

1. The school district shall conduct a criminal history background check on any physician before entering into an agreement for delivery of services.

2. The school physician shall be currently licensed by the New Jersey Board of Medical Examiners in medicine or osteopathy and shall have a training and scope of practice that includes child and adolescent health and development.

3. The school physician shall provide, at a minimum, the following services:

i. Consultation in the development and implementation of school district policies, procedures and mechanisms related to health, safety and medical emergencies pursuant to N.J.A.C. 6A:16-2.1(a);

ii. Consultation to school district medical staff regarding the delivery of school health services, which includes special health care needs of technology-supported and medically fragile children, including students covered by 20 U.S.C. §§1400 et seq., Individuals with Disabilities Education Act;

iii. Physical examinations conducted in the school physician's office or other comparably equipped facility for students who do not have a medical home or whose parent has identified the school as the medical home for the purpose of the sports physical examination;

iv. Provision of written notification to the parent stating approval or disapproval of the student's participation in athletics based upon the medical report;

v. Direction for professional duties of other medical staff;

vi. Written standing orders that shall be reviewed and reissued before the beginning of each school year;

vii. Establishment of standards of care for emergency situations and medically related care involving students and school staff;

viii. Assistance to the certified school nurse or non-certified nurse in conducting health screenings of students and staff and assistance with the delivery of school health services;

ix. Review, as needed, of reports and orders from a student's medical home regarding student health concerns;

x. Authorization of tuberculin testing for conditions outlined in N.J.A.C. 6A:16-2.2(c);

xi. Review, approval, or denial with reasons of a medical home determination of a student's anticipated confinement and resulting need for home instruction; and

xii. Consultation with the school district certified school nurse(s) to obtain input for the development of

the school nursing services plan, pursuant to N.J.A.C. 6A:16-2.1(b).

(b) The district board of education shall employ a certified school nurse to provide nursing services while school is in session pursuant to N.J.S.A. 18A:40-1 and 3.3.

1. The certified school nurse shall work under the direction of the school physician and chief school administrator.

2. The certified school nurse shall receive training in airway management and in the use of nebulizers and inhalers consistent with nationally recognized standards including, but not limited to, those of the National Institutes of Health and the American Academy of Allergy, Asthma and Immunology.

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

i. Carrying out written orders of the medical home and standing orders of the school physician;

ii. Conducting health screenings, which include height, weight, blood pressure, hearing, vision, and scoliosis pursuant to N.J.A.C. 6A:16-2.2; and monitoring vital signs and general health status for emergent issues for students suspected of being under the influence of alcohol and controlled dangerous substances pursuant to N.J.S.A. 18A:40-4 and 12;

iii. Maintaining student health records, pursuant to N.J.S.A. 18A:40-4 and N.J.A.C. 6A:16-2.4;

iv. Recommending to the school principal students who shall not be admitted to or retained in the school building based on a parent's failure to provide evidence of the child's immunization according to the schedules specified in N.J.A.C. 8:57-4;

v. Annually reviewing student immunization records to confirm with the medical home that the medical condition for the exemption from immunization continues to be applicable, pursuant to N.J.A.C. 8:57-4.3;

vi. Recommending to the school principal exclusion of students who show evidence of communicable disease, pursuant to N.J.S.A. 18A:40-7, 8, and 10;

vii. Directing and supervising the emergency administration of epinephrine and glucagon, and training school staff designated to serve as delegates, pursuant to N.J.S.A. 18A:40-12.6 and 12.14;

viii. Administering asthma medication through use of a nebulizer;

ix. Directing and supervising the health services activities of any school staff to whom the certified school nurse has delegated a nursing task;

x. Classroom instruction in areas related to health education pursuant to N.J.A.C. 6A:9B-12.3;

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. Writing and updating, at least annually, the individualized health care plans and the individualized emergency healthcare plans for students' medical needs, and instructing staff as appropriate;

xiii. Writing and updating, at least annually, any written healthcare provisions required under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794(a), for any student who requires them;

xiv. Assisting in the development of and implementing healthcare procedures for students in the event of an emergency;

xv. Instructing teachers on communicable disease and other health concerns, pursuant to N.J.S.A. 18A:40-3; and

xvi. Providing other nursing services consistent with the nurse's educational services certification endorsement as a school nurse issued by the State Board of Examiners and current license approved by the State Board of Nursing.

(c) School districts may appoint a noncertified nurse under the supervision of a certified school nurse to supplement the services of a certified school nurse provided that:

1. The noncertified nurse shall be assigned to the same school building or complex as the certified school nurse pursuant to N.J.S.A. 18A:40-3.3.a.

2. A noncertified nurse is limited to providing services only as permitted under the noncertified nurse's license issued by the State Board of Nursing.

Amended by R.2002 d.134, effective May 6, 2002.

See: 34 N.J.R. 355(a), 34 N.J.R. 1667(a).

In (e), amended N.J.A.C. reference; added (g) and (h).

Repeal and New Rule, R.2006 d.366, effective October 16, 2006.

See: 38 N.J.R. 2294(a), 38 N.J.R. 4411(c).

Section was "Required school health services".

Amended by R.2007 d.184, effective June 4, 2007.

See: 39 N.J.R. 294(a), 39 N.J.R. 2243(a).

In (d)3viii, deleted "educational services certification endorsement as a school nurse issued by the State Board of Examiners and" following "nurse's".

Amended by R.2014 d.047, effective March 17, 2014.

See: 45 N.J.R. 987(a), 46 N.J.R. 505(a).

Rewrote the section.

Administrative change.

See: 46 N.J.R. 1743(a).

Case Notes

School board did not violate N.J.S.A. 18A:40-3.3 by hiring a school health aide who did not hold a school nurse endorsement since no requirement existed that a school nurse be in a school building at all times during which a non-certified nurse was performing supplemental services to the certified school nurse. *Ramsey Teachers Ass'n v. Board of Educ. of Ramsey*, 382 N.J. Super. 241, 888 A.2d 499, 2006 N.J. Super. LEXIS 2 (App.Div. 2006).

ALJ assessed credibility and found that a school nurse left used needles in a common supply closet, failed to maintain the medical waste disposal box, failed to properly treat injured students, and turned out the lights, locked her office door, and failed to answer the door to treat a student having an asthma attack, warranting revocation of her certificates. In re *Certificates of Kersaint*, OAL Dkt. No. EDE 80-06, 2007 N.J. AGEN LEXIS 63, Initial Decision (February 23, 2007), adopted, SBE No. 0506-145 (N.J. State Bd. of Examiners June 7, 2007), aff'd, SB No. 16-07, 2007 N.J. AGEN LEXIS 965 (N.J. State Bd. of Educ. October 17, 2007).

