

CHAPTER 16

PROGRAMS TO SUPPORT STUDENT DEVELOPMENT

Authority

N.J.S.A. 2A:4A-60, 2C:33-19, 18:36-5.1, 18A:4-15, 18A:17-46, 18A:25-2, 18A:36-5.1, 18A:36-19, 18A:36-19a, 18A:37-1 through 5, 18A:37-2.1, 18A:37-13 et seq., 18A:38-25 through 31 and 18A:40A-7.1; 20 U.S.C. §1232g, 20 U.S.C. §1232h and 20 U.S.C. §1400; 34 CFR Part 98 and 34 CFR Part 99; 42 CFR Part 2; 45 CFR §160; Section 504 of the Rehabilitation Act of 1973, P.L. 107-110 (Title IV, Part A, Subpart 4, Section 415, and Title IX, Part E, Subpart 2, Section 9532); and P.L. 2001, c. 246.

Source and Effective Date

R.2001 d.138, effective May 7, 2001.
See: 33 N.J.R. 399(a), 33 N.J.R. 1443(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 16, Programs to Support Student Development, expires on November 3, 2006. See: 38 N.J.R. 2294(a).

Chapter Historical Note

Chapter 16, Programs to Support Student Development, was adopted by R.2001 d.138, effective May 7, 2001. See: Source and Effective Date.

Subchapter 7, Student Conduct, adopted as new rules. Former Subchapter 7, Intervention and Referral Services, recodified as Subchapter 8; Subchapter 8, Alternative Education Programs, recodified as Subchapter 9; Subchapter 9, Home or Out-of-School Instruction for General Education Students, recodified as Subchapter 10; Subchapter 10, Reporting Allegations of Child Abuse and Neglect, recodified as Subchapter 11 by R.2005 d.297, effective September 6, 2005. See: 37 N.J.R. 1570(a), 37 N.J.R. 3295(b).

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SUBCHAPTER 1. GENERAL PROVISIONS

6A:16-1.1 Purpose

These rules specify minimum standards for district boards of education in establishing policies and procedures and in operating programs to support the social, emotional and physical development of students. Programs to support student development include school health services, athletic programs, intervention and referral services, programs of substance use prevention, intervention and treatment referral, school safety and alternative education. Included in these rules are standards for the delivery of educational services to general education students who are excluded from the general school setting for disciplinary reasons.

6A:16-1.2 Scope

These rules apply to the provision of programs and services for all preschool students with disabilities and all students in kindergarten through grade 12 by New Jersey public school districts, charter schools, licensed schools acting under contract to provide educational services on behalf of New Jersey public school districts and school programs operated by or under contract with the New Jersey Departments of Corrections and Human Services and the Juvenile Justice Commission, unless otherwise indicated. Throughout this chapter, "district board of education" refers to the governing authority for all of the agencies identified in N.J.A.C. 6A:16-1.2, unless otherwise indicated.

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

Added " , unless otherwise indicated. Throughout this chapter, 'district board of education' refers to the governing authority for all of the agencies identified in N.J.A.C. 6A:16-1.2, unless otherwise indicated" following "Juvenile Justice Commission".

6A:16-1.3 Definitions

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

"Advanced practice nurse" means a person who holds current certification as nurse practitioner/clinical nurse specialist from the State Board of Nursing.

"AIDS" means Acquired Immunodeficiency Syndrome.

"Alternative education program" means a non-traditional learning environment that addresses the individual learning styles and needs of disruptive or disaffected students at risk of school failure or mandated for removal from general education, that is based upon an Individualized Program Plan and New Jersey Core Curriculum Content Standards and has been approved by the Commissioner of Education, pursuant to N.J.A.C. 6A:16-9.

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

"Automatic external defibrillator" means a device that automatically detects shockable cardiac arrhythmia and can provide defibrillation as part of basic life support in non-healthcare settings.

"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 Endorsement: School Nurse from the Department of Education.

"Code of student conduct" means standards, policies and procedures established by district boards of education for positive student development and student behavioral expectations on school grounds, including on school buses or at school-sponsored functions, and, as appropriate, conduct away from school grounds, in accordance with N.J.A.C. 6A:16-7.6.

