

(b) A school employee, student or volunteer shall not engage in reprisal, retaliation or false accusation against a victim, witness or one with reliable information about an act of harassment, intimidation or bullying.

(c) A school employee, student or volunteer who has witnessed, or has reliable information that a student has been subject to harassment, intimidation or bullying shall report the incident to the appropriate school official designated by the district board of education's policy, pursuant to N.J.S.A. 18A:37-15 and (a) above.

1. A school employee who promptly reports an incident of harassment, intimidation or bullying to the appropriate school official designated by the district board of education's policy, and who makes this report in compliance with the procedures set forth in the district board of education's policy, is immune from a cause of action for damages arising from any failure to remedy the reported incident, as set forth in N.J.S.A. 18A:37-16(4)c.

(d) The district board of education shall:

1. Annually review the training needs of school district staff for the effective implementation of the harassment, intimidation and bullying policies, procedures, programs and initiatives of the district board of education and implement locally determined staff training programs consistent with the annual review of training needs and the findings of the annual review and update of the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1(a)3, as determined appropriate by the district board of education.

i. Information regarding the district board of education's policy against harassment, intimidation or bullying shall be incorporated into the school district's employee training program;

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

3. Annually review the extent and characteristics of harassment, intimidation and bullying behavior in the school buildings of the school district and implement locally determined programmatic or other responses, if determined appropriate by the district board of education.

i. The programs or other services shall be planned in consultation with parents, students and other community members, including appropriate community-based social and health provider agencies, law enforcement officials, school employees, school volunteers, students and school administrators, as appropriate.

(e) These requirements are promulgated pursuant to N.J.S.A. 18A:37-13 through 18 and shall not be interpreted to prevent a victim from seeking redress under any other available law either civil or criminal.

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 "and implement"; in (a)2ix, substituted a period for a semicolon at the end; added (a)2ix(1); in (d)1, inserted "school", and in (d)1i, deleted comma following "intimidation".

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

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

Rewrote (a)2x.

6A:16-7.10 Student records and confidentiality

(a) When a student transfers to a public school district from another public school district, all information in the student's record related to disciplinary actions taken against the student by the school district and any information the school district has obtained pursuant to N.J.S.A. 2A:4A-60, Disclosure of juvenile information; penalties for disclosure, shall be provided to the receiving public school district, in accordance with the provisions of N.J.S.A. 18A:36-19a and N.J.A.C. 6A:32-7.5(f)10iii through v.

1. The record shall be provided within two weeks of the date that the student enrolls in the receiving school district.

2. Written consent of the parent or adult student shall not be required as a condition of the transfer of this information.

i. Written notice of the transfer shall be provided to the parent or the adult student.

(b) When a student transfers to a private school, which includes all sectarian or nonsectarian nonprofit institutional day or residential schools that provide education for students placed by their parents and that are controlled by other than public authority, all student disciplinary records, with respect to suspensions or expulsions, shall be provided by the public school district of residence to the private school upon written request from the private school, in the same manner as such records would be provided by a public school district of residence to a public school district, pursuant to 20 U.S.C. §6301, Title IV(A)IV §4155 of the Elementary and Secondary Education Act as reauthorized under the No Child Left Behind Act.

(c) A district board of education shall not use a student's past offenses on record to discriminate against that student.

(d) All records maintained in this subchapter shall conform with the requirements set forth at 20 U.S.C. §1232g and 34 CFR Part 99, Family Educational Rights and Privacy Act; 20 U.S.C. §1232h and 34 CFR Part 98, Protection of Pupil Rights Amendment; N.J.A.C. 6A:32-7, Student Records; 45 CFR §160, Health Insurance Portability and Accountability Act; 20 U.S.C. §6301, Title IV(A)IV §4155 of the Elementary and Secondary Education Act as reauthorized under the No Child Left Behind Act; 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records; N.J.S.A. 18A:40A-7.1, School-based drug and alcohol abuse counseling; information from participants; disclosure; N.J.A.C. 6A:16-3.2, Confidentiality of student alcohol and other drug information; N.J.S.A. 18A:36-19, Creation; Pupil Records:

Maintenance and Retention, Security and Access; Regulations; Non-Liability; N.J.A.C. 6A:14-2.9, Student records; as well as other existing Federal and State laws pertaining to student records and confidentiality.

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 "school" preceding "district" two times and updated N.J.A.C. reference; and in (d), substituted "6A:32-7, Student Records" for "6:3-6, Pupil Records".

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), deleted the comma following "subchapter" and substituted "20 U.S.C. §1232g" for "20 U.S.C §1232g".