6A:16-2.4 Required student health records

(a) Each school district shall maintain for each student pursuant to N.J.A.C. 6A:32 a student health record that includes the following mandated records:

1. Findings of health histories, medical examinations and health screenings pursuant to N.J.A.C. 6A:16-2.2 and 4.3; and

2. Documentation of immunizations against communicable diseases or exemption from these immunizations pursuant to N.J.A.C. 8:57-4.1, 4.3, and 4.4.

(b) Any district board of education employee with knowledge of, or access to, the following health information shall comply with restrictions for sharing information as required by Federal and State statutes and regulations.

1. Information that identifies a student as having HIV infection or AIDS shall be shared only with prior written informed consent of the student age 12 or greater, or of the student's parent as required by N.J.S.A. 26:5C-1 et seq. and only for the purpose of determining an appropriate educational program for the student.

2. Information obtained by the school's alcohol and other drug program that would identify the student as an alcohol or other drug user may be disclosed only for those purposes and under conditions permitted by 42 CFR Part 2.

3. Information provided by a secondary school student while participating in a school-based alcohol or other drug counseling program that indicates that a parent, guardian or other person residing in the student's household is dependent upon or illegally using a substance shall be shared only for those purposes and conditions permitted by N.J.S.A. 18A:40A-7.1.

(c) Access to and disclosure of information in the student health record shall meet the requirements of the Family Education 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 duties.

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

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

1. A description of students' responsibilities that includes expectations for academic achievement, behavior and attendance, pursuant to N.J.A.C. 6A:32-8 and 13.1;
2. A description of behaviors that result in suspension or expulsion, pursuant to N.J.S.A. 18A:37-2;
3. A description of students' rights to:
 - i. Advance notice of behaviors that result in suspensions and expulsions that have been identified pursuant to N.J.S.A. 18A:37-2;
 - ii. Education that supports students' development into productive citizens;
 - iii. Attendance in safe and secure school environments;
 - iv. Attendance at school irrespective of students' marriage, pregnancy or parenthood;
 - v. Due process appeal procedures and policies, pursuant to N.J.A.C. 6A:3-1.3 through 1.17; N.J.A.C. 6A:4; and, where applicable, N.J.A.C. 6A:14-2.7 and 2.8, and N.J.A.C. 6A:16-7.2 through 7.5;
 - vi. Parent notification consistent with the policies and procedures established pursuant to N.J.A.C. 6A:16-6.2(b)3, this section, and N.J.A.C. 6A:16-7.2 through 7.8; and
 - vii. Protections pursuant to 20 U.S.C. §1232g, Family Educational Rights and Privacy Act; 34 CFR 99, Family Educational Rights and Privacy; 20 U.S.C. §1232h, Protection of Pupil Rights; 34 CFR Part 98, Student Rights in Research, Experimental Programs, and Testing; P.L. 104-191, Health Insurance Portability and Accountability Act; 45 CFR 160, General Administrative Requirements; 20 U.S.C. § 7165, Transfer of school disciplinary records; 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records; N.J.S.A. 18A:40A-7.1, Confidentiality of certain information provided by pupils, exceptions; N.J.A.C. 6A:16-3.2, Confidentiality of student alcohol and other drug information; N.J.S.A. 18A:36-19, Pupil records, creation, maintenance and retention, security and access, regulations, nonliability; N.J.S.A. 2A:4A-60, Disclosure of juvenile information, penalties for disclosure; N.J.A.C. 6A:32-7, Student Records; N.J.A.C. 6A:14-2.9, Student records; as well as other existing Federal and State laws and rules pertaining to student protections;
4. A description of comprehensive behavioral supports that promote positive student development and the students' abilities to fulfill the behavioral expectations es-

tablished by the district board of education. The description of comprehensive behavioral supports may include:

- i. Positive reinforcement for good conduct and academic success;
- ii. Supportive interventions and referral services;
- iii. Remediation of problem behavior that takes into account the behavior's nature, the students' developmental ages, and the students' histories of problem behaviors and performance; and
- iv. For students with disabilities, the behavior interventions and supports shall be determined and provided pursuant to N.J.A.C. 6A:14;
5. A description of school responses to violations of behavioral expectations established by the district board of education that, at a minimum, are graded according to the severity of the offenses, and consider the developmental ages of the student offenders and their histories of inappropriate behaviors that shall:
 - i. Include a continuum of actions designed to remediate and, where necessary or required by law, to impose sanctions;
 - ii. Be consistent with other responses, pursuant to N.J.A.C. 6A:16-5.5 through 5.7;
 - iii. Provide for the equitable application of the code of student conduct without regard to race; color; religion; ancestry; national origin; nationality; sex; gender; sexual orientation; gender identity or expression; marital, domestic-partnership, or civil-union; mental, physical, or sensory disability; or any other distinguishing characteristic, pursuant to N.J.S.A. 10:5-1 et seq.; and
 - iv. Be consistent with the provisions of N.J.S.A. 18A:6-1, Corporal punishment of pupils;
6. Expectations and consequences consistent with the district board of education's policies and procedures on attendance, pursuant to N.J.A.C. 6A:16-7.6, and harassment, intimidation, and bullying, pursuant to N.J.A.C. 6A:16-7.7; and
7. A current list of community-based health and social service provider agencies available to support a student and the student's family, as appropriate, and a list of legal resources available to serve the community.

(d) A district board of education may deny participation in extracurricular activities, school functions, sports, graduation exercises or other privileges as disciplinary sanctions when designed to maintain the order and integrity of the school environment.

Recodified from N.J.A.C. 6A:16-5.1 and amended by R.2005 d.297, effective September 6, 2005.

See: 37 N.J.R. 1570(a), 37 N.J.R. 3295(b).

Deleted former (b) through (e); rewrote (a); added new (b) through (d).

Amended by R.2006 d.366, effective October 16, 2006.

See: 38 N.J.R. 2294(a), 38 N.J.R. 4411(c).