"Commissioner" means the Commissioner of Education or his or her designee.

"Delegation" means the transfer of responsibility for performance of an activity from one individual to another, with the former retaining accountability for the outcome.

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

"Evaluation" means those procedures used by a certified or licensed professional to make a positive determination of a student's need for programs and services which extend beyond the general school program by virtue of learning, behavior or health difficulties of the student or the student's family.

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

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

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

"Harassment, intimidation or bullying" means any gesture or written, verbal or physical act 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 or on a school bus and that a reasonable person should know, under the circumstances, will have the effect of harming a student or damaging the student's property or placing a student in reasonable fear of harm to his or her person or damage to his or her property; or has the effect of insulting or demeaning any student or group of students in such a way as to cause substantial disruption in, or substantial interference with, the orderly operation of the school.

"Health history" means the record of a person's past health events obtained by school staff from the individual, a parent or guardian or health care provider.

"Health screening" means procedures designed to detect previously unrecognized conditions as early as possible in order to provide early intervention and remediation and to limit potential disability or negative impact on scholastic performance.

"Home instruction" means the provision of one-to-one instruction in the student's place of residence or other appropriate setting for disciplinary or safety reasons. Home instruction for reason of disability or medical condition is addressed in N.J.A.C. 6A:14-4.8 and 4.9.

"Independent contractor" means an individual whose employment criteria satisfy those requirements necessary for treatment as an independent contractor for Federal employment tax purposes.

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

"Intervention" means those programs, services and actions taken to identify and offer help to a student at risk for learning, behavior or health difficulties.

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

"Medical home" means a health care provider and that provider's practice site chosen by the student's parent or guardian for the provision of health care.

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

"Medical examination" means the assessment of an individual's health status.

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

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

"Parent" means the natural parent(s) or adoptive parent(s), legal guardian(s), foster parent(s) or parent surrogate(s) of a student. Where 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 such 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. 6:3-6.1 to act on behalf of a student whose parent(s) is not available to assure the student's education rights.

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

"Referral for evaluation" means those programs and services offered to a student or his or her family in order to make a positive determination regarding a student's need for services which extend beyond the general school program.

"Referral for treatment" means those programs and services offered to a student or to his or her family to help implement the recommendations of an evaluation or in response to the family's request for assistance with a learning, behavior or health difficulty.

"Registered professional nurse" means a person with a current license for this level of practice from the State Board of Nursing.

"School complex" means one building or a group of buildings identified for the purpose of assigning school nurses, pursuant to N.J.A.C. 6A:16-2.1(f)1.

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

"School physician" means a physician with a current license to practice medicine or osteopathy from the New Jersey Board of Medical Examiners who works under contract or as an employee of a New Jersey school district. This physician is referred to as the medical inspector in N.J.S.A. 18A:40-1.

"Short-term suspension" means removal of a student for 10 school days or fewer from the general education program or the special education program, in accordance with N.J.A.C. 6A:14-2.8, but not the cessation of the student's educational services.

"Standing orders" means written orders, directives and protocols to carry out medical procedures.

"Substitute school nurse" means a person who holds a current license as a registered professional nurse from the State Board of Nursing and who has been issued a county substitute certificate to serve as a substitute for a certified school nurse in accordance with N.J.A.C. 6A:9-6.5(i).

"Supervision" means the active process of directing, guiding and influencing the outcome of an individual's performance of an activity.

"Suspension" means either a removal of a student for 10 school days or fewer, pursuant to the definition of "short-term suspension" in this section and N.J.A.C. 6A:16-7.2, Short-term suspensions, or a removal of a student for more than 10 school days, pursuant to the definition of "long-term

suspension" in this section and N.J.A.C. 6A:16-7.3, Long-term suspensions.

"Truancy" means 10 or more cumulative unexcused student absences, as determined by the district board of education pursuant to N.J.A.C. 6A:16-7.8(a)3 and the definition of a school day, pursuant to N.J.A.C. 6:3-9.3.

