by the sending school district. The Department is unable to change the requirements based on business size or make the requirements different because APSSDs serve students with disabilities from public schools with public money and must meet State standards that are similar to public school requirements.

The proposed amendments are largely procedural and programmatic, based on the enactment of ESSA and applicable State laws, and must be in place for all affected students. It would be disadvantageous to students and the general public if all providers did not follow the requirements. The proposed amendments clarify current reporting requirements, but do not pose any additional requirements on APSSDs.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have an insignificant impact on the affordability of housing in New Jersey. There is an extreme unlikelihood the rules proposed for readoption with amendments would evoke a change in the average costs associated with housing because the rules concern educational support services for students.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will have an insignificant impact on smart growth. There is an extreme unlikelihood the rules proposed for readoption with amendments would evoke a change in housing production in Planning Areas 1 or 2, or within

designated centers, under the State Development and Redevelopment Plan because the rules proposed for re adoption with amendments concern educational support services for students.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

There is an extreme unlikelihood that the rules proposed for re adoption with amendments would have an impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State because the rules proposed for re adoption with amendments concern educational support services for students.

Full text of the rules proposed for re adoption may be found in the New Jersey Administrative Code at N.J.A.C. 6A:16.

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

Subchapter 1. General Provisions

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 [(PSSDs)] (**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” [in] **at** N.J.A.C. 6A:16-7.7 shall not refer to [approved PSSDs] **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.

...

"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.

...

"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-[12.3]**14.3** and [12.4] **14.4**.

...

["Electronic Violence and Vandalism Reporting System" 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.]

...

"Harassment, intimidation, or bullying" means[, as set forth in N.J.S.A. 18A:37-14] 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 [in] **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 [his or her] **a student’s** person or damage to [his or her] **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.

...

“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 [his or her] **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 [his or her] **the student’s** version of the facts and events regarding the alleged violation.

...

“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.

...

"Parent" means the natural parent(s), adoptive parent(s), legal guardian(s), [foster] **resource family** parent(s), or [parent surrogate(s)] **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.

["Parent surrogate(s)" means an individual or individuals approved by the district board of education in accordance with N.J.A.C. 6A:32 to act on behalf of a student whose parent(s) is not available to assure the student's education rights.]

...

"Referral for evaluation" means programs and services suggested to a student or [his or her] **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 [his or her] **the student's** family:

1. -2. (No change.)
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.

...

“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-[6.5(i)]7.6(a).

...

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. – 6. (No change.)

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, [Public Employees] Occupational Safety and Health [Program (PEOSH)] Bloodborne Pathogens Standards;

8. – 11. (No change.)

(b) (No change.)

6A:16-2.2 Required health services

(a) (No change.)

(b) Each school district shall ensure a principal or [his or her] **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 [in] **at** N.J.A.C. 8:57-4, Immunization of Pupils in School.

(c) – (g) (No change.)

(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.–v. (No change.)

vi. Each school district and nonpublic school shall distribute to a student-athlete and [his or her] **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 [his or her] **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) – (3) (No change.)

2. – 5. (No change.)

(i) – (l) (No change.)

6A:16-2.3 Health services personnel

(a) (No change)

(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. – 2. (No change.)

3. The role of the certified school nurse shall include, but not be limited to:

i. – ix. (No change.)

x. Classroom instruction in areas related to health education pursuant to N.J.A.C. 6A:9B-[12.3]**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 [for the meeting] pursuant to N.J.A.C. 6A:14-3.4(h);

xii. – xvii. (No change.)

(c) (No change.)

6A:16-2.4 Required student health records

(a) – (b) (No change.)

(c) Access to and disclosure of information in the student health record shall meet the requirements of the Family [Education] **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 [his or her] **their** duties.

1. (No change)

(e) (No change.)

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

(a) – (i) (No change.)

(j) The chief school administrator, or [his or her] 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.–7. (No change)

(k) (No change)

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. – 4. (No change.)

5. [Student] **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 [and N.J.A.C. 6A:9B-12.2].

6. – 8. (No change.)

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 [Education] **Educational** Rights and Privacy Act, and 34 CFR Part 99:
1. Confidentiality of [alcohol and drug abuse] **substance use disorder** patient records, pursuant to 42 CFR Part 2; and
 2. (No change.)