In introductory paragraph of (a), inserted “, adopt”; in (a)5iv, inserted “school”; in (a)7, inserted “Education Improvement”; in (b)2, inserted “secure”; in (c)1, updated N.J.A.C. reference; in (c)3iii, inserted “and secure”; in (c)3vii, substituted “6A:32-7, Student Records” for “6:3-6, Pupil Records”; in (c)4, substituted “district board of education” for “school district”; and in (c)6, updated N.J.A.C. reference.

Amended by R.2007 d.184, effective June 4, 2007.

See: 39 N.J.R. 294(a), 39 N.J.R. 2243(a).

In the introductory paragraph of (a), substituted “school buses” for “a school bus” and updated the N.J.A.C. references; in (b)6, inserted “in accordance with N.J.A.C. 6A:16-7.2 through 7.5 and 7.6 as appropriate”; in (c)3v, substituted “appeal procedures and policies” for “and appeal procedures” and updated the N.J.A.C. references; in (c)3vi, updated the N.J.A.C. references; in (c)3vii, inserted “N.J.A.C. 6A:32-7, Student Records”; and added (e).

Amended by R.2014 d.047, effective March 17, 2014.

See: 45 N.J.R. 987(a), 46 N.J.R. 505(a).

Rewrote the section.

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 1265) adopted, which found that, while the school administration did not act arbitrarily, capriciously, or unreasonably by exercising its statutory authority to discipline one student for a physical assault upon another, it may not have been wise to suspend the student who was the victim rather than the aggressor; while evenhandedness in enforcing discipline must be applied, the school district should have taken into account degrees of culpability in determining the appropriateness of the penalty. Because the student had no prior record of disciplinary infractions and did not initiate the physical confrontation, even a suspension of only one day was excessive and should have been modified to a written reprimand. L.L. ex rel. B.L. v. Bd. of Educ. of Clifton, OAL Dkt. No. EDU 5652-05, 2008 N.J. AGEN LEXIS 1187, Final Decision (October 15, 2008).

Board of education’s discipline of a student as a result of his involvement in a fight on school grounds was not arbitrary or unreasonable; the student drove participants to and away from the fight, and his punishment included a three-day in-school suspension and suspension from extracurricular activities, including football (adopting 2008 N.J. AGEN LEXIS 31 as supplemented). S.L. ex rel. D.L. v. Bd. of Educ. of Verona, OAL Dkt. No. EDU 9009-07, 2008 N.J. AGEN LEXIS 268, Commissioner’s Decision (March 10, 2008).

Initial Decision (2008 N.J. AGEN LEXIS 31) adopted as supplemented, which concluded that suspension from certain high school extracurricular activities does not implicate a student’s property interest in education, because the only right protected is the right to a thorough and efficient education. S.L. ex rel. D.L. v. Bd. of Educ. of Verona, OAL Dkt. No. EDU 9009-07, 2008 N.J. AGEN LEXIS 268, Commissioner’s Decision (March 10, 2008).

6A:16-7.2 Short-term suspensions

(a) In each instance of a short-term suspension, a district board of education shall assure the rights of a student suspended for one, but not more than 10 consecutive school days by providing for the following:

1. As soon as practical, oral or written notice of charges to the student.

i. When charges are denied, an explanation of the evidence forming the basis of the charges also shall be provided;

2. Prior to the suspension, an informal hearing during which the student is given the opportunity to present his or her version of events regarding his or her 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 designee;

ii. To the extent that a student’s presence poses a continuing danger to persons or property or an ongoing threat of disrupting the educational process, the student may be immediately removed from the student’s educational program and the informal hearing shall be held as soon as practical after the suspension;

iii. The informal hearing shall take place even when a school staff member has witnessed the conduct forming the basis of the charge; and

iv. The informal hearing and the notice given may take place at the same time;

3. Oral or written notification to the student’s parents of the student’s removal from his or her educational program prior to the end of the school day on which the school administrator decides to suspend the student. The notification shall include an explanation of:

i. The specific charges;

ii. The facts on which the charges are based;

iii. The provision(s) of the code of student conduct the student is accused of violating;

iv. The student’s due process rights, pursuant to N.J.A.C. 6A:16-7.1(c)3 and this section; and

v. The terms and conditions of the suspension.

4. Appropriate supervision of the student while waiting for the student’s parent to remove the student from school during the school day; and

5. Academic instruction either in school or out of school that addresses the Core Curriculum Content Standards.

i. The student’s academic instruction shall be provided within five school days of the suspension.

ii. At the completion of a short-term suspension, the district board of education shall return a general education student to the general education program from which he or she was suspended.

iii. The academic instruction provided to a student with a disability shall be provided consistent with N.J.A.C. 6A:14.

(b) The suspending principal shall immediately report the suspension to the chief school administrator, who shall report it to the district board of education at its next regular meeting, pursuant to N.J.S.A. 18A:37-4.

(c) An appeal of the district board of education’s decision affecting the general education student’s educational program shall be made to the Commissioner, in accordance with N.J.S.A. 18A:37-2.4 and N.J.A.C. 6A:3-1.3 through 1.17.

(d) For a student with a disability, the provisions of this section shall be provided in addition to all procedural protections set forth in N.J.A.C. 6A:14.

Amended by R.2006 d.366, effective October 16, 2006.

See: 38 N.J.R. 2294(a), 38 N.J.R. 4411(c).

Rewrote (a).

Amended by R.2007 d.184, effective June 4, 2007.

See: 39 N.J.R. 294(a), 39 N.J.R. 2243(a).

In (a)3iv, updated the N.J.A.C. references; in (a)5i, substituted "The instruction" for "Services"; deleted former (c); and recodified former (d) as (c).

Amended by R.2014 d.047, effective March 17, 2014.

See: 45 N.J.R. 987(a), 46 N.J.R. 505(a).

Rewrote the section.

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 1265) adopted, which found that a student's due process rights were not violated when the Board discussed a disciplinary matter outside of the presence of both parties because the student and his mother were given adequate opportunity to present his version of events at an "informal hearing" and also enjoyed the right to a hearing before the OAL, curing any deficiencies that may have occurred at the district level. *L.L. ex rel. B.L. v. Bd. of Educ. of Clifton*, OAL Dkt. No. EDU 5652-05, 2008 N.J. AGEN LEXIS 1187, Final Decision (October 15, 2008).

There is no requirement that a parent submit a writing to the school administrators that registers his or her disagreement with the discipline imposed upon his or her child before appealing that discipline to the Commissioner. *E.T. ex rel. T.T. v. Bd. of Educ. of Egg Harbor*, OAL Dkt. No. EDU 10505-07, 2008 N.J. AGEN LEXIS 1238, Final Decision (July 7, 2008).