"Universal precautions" means a set of procedures designed to prevent transmission of human immunodeficiency virus (HIV), hepatitis B virus, and other bloodborne pathogens. Universal precautions involve the use of protective barriers such as gloves, masks or eyewear and procedures for use of sharps and needles to prevent exposure to human blood, other body fluids containing visible blood, semen, vaginal secretions, tissue and cerebrospinal, synovial, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, sputum, sweat, tears, urine and vomitus unless they contain visible blood. Universal precautions do not apply to saliva except in the dental setting where blood contamination of saliva is predictable.

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

Amended by R.2001 d.309, effective September 4, 2001.

See: 33 N.J.R. 1253(a), 33 N.J.R. 3032(b).

In "School complex", substituted "one building or a group of" for "two or more" preceding "buildings identified".

Amended by R.2002 d.396, effective December 16, 2002.

See: 34 N.J.R. 3157(a), 34 N.J.R. 4433(a).

Added "School grounds".

Amended by R.2003 d.175, effective May 5, 2003.

See: 34 N.J.R. 4336(a), 35 N.J.R. 1893(a).

Rewrote "School grounds".

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

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

Added the definitions "Code of student conduct", "Commissioner", "Expulsion", "General education", "Harrassment, intimidation or bullying", "Long-term suspension", "Short-term suspension", and "Truancy"; rewrote definitions "Individual Program Plan", and "Suspension"; amended N.J.A.C. cite in "Alternative education program," and "Substitute school nurse;" amended "School grounds"; deleted "Removal."

Administrative correction.

See: 38 N.J.R. 2797(a).

6A:16-1.4 District policies and procedures

(a) Each district board of education shall approve written policies, procedures, mechanisms or programs governing the following:

1. Care of any student who becomes injured or ill while at school or during participation in school sponsored activities;

2. Notification of parents of any student determined to be in need of immediate medical care;

3. Transportation and supervision of any student determined to be in need of immediate medical care;

4. Isolation, exclusion, and readmission of any student or employee suspected of having a communicable disease as required by N.J.S.A. 18A:40-7 to 12 and 18A:40-16 to 18;

5. Exclusion of any student from the school setting for failure to meet requirements for immunization against communicable disease as required in N.J.A.C. 8:57-4;

6. Exclusion of any student from athletic activities based upon the findings of required medical examination and health history pursuant to N.J.A.C. 6A:16-2.2(h);

7. Exclusion of any person from the school setting if the person has uncovered weeping skin lesions as required in N.J.A.C. 8:61-1.1;

8. Assurance that any student with HIV infection or AIDS or who lives with or is related to someone with HIV or AIDS is not excluded from general education, transportation services, extra-curricular activities, athletic activities, assigned to home instruction or classified as eligible for special education for reason of HIV infection as required in N.J.A.C. 8:61-1.1;

9. Administration of medication to students under a physician's written order;

10. Emergency administration of epinephrine via epipen to a student for anaphylaxis pursuant to N.J.S.A. 18A:40-12.5;

11. Provision of medical and nursing services to meet district requirements for health history, medical examination, and health screening as an alternative for students who do not have a medical home or have a religious objection to the required examinations pursuant to N.J.S.A. 18A:35-4.8;

12. Provision of intervention and referral services in each building in which general education students are served, that meet the requirements of N.J.A.C. 6A:16-8;

13. Development and implementation of a code of student conduct pursuant to N.J.A.C. 6A:16-7.1;

14. School safety plans as required by N.J.A.C. 6A:16-5.1;

15. Removal of students from school for firearms offenses, assaults with weapon offenses and assaults on district board of education members or employees as required by N.J.A.C. 6A:16-5.5 through 5.7, and N.J.A.C. 6A:16-7.4, including removal of students for these offenses from receiving schools, pursuant to N.J.A.C. 6A:14-7.1(a);

16. Prohibition of remotely activating paging devices pursuant to N.J.S.A. 2C:33-19 and N.J.A.C. 6A:16-5.8;

17. Cooperation with law enforcement operations for substances, weapons and safety pursuant to N.J.A.C. 6A:16-6;

18. Comprehensive substance abuse prevention, intervention and treatment referral programs pursuant to N.J.S.A. 18A:40A-8 through 18 and N.J.A.C. 6A:16-3 and 4;