Subchapter 4. Procedures for Alcohol and Other Drug Abuse Intervention

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 [in] **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 [his or her] **the principal's** absence, to [his or her] **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. (No change.)
 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 [his or her] **the principal's** designee shall:

- i. Immediately notify the parent and the chief school administrator or [his or her] **the chief school administrator's** designee; and
 - ii. (No change.)
3. – 6. (No change.)
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. (No change.)
 - ii. The report's findings shall verify whether the student's alcohol or other drug use interferes with [his or her] **the student's** physical and mental ability to perform in school.
8. – 10. (No change.)
11. If there is a positive determination from the medical examination indicating the student's alcohol or other drug use interferes with [his or her] **the student's** physical or mental ability to perform in school:
 - i. (No change.)
 - 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 [his or her] **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 [his or her] **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. (No change.)

13. While the student is at home because of the medical examination or after [his or her] **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. (No change.)

14. – 15. (No change.)

(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 [his or her] **the principal's** absence, to [his or her] **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 [his or her] **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. (No change.)

- ii. The student shall be examined as soon as possible for the purpose of determining whether [he or she] **the student** has been using anabolic steroids.

3. – 6. (No change.)

- (c) Any educational or non-educational district board of education employee who in good faith reports to the principal or [his or her] **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 [in] **at** N.J.S.A. 18A:40A-13 and 14.

(d) – (e) (No change.)

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

(a) (No change.)

- (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. – 5. (No change.)

- 6. The parent providing consent to alcohol or other drug testing, pursuant to (a)6 above, shall be notified each time [his or her] **the parent's** child has been tested under the alcohol or other drug testing policy, pursuant to this section.

- i. (No change.)

7. – 11. (No change.)

(c) (No change.)

- (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. – 2. (No change.)
3. A certified school nurse or noncertified nurse, pursuant to N.J.A.C. 6A:9B-[12.3]**14.3** and [12.4] **14.4**; or
4. (No change.)

Subchapter 5. School Safety and Security

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

- (a) For purposes of reporting information [to] **at** the [Department, pursuant to N.J.S.A.18A:17-46] **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 [Electronic Violence and Vandalism Reporting System (EVVRS) and verification of the incident detail, including an incident description, and offender and victim information] **Student Safety Data System (SSDS)**.

(b) – (c) (No change.)

(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 [EVVRS] **SSDS**.
 - i. The reports shall be submitted twice each school year, once for all incidents occurring between September 1 and [January 1] **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. – iii. (No change.)
2. (No change.)
- (e) Twice each school year, once between September 1 and [January 1] **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) (No change.)
- (g) [Private] **Approved private** schools for [the disabled] **students with disabilities** and public-college-operated programs for [the disabled] **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 [in] **at** (f) above.
- (h) (No change.)

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 [in] **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. (No change.)
 2. Convicted or adjudicated delinquent for committing a crime while in possession of a firearm on school grounds; [and] **or**
 3. (No change.)
- (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 [a student other than a student with a disability], as set forth [in] **at** (a) above.
1. – 2. (No change.)
- (c) (No change.)
- (d) The principal or [his or her] **the principal's** designee shall:
1. – 5. (No change.)
- (e) (No change.)
- (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) (No change.)
- (h) If it is found that the removed student did not commit the offenses [in] **at** (a) and (c) above, the student shall be immediately returned to the program from which [he or she] **the student** was removed.
- (i) – (j) (No change.)
- (k) Each chief school administrator biannually shall submit to the Commissioner a report on each incident under this section utilizing the [Electronic Violence and Vandalism Reporting] **Student Safety Data** System, pursuant to N.J.A.C. 6A:16-5.3(d)1.

(l) (No change.)

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

(a) – (c) (No change.)

(d) The principal or [his or her] **the principal's** designee shall:

1. – 5. (No change.)

(e) (No change.)

(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) (No change.)

(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 [he or she] **the student** was removed.

(i) – (j) (No change.)

(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 [Electronic Violence and Vandalism Reporting] **Student Safety Data** System, pursuant to N.J.A.C. 6A:16-5.3(e)1.

(l) (No change.)

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 [his or her] **their** duties and in a situation where [his or her] **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) (No change.)
- (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 [his or her] **the principal's** designee shall:
 - 1. – 5. (No change.)
- (e) (No change.)
- (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 [Electronic Violence and Vandalism Reporting] **Student Safety Data** System, pursuant to N.J.A.C. 6A:16-5.3(e)1.
- (g) (No change.)