There is no bar in N.J.A.C. 6A:16-7.2 to appealing short-term suspensions to the Commissioner. *E.T. ex rel. T.T. v. Bd. of Educ. of Egg Harbor*, OAL Dkt. No. EDU 10505-07, 2008 N.J. AGEN LEXIS 1238, Final Decision (July 7, 2008).

Case was remanded to the OAL for a hearing with findings of fact and legal conclusions concerning the sufficiency of the district's procedures and the merits of a father's challenge to the eight-day suspension imposed upon his child for making terrorist threat in class. While it was clear that the parents were sent a letter identifying the date of the suspension and the charge, as mandated by N.J.A.C. 6A:16-7.2(a)(3)(i), the facts on which the charge was based, the policy number alleged to have been violated, and articulation of the child's due process rights were not evident in the notice. *E.T. ex rel. T.T. v. Bd. of Educ. of Egg Harbor*, OAL Dkt. No. EDU 10505-07, 2008 N.J. AGEN LEXIS 1238, Final Decision (July 7, 2008).

Initial Decision (2008 N.J. AGEN LEXIS 67) adopted, which concluded that regulations providing for an informal hearing to give students the opportunity to present their version of events regarding the actions leading to the short-term suspension were satisfied where ninth-grade students were given oral notice of allegations of plagiarism in computer assisted drafting class and were afforded an opportunity to explain their side of the story when they made their admission of improper copying of other students' drawings. *T.B.M. ex rel. M.M. v. Moorestown Bd. of Educ.*, OAL Dkt. Nos. EDU 2780-07 and EDU 2782-07 (CONSOLIDATED), Commissioner's Decision (April 7, 2008).

Contrary to petitioner's contention that he should have been afforded a hearing before the board of education, his 10-day suspension for possession of a weapon on school property was a short-term penalty under N.J.A.C. 6A:16-7.2 and petitioner had received the informal hearing required by that rule; in contrast, N.J.A.C. 6A:16-5.5 through N.J.A.C. 6A:16-5.7, relied on by petitioner, are offenses that carry serious penalties, including expulsion and suspensions up to a year or more. *R.O. ex rel. R.O. v. Bd. of Educ. of W. Windsor-Plainsboro*

School Dist., OAL Dkt. No. EDU 2010-05, 2006 N.J. AGEN LEXIS 275, Commissioner's Decision (March 17, 2006).

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 removal from school;

2. Prior to the suspension, an informal hearing during which the student is given the opportunity to present his or her version of events regarding his or her actions leading to the long-term suspension and is provided notice of the school district's actions taken pursuant to N.J.A.C. 6A:16-7.1(c)2 and 5;

3. Immediate notification to the student's parents of the student's removal from school;

4. Appropriate supervision of the student while waiting for the student's parents to remove the student from school during the school day;

5. Written notification to the parents by the chief school administrator or his or her designee within two school days of the initiation of the suspension, stating:

- i. The specific charges;

- ii. The facts on which the charges are based;

- iii. The student's due process rights, pursuant to N.J.A.C. 6A:16-7.1(c)3 and this section; and

- iv. Further engagement by the student in conduct warranting expulsion, pursuant to N.J.S.A. 18A:37-2, shall amount to a knowing and voluntary waiver of the student's right to a free public education, in the event that a decision to expel the student is made by the district board of education, pursuant to N.J.S.A. 18A:37-2 and N.J.A.C. 6A:16-7.4.

- (1) The district board of education shall request from the parent(s) and student written acknowledgement of the notification provided pursuant to (a)5iv above subsequent to the removal of the student from his or her educational program, pursuant to this section;

6. A list of witnesses and their statements or affidavits, if any, no later than five days prior to the formal hearing, pursuant to (a)10 below;

7. For a student with a disability, a manifestation determination, pursuant to N.J.A.C. 6A:14-2.8 and the Federal rules incorporated by reference therein;

8. Information on the student's right to secure an attorney and legal resources available in the community identified pursuant to N.J.A.C. 6A:16-7.1(c)7;

9. Either in- or out-of-school educational services that are comparable to those provided in the public schools for students of similar grades and attainments, pursuant to N.J.S.A. 18A:38-25, which may include a public education program provided in accordance with N.J.A.C. 6A:16-9 or 10.

i. The student's educational services shall be provided within five school days of the suspension.

ii. The district board of education shall make decisions regarding the appropriate educational program and support services for the suspended general education student based on the Core Curriculum Content Standards and the following considerations:

(1) A behavioral assessment or evaluation including, but not limited to, a referral to the child study team, as appropriate;

(2) The results of relevant testing, assessments, or evaluations of the student;

(3) The student's academic, health and behavioral records;

(4) The recommendation of the chief school administrator, principal or other relevant school or community resource;

(5) Considerations of parental input; or

(6) Consultation with the intervention and referral services team, in accordance with N.J.A.C. 6A:16-8.

iii. Educational services provided to a student with a disability shall be provided consistent with N.J.A.C. 6A:14.

10. A formal hearing before the district board of education that shall, at a minimum:

i. Be conducted by the district board of education or delegated by the board to a board committee, a school administrator, or an impartial hearing officer for the purpose of determining facts or making recommendations.

(1) Before taking final action, the district board of education as a whole shall receive and consider either a transcript or detailed report on the hearing;

ii. Include the opportunity for the student to:

(1) Confront and cross-examine witnesses if there is a question of fact; and

(2) Present his or her own defense, and produce oral testimony or written supporting affidavits;

iii. Take place no later than 30 calendar days following the day the student is suspended from the general education program; and

iv. Result in the district board of education's decision that shall be based, at a minimum, on the preponderance of competent and credible evidence;

11. A written statement to the student's parents regarding the district board of education's decision within five school days after the close of the hearing. The statement shall include, at a minimum:

i. The charges considered;

ii. A summary of the documentary or testimonial evidence from both the student and the administration that was brought before the district board of education at the hearing;

iii. Factual findings relative to each charge and the district board of education's determination of each charge;

iv. Identification of the educational services to be provided to the student, pursuant to (a)9 above;

v. The terms and conditions of the suspension; and

vi. The right to appeal to the Commissioner the district board of education's decision regarding the student's general education program, in accordance with N.J.S.A. 18A:37-2.4 and N.J.A.C. 6A:3-1.3 through 1.17;

12. If at any time it is found that the student did not commit the offense, the student shall be immediately returned to the program from which he or she was removed; and

13. At the completion of a long-term suspension, the district board of education shall return a general education student to the general education program.