Case Notes

Board did not have the authority to enter into a settlement agreement with parents in which one of the terms of the settlement was that the student's disciplinary records would not follow him to high school; the district did not have a high school and students who successfully completed eighth grade were sent to the Phillipsburg school district for their secondary education. N.J.A.C. 6A:16-7.10 required that the student's disciplinary records follow him to Phillipsburg. K.Y. ex rel. D.Y. v. Bd. of Educ. of Greenwich, OAL Dkt. No. EDU 5839-09, 2009 N.J. AGEN LEXIS 838, Final Decision (July 24, 2009).

N.J.A.C. 6A:16-7.10, which requires the transfer of disciplinary records between school districts, does not contain a provision limiting the receiving schools to schools located in New Jersey. S.S. & E.S. ex rel. E.S. v. Bd. of Educ. of Union, OAL Dkt. No. EDU 5179-07, 2007 N.J. AGEN LEXIS 1006, Commissioner's Decision (August 23, 2007).

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 a coordinated system in each school building in which general education students are served, for the planning and delivery of intervention and referral services that are 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 multi-disciplinary team approach for planning and delivering the services required under this subchapter.

1. The intervention and referral services shall be provided to aid students in the general education program; and

2. The intervention and referral services, pursuant to N.J.S.A. 18A:46-18.1 et seq. and this subchapter, may be provided for students who have been determined to be in need of special education programs and services.

i. The intervention and referral services provided for students who have been determined to be in need of special education programs and services shall be coordinated with the student's Individualized Education Program team, as appropriate.

Amended by R.2005 d.297, effective September 6, 2005.

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

In (a), inserted "in which general education students are served" following "school building".

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), deleted comma following second occurrence of "behavior"; and in (a)2i, substituted "who have been determined to be in need of special education programs and services" for "with learning disabilities".

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

(a) The functions of the system of intervention and referral services in each school building shall be to:

1. Identify learning, behavior and health difficulties of students;

2. Collect thorough information on the identified learning, behavior and health difficulties;

3. Develop and implement action plans which provide for appropriate school or community interventions or referrals to school and community resources, based on the collected data and desired outcomes for the identified learning, behavior and health difficulties;

4. Provide support, guidance and professional development to school staff who identify learning, behavior and health difficulties;

5. Provide support, guidance and professional development to school staff who participate in each building's system for planning and providing intervention and referral services;

6. Actively involve parents or guardians in the development and implementation of intervention and referral services action plans;

7. Coordinate the access to and delivery of school resources and services for achieving the outcomes identified in the intervention and referral services action plans;

8. Coordinate the services of community-based social and health provider agencies and other community resources for achieving the outcomes identified in the intervention and referral services action plans;

9. Maintain records of all requests for assistance and all intervention and referral services action plans and all related student information, according to the requirements of 20 U.S.C. §1232g and 34 CFR Part 99, Family Educational Rights and Privacy Act; 20 U.S.C. §1232h and 34 CFR Part 98, Protection of Pupil Rights Amendment; N.J.A.C. 6A:32-7, Student Records; 45 CFR §160, Health Insurance Portability and Accountability Act; 20 U.S.C. §6301, Title IV(A)IV §4155 of the Elementary and Secondary Education Act as reauthorized under the No Child Left Behind Act; 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records; N.J.S.A. 18A:40A-7.1, School-based drug and alcohol abuse counseling; information from participants; disclosure; N.J.A.C. 6A:16-3.2, Confidentiality of student alcohol and other drug information;

N.J.S.A. 18A:36-19, Creation; Pupil Records: Maintenance and Retention, Security and Access; Regulations; Non-Liability; N.J.A.C. 6A:14-2.9, Student records; as well as other existing Federal and State laws pertaining to student records and confidentiality.

10. Review and assess the effectiveness of the provisions of each intervention and referral services action plan in achieving the outcomes identified in each action plan and modify each action plan to achieve the outcomes, as appropriate; and

11. At a minimum, annually review the intervention and referral services action plans and the actions taken as a result of the building's system of intervention and referral services and make recommendations to the principal for improving school programs and services, as appropriate.

Amended by R.2005 d.297, effective September 6, 2005.

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

Rewrote (a)9.

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 through (a)4, deleted comma following "behavior"; in (a)4 and (a)5, deleted comma following "guidance"; and in (a)9, substituted "6A:32-7, Student Records" for "6:3-6, Pupil Records".

6A:16-8.3 School staff and community member roles for planning and implementing intervention and referral services

(a) The district board of education shall establish written guidelines for the involvement of school staff and community members in each building's system of intervention and referral services, which shall, at a minimum:

1. Identify the roles and responsibilities of the building staff who participate in each building's coordinated system for planning and providing intervention and referral services, including the roles and responsibilities of staff members who identify learning, behavior or health difficulties;

2. Identify the roles and responsibilities of other school district staff for aiding in the development and implementation of intervention and referral services action plans; and

3. Identify the roles, responsibilities and parameters for the participation of community members for aiding in the development and implementation of intervention and referral services action plans.

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