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

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

- (a) (No change.)
- (b) School district policies and procedures shall include the following components:
 - 1. – 4. (No change.)
 - 5. Specific procedures for and responsibilities of staff in initiating or conducting searches and seizures of students, their property, and their personal effects.
 - i. – v. (No change.)
 - 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 [his or her] **the Director's** designee in the New Jersey Department of Law and Public Safety.

vii. (No change.)

6. (No change.)

7. Procedures for planning, approving, and conducting undercover school operations.

i. – iii. (No change.)

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 [he or she] **they** subsequently learn[s] 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. – 16. (No change.)

(c) (No change.)

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 [his or her] **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. – 5. (No change.)

(b) (No change.)

(c) The designated school official, as defined [in] **at (b)1** above, shall immediately notify the designated law enforcement official whenever a school employee in the course of [his or her] **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 [in] **at (b)1** above, shall immediately notify the designated law enforcement official whenever a school employee in the course of [his or her] **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) (No change.)

(f) All incidents shall be reported under this section utilizing the [Electronic Violence and Vandalism Reporting] **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 [his or her] **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. (No change.)
3. The principal or designee shall provide to the county prosecutor or [his or her] **the county prosecutor's** designee all information concerning the manner in which the alcohol, other drug, or paraphernalia was discovered or seized, including:
 - i. – ii. (No change.)
4. The principal or designee shall not disclose the identity of a student or staff member who voluntarily and on [his or her] **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. (No change.)

(b) – (c) (No change.)

Subchapter 7. Student Conduct

6A:16-7.1 Code of student conduct

(a) – (b) (No change.)

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

1. (No change.)
 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. – vi. (No change.)
 - 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 [Alcohol and Drug Abuse] **Substance Use Disorder** Patient Records; N.J.S.A. 18A:40A-7.1, Confidentiality of certain information provided by pupil[s], 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. – 7. (No change.)
- (d) (No change.)

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. (No change.)
 2. Prior to the suspension, an informal hearing during which the student is given the opportunity to present [his or her] **the student's** version of events regarding [his or her] **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 [his or her] **the school administrator's** designee;
 - ii. – iv. (No change.)
 3. Oral or written notification to the student's parents of the student's removal from [his or her] **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. – v. (No change.)
 4. (No change.)
 5. Academic instruction either in school or out of school that addresses the New Jersey Student Learning Standards.
 - i. (No change.)
 - 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 [he or she] **the student** was suspended.

iii. (No change.)

(b) – (c) (No change.)

(d) For a student with a disability, the provisions of this section shall be provided in addition to all procedural protections set forth [in] **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 [his or her] **the student's** removal from school;
2. Prior to the suspension, an informal hearing during which the student is given the opportunity to present [his or her] **the student's** version of events regarding [his or her] **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. – 4. (No change.)
5. Written notification to the parents by the chief school administrator or [his or her] **the chief school administrator's** designee within two school days of the initiation of the suspension, stating:
 - i. – iii. (No change.)
 - 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 [his or her] **the student's** educational program, pursuant to this section;

6. – 8. (No change.)

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. – ii. (No change.)

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. (No change.)

ii. Include the opportunity for the student to:

(1) (No change.)

(2) Present [his or her] **the student's** own defense, and produce oral testimony or written supporting affidavits;

iii. – iv. (No change.)

11. (No change.)

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 [he or she] **the student** was removed; and

13. (No change.)

(b) – (f) (No change.)

(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. – 3. (No change.)

6A:16-7.4 Expulsions

(a) – (b) (No change.)

(c) A student with a disability shall only be expelled from [his or her] **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:16-7.7 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. (No change.)

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.-iv. (No change.)

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) (No change.)

vi. – viii. (No change.)

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 [his or her] **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) (No change.)

(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 [approved PSSD]
APSSD.

(A) The investigation conducted by the district board of education's anti-bullying specialist shall be in consultation with the [approved PSSD] **APSSD.**

(3) – (4) (No change.)

x. – xvi. (No change.)

xvii. A requirement that the name of the school district's anti-bullying coordinator and [his or her] **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 [his or her school] **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. (No change)

(b) – (d) (No change.)

(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. (No change.)

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. – 5. (No change.)

(f) – (g) (No change.)

(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 [in] 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 [his or her] **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. – ii. (No change.)

(i) (No change.)

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

(a) Each approved private school for students with disabilities [(PSSD)] **(APSSD)** shall develop, adopt, and implement a policy prohibiting harassment, intimidation, or bullying on school grounds.