(b) An appeal of the district board of education's decision regarding the general education student's program shall be made to the Commissioner, in accordance with N.J.S.A. 18A:37-2.4 and N.J.A.C. 6A:3-1.3 through 1.17.

(c) Suspension of a general education student shall not be continued beyond the district board of education's second regularly scheduled meeting following the suspension, unless the district board of education so determines, pursuant to N.J.S.A. 18A:37-5.

1. The district board of education shall determine whether to continue the suspension, pursuant to (a) above, based on the following criteria:

i. The nature and severity of the offense;

ii. Its removal decision;

iii. The results of relevant testing, assessments, or evaluations of the student; and

iv. The recommendation of the chief school administrator, after considering input from the principal or

director of the alternative education program or home or other in-school or out-of-school instruction program in which the student has been placed.

2. The district board of education shall develop and adopt policies and procedures providing for action on the continuation of student suspensions in the event of cancellation of the first or second regular board meeting pursuant to N.J.S.A. 18A:37-4 and 5.

(d) When the district board of education votes to continue a general education student's suspension, it shall review the case, in consultation with the chief school administrator, at each subsequent district board of education meeting for the purpose of determining:

1. The status of the student's suspension;
2. The appropriateness of the suspended student's current educational program; and
3. Whether the suspended student's current placement, pursuant to (a)9 above, should continue or whether the student should return to the general education program.

(e) When the district board of education votes to continue a general education student's suspension, it shall make, in consultation with the chief school administrator, the final determination on:

1. When the student is prepared to return to the general education program;
2. Whether the student will remain in an alternative education program or receive home or other in- or out-of-school instruction, based on the criteria set forth in (c)1i through iv above; or
3. Whether to initiate expulsion proceedings in accordance with N.J.S.A. 18A:37-2 and N.J.A.C. 6A:16-7.4.

(f) The district board of education shall provide a general education student suspended under this section with an appropriate educational program or services, based on the criteria set forth under (a)9ii above, until the student graduates from high school or reaches the age of 20, whichever comes first.

1. The educational program shall be consistent with N.J.A.C. 6A:16-9.2 and 10.2 and 6A:14-2 and 4.3, whichever is applicable; or
2. The educational services provided, either in- or out-of-school, shall be comparable to those provided in the public schools for students of similar grades and attainments, pursuant to N.J.S.A. 18A:38-25.

(g) For a student with a disability who receives a long-term suspension, the district board of education shall proceed in accordance with N.J.A.C. 6A:14 in determining or changing the student's educational placement to an interim or alternate educational setting.

1. All procedural protections set forth in N.J.A.C. 6A:14 and this section shall be afforded to a student with a disability who is subjected to a long-term suspension.

2. All decisions concerning the student's educational program or placement shall be made by the student's individualized education program team.

3. The provisions of (b) through (f) above shall not apply to students with disabilities.

Amended by R.2006 d.366, effective October 16, 2006.

See: 38 N.J.R. 2294(a), 38 N.J.R. 4411(c).

In introductory paragraph of (a), inserted "consecutive" and "the following"; added new (a)2; recodified former (a)2 through (a)12 as present (a)3 through (a)13; in (a)6, inserted "no later than five days prior to the formal hearing, pursuant to a(10) below"; in (a)7, substituted "the Federal" for "federal"; added new (a)9ii; recodified former (a)9ii as (a)9iii; in (a)10i, substituted a comma for "or to" following "committee" and inserted "or an impartial hearing officer"; in (a)10iii, deleted "and" from the end; in (a)10iv, inserted "and" at the end; added (a)10v; in (a)11ii, deleted "and" from the end; in (a)11iii, inserted "of each charge"; added (a)11iv through (a)11vi; in (a)12, substituted "did not commit" for "is not guilty of" and deleted "and" from the end; in (a)13, substituted "to have committed" for "guilty of" and "and" for a period at the end; added (a)14; in (b), substituted "general education student's" for "student's general education"; in introductory paragraph of (c), substituted "shall" for "may"; in (c)2, inserted "develop and"; in (d)3, substituted "Whether" for "If" and "whether" for "if" and inserted "pursuant to (a)9 above"; deleted (f), recodified (g) and (h) as (f) and (g); in introductory paragraph of (f), substituted "The" for "A" and "(a)9ii" for "(f)" and inserted "whichever comes first" at the end; in the introductory paragraph of (g), substituted "in determining" for "-2.8 in determining"; and in (g)1, inserted "and this section".

Amended by R.2007 d.184, effective June 4, 2007.

See: 39 N.J.R. 294(a), 39 N.J.R. 2243(a).

In (a)5iii, updated the first N.J.A.C. reference; in (a)10i and (a)10i(1), inserted "district", in (a)10iii, inserted "and" at the end; deleted former (a)10iv; recodified former (a)10v as (a)10iv; in (c)1iv, inserted "in-school or"; and in (g)3, substituted "(f)" for "(g)".

Amended by R.2014 d.047, effective March 17, 2014.

See: 45 N.J.R. 987(a), 46 N.J.R. 505(a).

Rewrote the section.

Case Notes

Parents of a student who was suspended and was offered an alternative educational placement in accordance with N.J.A.C. 6A:16-7.3(a) failed to state a Fourteenth Amendment substantive due process claim arising from school officials' alleged coercion of the parents to accept the student's classification under the Individuals with Disabilities Education Act in order to avoid the alternative placement; although the student had a protected right to a free public education pursuant to N.J.S.A. 18A:38-1, the parents failed to allege that there was no rational basis for the student's suspension. *M.G. v. Crisfield*, 547 F.Supp.2d 399, 2008 U.S. Dist. LEXIS 16953 (D.N.J. 2008).

ALJ erred in substituting her judgment for that of the Board and modifying the length and terms of the Board's suspension of a student because there was a presumption of validity that attached to decisions of a Board and such decisions could not be overturned unless the action was arbitrary, capricious, or unreasonable. The long-term suspension in this case was appropriate where there was no question that the student used profanity, was willfully disobedient, and was openly defiant to an individual who had authority over her, and where the student had a lengthy disciplinary record (rejecting 2009 N.J. AGEN LEXIS 950). *A.F. ex rel. J.H. v. Bd. of Educ. of Monmouth Reg'l School Dist.*, OAL Dkt. No. EDU 4547-09, 2009 N.J. AGEN LEXIS 743, Final Decision (September 15, 2009).