19. Confidentiality related to juvenile justice proceedings pursuant to N.J.S.A. 2A:4A-60 and N.J.A.C. 6A:16-5.4, HIV identifying information pursuant to N.J.S.A. 26:5C-5 et seq., and drug and alcohol use information pursuant to 42 CFR Part 2, N.J.S.A. 18A:40A-7.1 through 7.2, and N.J.A.C. 6A:16-3.2;

20. Provision of nursing services to non-public schools located in the district as required by N.J.S.A. 18A:40-23 through 31 and N.J.A.C. 6A:16-2.4;

21. Reporting of suspected child abuse and neglect to the Division of Youth and Family Services (DYFS) and cooperation in the investigation of child abuse and neglect pursuant to N.J.A.C. 6A:16-11.2;

22. The falsification of the annual report on violence and vandalism, pursuant to N.J.A.C. 6A:16-5.3(g);

23. Student attendance pursuant to N.J.A.C. 6A:16-7.8; and

24. Intimidation, harassment and bullying pursuant to N.J.A.C. 6A:16-7.9.

(b) Each district board of education shall establish policies and procedures that satisfy the rules and regulations of the New Jersey Department of Health and Senior Services, New Jersey Department of Human Services and local boards of health.

(c) Each district board of education that engages in student testing, studies or surveys shall assure that its procedures and materials meet the Federal requirements of 34 CFR Part 98, entitled Protection of Pupil Rights.

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); in (c), substituted "entitled" for "titled" following "Part 98".

6A:16-1.5 Student health records

(a) Each district board of education shall maintain student health records for each student, which include the following mandated records:

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

2. Documentation of immunizations against communicable diseases or of exemption from these immunizations as required in N.J.A.C. 8:57-4.

(b) Each district board of education shall use forms and formats for documenting mandated health records as required below:

1. Student immunization records shall be maintained as required by N.J.A.C. 8:57-4.7(a).

i. The records shall be recorded on forms provided by the New Jersey Department of Health and Senior Services; and

ii. The forms shall be filed separately from other student health records for the purpose of immunization record review by local or State health officials.

2. Findings of student health histories, health screenings and required medical examinations that are relevant to school participation shall be recorded on a form as specified by the Commissioner of Education.

(c) Any district board of education employee with knowledge of, or access to, the following health information shall comply with restrictions for sharing that 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 or guardian 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 which would identify the student as an alcohol or other drug user may be disclosed only for those purposes and under those 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.

(d) Each 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 district only to the extent necessary to enable the licensed medical personnel to perform their duties.

districts where there is more than one school physician, a lead physician shall be appointed to serve as health services director.

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

(c) The school physician must be a physician currently licensed by the New Jersey Board of Medical Examiners in medicine or osteopathy whose training and scope of practice includes child and adolescent health and development.

(d) The school physician shall provide, at a minimum, the following services:

1. Consultation and review in the development of district policies and procedures related to health, safety and emergency medical procedures;

2. Consultation to the district board of education, administrators and staff;

3. 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 those covered by the Individuals with Disabilities Education Act, 20 U.S.C. Chapter 33;

4. Physical examinations conducted in an appropriately equipped facility for students who do not have a medical home;

5. Direction for professional duties of other medical staff;

6. Written standing orders;

i. Standing orders shall be reviewed and reissued before the beginning of each school year;

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

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

9. Review, as needed, of reports and orders from private physicians regarding student health concerns;

10. Authorization of tuberculin testing;

11. Review and approval of Do Not Resuscitate (DNR) orders and instruction to school staff; and

12. Consultation with the school district certified nurse(s) to obtain input for the development of the school nursing services plan, pursuant to (f) below.

SUBCHAPTER 2. GENERAL PROVISIONS FOR SCHOOL HEALTH SERVICES

6A:16-2.1 Health services personnel

(a) Each district board of education shall appoint at least one school physician pursuant to N.J.S.A. 18A:40-1. In

(e) Each district board of education shall appoint at least one full time equivalent certified school nurse to provide nursing services.