1. Each [approved PSSD] **APSSD** shall develop the policy to include [approved PSSD] **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 [approved PSSD] **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 [approved PSSD] **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 [approved PSSD] **APSSD** shall have control over the content of the policy, except that it shall contain, at a minimum, the following components:
 - i. - vii. (No change.)
 - 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 [approved PSSD] **APSSD** shall not take formal disciplinary action based solely on the anonymous report;
 - (2) – (3) (No change.)
 - 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 [his or her] **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) – (7) (No change.)

(8) The procedure set forth in the [approved PSSD] **APSSD** policy may include a process prior to initiating an investigation by which the full-time non-teaching principal, or [his or her] **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) (No change.)

(9) The procedure shall also include a process by which the [approved PSSD] **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 [approved PSSD]

APSSD.

(A) (No change.)

- x. (No change.)
- 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 [a] **an** investigation, pursuant to (a)3ix(5) above.
 - (1) (No change.)
 - (2) The hearing before the sending district board of education shall be scheduled in collaboration with the [PSSD] **APSSD** and held by the sending district board of education within 10 business days of the request. The [approved PSSD] **APSSD** and the sending district board of education shall coordinate the policies and procedures for conducting such hearings;
- xii. A statement that prohibits an [approved PSSD's] **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) (No change.)
- xiii. – xiv. (No change.)
- xv. A statement of how the harassment, intimidation, and bullying policy is to be publicized, including notice that the policy applies to participation in [approved PSSD] **APSSD**-sponsored functions and on school buses operated by the [approved PSSD] **APSSD**.

- (1) Notice of the [approved PSSD's] **APSSD's** policy shall appear in any publication of the [approved PSSD] **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 [approved PSSD's] **APSSD's** website;
 - xvii. (No change.)
 - xviii. A requirement that the name of the school's anti-bullying specialist and [his or her] **the anti-bullying specialist's** school phone number, school address, and school e-mail address be listed on the home page of the [approved PSSD's] **APSSD's** website.
- (b) An [approved PSSD] **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 [approved PSSD's] **APSSD's** procedures concerning harassment, intimidation, and bullying.
- (c) The [approved PSSD] **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. (No change.)

- ii. Information regarding the [approved PSSD's] **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 [approved PSSD] **APSSD** to provide services to students;
- 2. Develop a process for annually discussing with students the [approved PSSD's] **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 [approved PSSD] **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. (No change.)
- 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 [approved PSSD] **APSSD**.
 - i. (No change.)
- 5. (No change.)
- (d) (No change.)
- (e) The [approved PSSD] **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. – 7. (No change.)

- (f) The school safety/school climate team shall consist of the full-time non-teaching principal, or [his or her] **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. – 2. (No change.)

3. The [approved PSSD] **APSSD** shall provide school safety/school climate team members with development opportunities that address effective practices of successful school climate programs or approaches.

- (g) (No change.)

6A:16-7.9 Student records and confidentiality

- (a) – (c) (No change.)

- (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 [Alcohol and Drug Abuse] **Substance Use Disorder** Patient Records; N.J.S.A. 18A:40A-7.1, Confidentiality of certain information provided by pupil[s], 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 [aid] **support** students in the general education program; and
 2. – 3. (No change.)

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.–8. (No change)
 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 [Alcohol and Drug Abuse] **Substance Use Disorder** Patient Records; N.J.S.A. 18A:40A-7.1, Confidentiality of certain information provided by pupil[s], 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. – 11. (No change.)

Subchapter 9. Alternative Education Programs

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. – 5. (No change.)

6. Instructional staff shall be appropriately certified, pursuant to N.J.A.C. [6A:9-3.3]
6A:9B-5.1;

7. – 12. (No change.)

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, N.J.S.A. 9:6-8.10, and N.J.A.C. 6A:22-4.1(d). At a minimum, the policies and procedures shall include:
1. (No change.)
 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. (No change.)
 - 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 [his or her] **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 [his or her] **the school district official's** designees responsible for reporting to the designated law enforcement authorities.
 - ii. – iii. (No change.)
4. (No change.)
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 [he or she] **the student** feels will be supportive and who will be allowed to accompany the student during the interview;
 - ii. (No change.)
 - 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 [Education] **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 [his or her] **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 [his or her] **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 [his or her] **the student's** home, as specified [in] **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 [his or her] **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. – 10. (No change.)

(b) (No change.)