6A:16-7.4 Expulsions

(a) A district board of education may expel a general education student from school, pursuant to N.J.S.A. 18A:37-2, only after the district board of education has provided the following:

1. The procedural due process rights set forth at N.J.A.C. 6A:16-7.1(c)3 and 7.3, subsequent to a long-term suspension, pursuant to N.J.A.C. 6A:16-7.3; and

2. An appropriate educational program or service, based on the criteria set forth at N.J.A.C. 6A:16-7.3(f).

i. The educational program or service shall be consistent with the provisions of N.J.A.C. 6A:16-9.2 and 10.2 and 6A:14-2 and 4.3, whichever are applicable; or

ii. The educational services provided, either in or out of school, shall be comparable to those provided in the public schools for students of similar grades and attainments, pursuant to N.J.S.A. 18A:38-25.

(b) An appeal of the district board of education's decision regarding the cessation of the student's general education program shall be made to the Commissioner in accordance with N.J.S.A. 18A:6-9 and N.J.A.C. 6A:3-1.3 through 1.17.

1. A district board of education shall continue to provide an appropriate educational program or service in accordance with (a)2 above until a final determination has been made on the appeal of the district board of education's action to expel a student.

(c) A student with a disability shall only be expelled from his or her current program in accordance with N.J.A.C. 6A:14.

Recodified from N.J.A.C. 6A:16-7.5 and amended by R.2014 d.047, effective March 17, 2014.

See: 45 N.J.R. 987(a), 46 N.J.R. 505(a).

Rewrote the section. Former N.J.A.C. 6A:16-7.4, Mandated student removals from general education, repealed.

6A:16-7.5 Conduct away from school grounds

(a) School authorities have the right to impose a consequence on a student for conduct away from school grounds that is consistent with the district board of education's code of student conduct, pursuant to N.J.A.C. 6A:16-7.1.

1. This authority shall be exercised only when it is reasonably necessary for the student's physical or emotional safety, security and well-being or for reasons relating to the safety, security and well-being of other students, staff or school grounds, pursuant to N.J.S.A. 18A:25-2 and 18A:37-2.

2. This authority shall be exercised only when the conduct that is the subject of the proposed consequence materially and substantially interferes with the requirements of appropriate discipline in the operation of the school.

3. The consequence pursuant to (a) above shall be handled in accordance with the district board of education's approved code of student conduct, pursuant to N.J.A.C. 6A:16-7.1, and as appropriate, in accordance with N.J.A.C. 6A:16-7.2, 7.3, or 7.4.

(b) School authorities shall respond to harassment, intimidation, or bullying that occurs off school grounds, pursuant to N.J.S.A. 18A:37-14 and 15.3 and N.J.A.C. 6A:16-1.3, 7.1, and 7.7.

Amended by R.2006 d.366, effective October 16, 2006.

See: 38 N.J.R. 2294(a), 38 N.J.R. 4411(c).

In (a)1, inserted ", security" two times.

Recodified from N.J.A.C. 6A:16-7.6 and amended by R.2014 d.047, effective March 17, 2014.

See: 45 N.J.R. 987(a), 46 N.J.R. 505(a).

In the introductory paragraph of (a), deleted ", including on a school bus or at a school-sponsored function" following "grounds"; in (a)2, substituted "that" for "which"; in (a)3, substituted "education's" for "education", inserted a comma following "7.3", and substituted "7.4" for "7.5"; and added (b). Former N.J.A.C. 6A:16-7.5, Expulsions, recodified to N.J.A.C. 6A:16-7.4.

6A:16-7.6 Attendance

(a) Each district board of education shall develop, adopt, and implement policies and procedures regarding the attendance of students, pursuant to N.J.S.A. 18A:38-25 through 31 and N.J.A.C. 6A:32-8 and 13.1, at the public schools of the school district or at day schools in which students are provided with equivalent instruction, pursuant to N.J.S.A. 18A:38-25. The policies and procedures shall include, at a minimum:

1. The expectations and consequences regarding students' timely arrival of students to school and classes;

2. The expectations and consequences regarding attendance at school and classes;

3. A definition of unexcused absence that counts toward truancy, for the purpose of this section, that, at a minimum, shall be consistent with the definition of a school day, pursuant to N.J.A.C. 6A:32-8.3;

4. School staff responses for unexcused absences:

i. For up to four cumulative unexcused absences, the school district shall:

(1) Make a reasonable attempt to notify the student's parents of each unexcused absence prior to the start of the following school day;

(2) Make a reasonable attempt to determine the cause of the unexcused absence, including through contact with the student's parents;

(3) Identify in consultation with the student's parents needed action designed to address patterns of unexcused absences, if any, and to have the child return to school and maintain regular attendance;

(4) Proceed in accordance with N.J.S.A. 9:6-1 et seq. and N.J.A.C. 6A:16-11 if a potential missing or abused child situation is detected; and

(5) Cooperate with law enforcement and other authorities and agencies, as appropriate;

ii. For between five and nine cumulative unexcused absences, the school district shall:

(1) Make a reasonable attempt to notify the student's parents of each unexcused absence prior to the start of the following school day;

(2) Make a reasonable attempt to determine the cause of the unexcused absence, including through contact with the student's parents;

(3) Evaluate the appropriateness of action taken pursuant to (a)4i(3) above;

(4) Develop an action plan to establish outcomes based upon the student's patterns of unexcused absences and to specify the interventions for supporting the student's return to school and regular attendance, which may include any or all of the following:

(A) Refer or consult with the building's intervention and referral services team, pursuant to N.J.A.C. 6A:16-8;

(B) Conduct testing, assessments or evaluations of the student's academic, behavioral and health needs;

(C) Consider an alternate educational placement;

(D) Make a referral to or coordinate with a community-based social and health provider agency or other community resource;

(E) Refer to a court or court program pursuant to (a)4iv below;

(F) Proceed in accordance with N.J.S.A. 9:6-1 et seq. and N.J.A.C. 6A:16-10 if a potential missing or abused child situation is detected; and

(G) Engage the student's family.