1. Under the direction of the school physician and the chief school administrator, the duties of the certified school nurse shall include, but not be limited to:

- i. Conducting health screenings in accordance with N.J.A.C. 6A:16-2.2;
- ii. Maintaining student health records, pursuant to N.J.S.A. 18A:40-4 and N.J.A.C. 6A:16-2.2;
- iii. Assessing and recommending to the school principal the exclusion of students who show evidence of communicable disease, pursuant to N.J.S.A. 18A:40-7 and 8, or who have not submitted acceptable evidence of immunizations, pursuant to N.J.A.C. 8:57-4;
- iv. Instructing teachers on communicable diseases and other health concerns, pursuant to N.J.S.A. 18A:40-3;
- v. Training, direction and supervision of the emergency administration of epinephrine for school staff designated by the certified school nurse to serve as delegates, pursuant to N.J.S.A. 18A:40-12.6;
- vi. Directing and supervising the health services activities of any school staff to whom the certified school nurse has delegated a nursing task;
- vii. Providing appropriate response to DNR orders;
- viii. Maintaining a valid, current Providers Cardio-pulmonary Resuscitation certification from the American Heart Association or the equivalent from the American Red Cross;
- ix. Reviewing and summarizing available health and medical information regarding the student and transmitting the summary to the Child Study Team for the meeting according to N.J.A.C. 6A:14-3.4(h); and
- x. Writing and updating, at least annually, the accommodation plan including the individualized health care plan required under Section 504 of the Rehabilitation Act of 1973 for any student who requires them.

(f) Each district board of education shall develop a plan for the provision of school nursing services, including, but not limited to, the assignment of school nurses. The school nursing services plan may assign one or more noncertified school nurses to perform duties permitted under their license from the State Board of Nursing and those described in (e) above with the exception of (e)1iv through vi, ix and x above provided that each noncertified school nurse is assigned to the same school building or school complex as a certified school nurse.

1. For the purposes of assigning school nurses, a district board of education shall determine whether one building or a group of buildings constitute a school complex based on the following criteria:

- i. Grade levels;
- ii. General education enrollment;
- iii. Special education enrollment;
- iv. Number of children with severe medical involvement;
- v. Distance between the buildings; and
- vi. Type of communication system in place.

2. The chief school administrator, in consultation with the school physician, shall submit the school nursing services plan to the district board of education for approval at a regularly scheduled public meeting.

3. The assignment plan for certified and noncertified nurses working in this capacity and the reasons for the assignments based on the criteria in (f)1 above shall be submitted to the county superintendent for review and approval annually as part of the Quality Assurance Annual Report pursuant to N.J.A.C. 6:8-2.1 with evidence of public discussion and the district board of education approval.

Amended by R.2001 d.309, effective September 4, 2001.

See: 33 N.J.R. 1253(a), 33 N.J.R. 3032(b).

In (f), rewrote the introductory paragraph, substituted "one building or a group of" for "two or more" in 1, added a new 2, recodified former 2 as 3 and rewrote the paragraph.

Amended by R.2001 d.472, effective December 17, 2001.

See: 33 N.J.R. 2936(a), 33 N.J.R. 4330(a).

In (d), added 12.

6A:16-2.2 Required student medical examinations

(a) Each district board of education shall adopt policies regarding the content and procedures for the administration of student medical examinations, pursuant to N.J.S.A. 18A:40-4.

(b) Each student medical examination shall be conducted at the medical home of the student. If a student does not have a medical home, the district shall provide this examination at the school physician's office or other appropriately equipped facility.

1. For the purposes of the sports physical examination only, students' parents may choose either the school physician or their own private physician.

2. A full report of the examination must be maintained as part of the student's health record.

(c) Information concerning a student's HIV/AIDS status shall not be required as part of the physical examination or health history.

(d) Each student shall be examined as required below.

1. Each student shall be examined upon entry into school. Each district board of education shall notify parents of the importance of obtaining subsequent medical examinations of the student at least one time during each developmental stage at early childhood (pre-school through grade three), pre-adolescence (grades four through six), and adolescence (grades seven through 12).

2. A student shall be examined pursuant to a comprehensive child study team evaluation as required by N.J.A.C. 6A:14-3.4.