(5) Cooperate with law enforcement and other authorities and agencies, as appropriate.

iii. For cumulative unexcused absences of 10 or more, a student between the ages of six and 16 is truant, pursuant to N.J.S.A. 18A:38-25, and the school district shall:

(1) Make a determination regarding the need for a court referral for the truancy, per (a)4iv below;

(2) Continue to consult with the parent and the involved agencies to support the student's return to school and regular attendance;

(3) Cooperate with law enforcement and other authorities and agencies, as appropriate; and

(4) Proceed in accordance with N.J.S.A. 18A:38-28 through 31, Article 3B, Compelling Attendance at School, and other applicable State and Federal statutes, as required; and

iv. A court referral may be made as follows:

(1) When unexcused absences are determined by school officials to be violations of the compulsory education law, pursuant to N.J.S.A. 18A:38-25, and the district board of education's policies, in accordance with (a) above, the parent may be referred to municipal court;

(A) A written report of the actions the school has taken regarding the student's attendance shall be forwarded to the municipal court; or

(2) When there is evidence of a juvenile-family crisis, pursuant to N.J.S.A. 2A:4A-22.g, the student may be referred to Superior Court, Chancery Division, Family Part;

(A) A written report of the actions the school has taken regarding the student's attendance shall be forwarded to the juvenile-family crisis intervention unit.

(b) For a student with a disability, the attendance plan and its punitive and remedial procedures shall be applied, where applicable, in accordance with the student's individualized education program, pursuant to 20 U.S.C. §§1400 et seq., the Individuals with Disabilities Education Act; the procedural protections set forth in N.J.A.C. 6A:14; accommodation plan under 29 U.S.C. §§794 and 705(20); and individualized healthcare plan and individualized emergency healthcare plan, pursuant to N.J.A.C. 6A:16-2.3(b)5xii.

(c) All receiving schools pursuant to N.J.A.C. 6A:14-7.1(a), shall act in accordance with (a)4i above for each student with up to four cumulative unexcused absences.

1. For each student attending a receiving school with five or more cumulative unexcused absences, the absences shall be reported to the sending school district.

i. The sending school district shall proceed in accordance with the district board of education policies and procedures pursuant to (a) above and the provisions of (a)4ii through iv and (b) above, as appropriate.

Amended by R.2006 d.366, effective October 16, 2006.

See: 38 N.J.R. 2294(a), 38 N.J.R. 4411(c).

In introductory paragraph of (a), inserted "develop," and updated N.J.A.C. reference; in introductory paragraph of (a)3, updated N.J.A.C. reference; in (a)3iii, deleted "and" from the end; added new (a)3iv; recodified and rewrote former (a)3iv as (a)3v; rewrote (a)4i(4) and (a)4ii(4)(F); in the introductory paragraph of (a)4iii, inserted "between the ages of six and 16,"; in (b), inserted "et seq." and "Education Improvement", and updated the N.J.A.C. reference at the end; and in (c)1 and (c)1i, inserted "school" preceding "district".

Amended by R.2007 d.184, effective June 4, 2007.

See: 39 N.J.R. 294(a), 39 N.J.R. 2243(a).

In (a)4i(2), substituted "to determine" for "of".

Recodified from N.J.A.C. 6A:16-7.8 and amended by R.2014 d.047, effective March 17, 2014.

See: 45 N.J.R. 987(a), 46 N.J.R. 505(a).

Rewrote the section. Former N.J.A.C. 6A:16-7.6, Conduct away from school grounds, recodified to N.J.A.C. 6A:16-7.5.

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

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

1. Each district board of education shall develop the policy in consultation with, at a minimum, parents and other community members, school employees, school volunteers, students, and school administrators.

2. Each district board of education shall have control over the content of the policy, except that it shall contain, at a minimum, the following components:

i. A statement prohibiting harassment, intimidation or bullying of a student;

ii. A definition of harassment, intimidation or bullying no less inclusive than that set forth in the definition at N.J.S.A. 18A:37-14 and N.J.A.C. 6A:16-1.3;

iii. A description of the type of behavior expected from each student;

iv. 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 developmental age of the student and the student's history of problem behaviors and performance and that may include the following:

(1) A behavioral assessment or evaluation including, but not limited to, a referral to the child study team, as appropriate; and

(2) Supportive interventions and referral services, including those at N.J.A.C. 6A:16-8;

v. Consequences for a student who commits an act of harassment, intimidation, or bullying that are:

(1) Varied and graded according to the nature of the behavior, the developmental age of the student and the student's history of problem behaviors and performance; and

(2) Consistent with the provisions of N.J.A.C. 6A:16-7, as appropriate;

vi. Appropriate consequences and remedial action for a staff member who commits an act of harassment, intimidation, or bullying;

vii. A procedure for reporting, verbally and in writing, an act of harassment, intimidation, or bullying, including a provision that permits a person to report anonymously consistent with N.J.S.A. 18A:37-15.b(5);

(1) The district board of education shall not take formal disciplinary action based solely on the anonymous report;

viii. 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;

ix. A requirement for the principal, in conjunction with the school anti-bullying specialist, to define the range of ways in which a school will respond once an incident of harassment, intimidation, or bullying is identified, consistent with the range of responses adopted by the board of education, pursuant to N.J.S.A. 18A:37-15.b(7);

(1) The responses, at a minimum, shall include support for victims of harassment, intimidation, or bullying and corrective actions for documented systemic problems related to harassment, intimidation, or bullying;

x. A statement that prohibits a district board of education member, school employee, student, or volunteer from engaging in reprisal, retaliation, or false accusation against a victim, witness, or any person who reports or has reliable information about an act of harassment, intimidation, or bullying.

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

xi. Consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or harassment, intimidation, or bullying;

xii. A statement of how the harassment, intimidation, and bullying policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions and on school buses.

(1) Notice of the district board of education's policy shall appear in any publication of the school district that sets forth the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1, for schools within the school district;

xiii. A requirement that a link to the harassment, intimidation, and bullying policy be posted prominently on the home page of the school district's and each school's website;

xiv. A requirement that the harassment, intimidation, and bullying policy be distributed annually to all school staff, students, and parents;

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

(a) The district board of education shall provide instructional services to an enrolled general education student at the student's home or other suitable out-of-school setting under the following conditions:

1. The student is mandated by State law and rule for placement in an alternative education program, but placement is not immediately available;
2. The student is placed on short- or long-term suspension from participation in the general education program; or
3. A court order requires the student to receive instructional services in the home or other out-of-school setting.

(b) The school district shall provide services no later than five school days after the student has left the general education program.

(c) The school district in which a student resides shall be responsible for the costs of providing instruction in the home or out-of-school setting either directly, or through online services, including any needed equipment, or through contract with another board of education, educational services commission, jointure commission, or approved clinic or agency.

(d) The services shall meet the following minimum standards:

1. The school district shall establish a written plan for delivery of instruction and maintain a record of instructional services and student progress.
2. The teacher providing instruction shall be a certified teacher.
3. The teacher shall provide one-on-one instruction for no fewer than 10 hours per week on three separate days of the week and no fewer than 10 hours per week of additional guided-learning experiences that may include the use of technology to provide audio and visual connections to the student's classroom.
4. The instruction shall meet the Core Curriculum Content Standards and the district board of education's requirements for promotion and graduation.

(e) If instruction is delivered in the student's home, a parent or other adult 21 years of age or older who has been designated by the parent shall be present during all periods of home instruction.

Amended by R.2005 d.297, effective September 6, 2005.
See: 37 N.J.R. 1570(a), 37 N.J.R. 3295(b).

Technical changes to (a)2; and updated N.J.A.C. cite in (b)8.

Recodified in part from N.J.A.C. 6A:16-10.1 and amended by R.2006 d.366, effective October 16, 2006.

See: 38 N.J.R. 2294(a), 38 N.J.R. 4411(c).

Section was "Student placement". Section combined with former N.J.A.C. 6A:16-10.2, Service requirement, and substantially amended. Amended by R.2014 d.047, effective March 17, 2014.

See: 45 N.J.R. 987(a), 46 N.J.R. 505(a).

Rewrote the section.

SUBCHAPTER 11. REPORTING POTENTIALLY MISSING, ABUSED, OR NEGLECTED CHILDREN

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. A statement indicating the importance of early detection of missing, abused or neglected children;

2. Provisions requiring school district employees, volunteers, or interns to immediately notify designated child welfare authorities of incidents of alleged missing, abused, and neglected children.

i. The person having reason to believe that a child may be missing or may have been abused or neglected may inform the principal or other designated school official(s) prior to notifying designated child welfare authorities if the action will not delay immediate notification.

ii. The person notifying designated child welfare authorities shall inform the principal or other designated school official(s) of the notification, if such had not occurred prior to the notification;

(1) Notice to the principal or other designated school official(s) need not be given when the person believes the notice would likely endanger the reporter or student involved or when the person believes the disclosure would likely result in retaliation against the student or in discrimination against the reporter with respect to his or her 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 designees responsible for reporting to the designated law enforcement authorities.

ii. The school district policies and procedures shall be consistent with the memorandum of agreement between education and law enforcement authorities pursuant to N.J.A.C. 6A:16-6.2(b)13.

iii. Law enforcement authorities shall be notified about all reports by employees, volunteers, or interns working in the school district made pursuant to (a)2 above;

(1) The notification to designated law enforcement authorities on behalf of a student attending a receiving school shall be made to the law enforcement authorities identified in the receiving school's memorandum of agreement as required by N.J.A.C. 6A:16-6.2(b)13;

4. Under no condition shall the school district's policy require confirmation by another person to report the suspected missing-, abused-, or neglected-child situation;

5. Provisions for school district cooperation with designated child welfare and law enforcement authorities in all investigations of potential missing, abused, or neglected children including the following:

i. Accommodations permitting the child welfare and law enforcement investigators to interview the student in the presence of the school principal or other designated school official.

(1) If the student is intimidated by the presence of the school representative, the student shall be requested to name an employee, volunteer, or intern working in the school district whom he or she feels will be supportive and who will be allowed to accompany the student during the interview;

ii. Scheduling interviews with an employee, volunteer, or intern working in the school district who may have information relevant to the investigation;

iii. The release of all records of the student who is the subject of the investigation that are deemed relevant to the assessment or treatment of a potentially missing, abused, or neglected child pursuant to N.J.S.A. 18A:36-19 and 9:8-8.40 and allowable under the Family Education 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. 9:8-8.40, 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 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 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 home, as specified in 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 home by designated child welfare authorities for proper care and protection pursuant to N.J.S.A. 9:6-8.28 and 8.29;

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

7. A provision for designating a school district liaison to law enforcement authorities to act as the primary contact person between schools in the school district and law enforcement authorities, pursuant to N.J.A.C. 6A:16-6.2(b)1, consistent with the memorandum of understanding, pursuant to N.J.A.C. 6A:16-6.2(b)13.

i. The designation of the school district liaison shall be consistent with the policies and procedures established by the district board of education for ensuring cooperation between school and law enforcement officials, pursuant to N.J.A.C. 6A:16-6.2(b)1;

8. Provisions for training employees, volunteers, and interns working in the school district on the school district's policies and procedures for reporting allegations of missing-, abused-, or neglected-child situations.

i. All new employees, volunteers and interns working in the school district shall receive the required information and training as part of their orientation;

9. Provisions regarding due process rights of an employee, volunteer, or intern working in the school district who has been named as a suspect in a notification to child welfare and law enforcement authorities regarding a missing-, abused-, or neglected-child situation.

i. Temporary reassignment or suspension of an employee, volunteer, or intern working in a school district named as a suspect pursuant to (a)2 above shall

occur only if there is reason to believe that the life or health of the alleged victim or other student is in jeopardy due to continued contact between the school employee, volunteer, or intern and the student.

ii. All references to a notification to the designated child welfare authorities of a potential missing-, abused-, or neglected-child situation involving a school district employee shall be removed from the employee's personnel records immediately following the receipt of an official notice from child welfare authorities that the allegation was unfounded pursuant to N.J.S.A. 18A:6-7a; and

10. A statement that prohibits reprisal or retaliation against any person who, in good faith, reports or causes a

report to be made of a potential missing-, abused-, or neglected-child situation pursuant to N.J.S.A. 9:6-8.13.

(b) The district board of education shall develop and adopt policies and procedures for school district employees, volunteers, or interns with reasonable cause to suspect or believe that a student has attempted or contemplated suicide, to report the information to the Department of Children and Families, Division of Child Protection and Permanency, in a form and manner prescribed by the Division of Child Protection and Permanency pursuant to N.J.S.A. 30:9A-24.a.

Repeal and New Rule, R.2007 d.184, effective June 4, 2007.

See: 39 N.J.R. 294(a), 39 N.J.R. 2243(a).

Amended by R.2014 d.047, effective March 17, 2014.

See: 45 N.J.R. 987(a), 46 N.J.R. 505(a).

Rewrote the section.