3. A student shall be examined when applying for working papers pursuant to N.J.S.A. 34:2-21.8.

(e) The examination shall be documented on a form approved by the Commissioner of Education and include the following components:

1. Immunizations pursuant to N.J.A.C. 8:57-4.1 through 4.16;

2. Medical history including allergies, past serious illnesses, injuries and operations, medications and current health problems;

3. Health screenings including height, weight, hearing, blood pressure, and vision; and

4. Physical examination.

(f) A biennial scoliosis screening shall be conducted for every student between the ages of 10 and 18 pursuant to N.J.S.A. 18A:40-4.3.

1. The examination shall be conducted by a school physician, school nurse, physical education instructor or other school personnel properly trained in the screening process for scoliosis.

2. Each district board of education shall provide for the notification of the parents or guardian of any student suspected of having scoliosis.

(g) Students shall be examined who are suspected of being under the influence of alcohol and controlled dangerous substances, in accordance with N.J.S.A. 18A:40A-12 and N.J.A.C. 6A:16-4.3.

(h) An examination of each candidate for a school athletic squad or team shall be conducted within 365 days prior to the first practice session with examinations being made available by the school physician for those students who do not have a medical home.

1. The medical examination shall include a health history questionnaire, completed and signed by the parent to determine whether the student:

i. Has been medically advised not to participate in any sport, and the reason for such advice;

ii. Is under a physician's care and the reasons for such care;

iii. Has experienced loss of consciousness after an injury;

iv. Has experienced a fracture or dislocation;

v. Has undergone any surgery;

vi. Takes any medication on a general basis, the names of such medication and the reasons for such medications;

vii. Has allergies including, but not limited to: hives, asthma or reactions to bee stings;

viii. Has experienced frequent chest pains or palpitations;

ix. Has a recent history of fatigue and undue tiredness;

x. Has a history of fainting with exercise; and

xi. Has a history of a family member who died suddenly.

2. The medical examination shall include a physical examination which includes, at a minimum, the following:

i. Measurement of weight, height, and blood pressure;

ii. Examination of the skin to determine the presence of infection, scars from previous surgery or trauma, jaundice and purpura;

iii. Examination of the eyes to determine visual acuity, use of eyeglasses or contact lenses, and examination of the sclera for the presence of jaundice;

iv. Examination of the ears to determine the presence of acute or chronic infection, perforation of the eardrum and gross hearing loss;

v. Examination of the nose to assess the presence of deformity which may affect endurance;

vi. Assessment of the neck to determine range of motion and the presence of pain associated with such motion;

vii. Examination of chest contour;

viii. Auscultation and percussion of the lungs;

ix. Assessment of the heart with attention to the presence of murmurs, noting rhythm and rate;

x. Assessment of the abdomen with attention to the possible presence of hepatomegaly, splenomegaly or abnormal masses;

xi. Assessment of the back to determine range of motion or abnormal curvature of the spine;

xii. Examination of extremities to determine abnormal mobility or immobility, deformity, instability,

muscle weakness or atrophy, surgical scars and varicosities;

xiii. Examination of the testes to determine the presence and descent of both testes, abnormal masses or configurations, or hernia;

xiv. Assessment of physiological maturation; and

xv. Neurological examination to assess balance and coordination.

3. The medical report shall include a determination concerning the student's participation from the examining physician, nurse practitioner/clinical nurse specialist, or physician's assistant.

4. To participate on a school athletic squad or team, each candidate whose medical examination was completed more than 60 days prior to the first practice session shall provide a health history update of medical problems experienced since the last medical examination. This shall be completed and signed by the parent. The health history update shall include the following information:

i. Hospitalization/operations;

ii. Illnesses;

iii. Injuries;

iv. Care administered by a physician of medicine or osteopathy, advanced practice nurse or physician's assistant; and

v. Medications.

5. Each district shall provide written notification signed by the district school physician to the parent or legal guardian stating approval of the student's participation in athletics based upon the medical report pursuant to (h)3 above or the reasons for the school physician's disapproval of the student's participation. The medical report must be complete and signed by the original examining physician. A form that is incomplete must be completed by the original examining physician. The health findings of the medical examination for participation shall be made part of the student's health record and shall be documented on a form issued by the Commissioner of Education.

6. The health findings of the medical examination shall be maintained as part of the student's health record.

Amended by R.2003 d.326, effective August 4, 2003.

See: 35 N.J.R. 1503(a), 35 N.J.R. 3610(a).

In (f), substituted "A biennial" for "An annual" in the introductory paragraph and added 1 and 2.

Amended by R.2003 d.358, effective September 2, 2003.

See: 35 N.J.R. 1801(a), 35 N.J.R. 4052(a).

Rewrote (b); in (h)5, added the second and third sentences.

6A:16-2.3 Required school health services

(a) Each district shall perform tuberculosis tests on students using methods as specifically directed by the New

Jersey Department of Health and Senior Services, based upon the incidence of tuberculosis or reactor rates in specific communities or population groups as required by N.J.S.A. 18A:40-16.

(b) Each district board of education shall develop and adopt written policies and procedures for the administration of medication to students and staff, which shall be developed in consultation with the school physician.

1. The policy shall require that only the following individuals be authorized to administer medication to students in schools:

i. The school physician;

ii. A certified or noncertified school nurse;

iii. A substitute school nurse employed by the district;

iv. The student's parent or guardian;

v. The student approved to self-administer pursuant to N.J.S.A. 18A:40-12.3 and 12.4; and

vi. Other school employees trained and designated by the certified school nurse to administer epinephrine in an emergency pursuant to N.J.S.A. 18A:40-12.5 and 12.6.

(c) Reportable, communicable diseases, as identified pursuant to N.J.A.C. 8:57-1, whether confirmed or presumed, shall be immediately reported by telephone to the health officer of the jurisdiction wherein the diagnosis is made.

(d) The certified school nurse shall annually review immunization records to confirm with the medical provider that the medical condition for the exemption from immunization is applicable, pursuant to N.J.A.C. 8:57-4.3.

(e) District boards of education shall develop written policies and procedures for sanitation and hygiene when handling blood and bodily fluids in conformance with N.J.A.C. 8:61-1.1(f) and in compliance with Centers for Disease Control guides which direct schools to implement Universal Precautions.

(f) District boards of education provide for implementation of Do Not Resuscitate orders written in consultation with the student's physician and approved by the school physician.

(g) District boards of education shall develop policies for the treatment of asthma in the school setting which shall include, but not be limited to, the following:

1. A requirement that each school nurse shall be authorized to administer asthma medication through use of a nebulizer;

2. A requirement that each school nurse 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. Copies of these standards may be obtained by contacting the National Institutes of Health, 1 Center Drive MSC0188, Bethesda, Maryland 20892-0188 and the American Academy of Allergy, Asthma and Immunology, 111 E. Wells Street, Milwaukee, Wisconsin 53202; and

3. A requirement that each student authorized to use asthma medication pursuant to N.J.S.A. 18A:40-12.3, or a nebulizer, have an asthma treatment plan prepared by the student's physician, which shall identify, at a minimum, asthma triggers and an individualized health care plan, pursuant to N.J.A.C. 6A:16-2.1(e)1x, for meeting the medical needs of the student while attending school or a school-sponsored event.

(h) Each public and nonpublic school in the State shall have and maintain for the care of students at least one nebulizer in the office of the school nurse or a similar accessible location.

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).

6A:16-2.4 Nursing services to nonpublic school students

(a) District boards of education having nonpublic schools within their district boundaries shall provide basic nursing services to nonpublic school students who are enrolled full-time, within the limits of funds appropriated or otherwise made available for this purpose according to N.J.S.A. 18A:40-23.

1. The district shall provide services only to students of a nonpublic school which has provided to the district board of education a report of the type and number of services provided during the previous school year, if students were provided services during that year, on a form provided by the Commissioner of Education.

2. The funds expended by a district board of education for administrative costs shall be limited to the actual costs or six percent of the funds allocated for each participating nonpublic school, whichever is less.

(b) Nursing services shall be provided by a professional registered nurse licensed in the State of New Jersey who is an employee of the school district, an employee of a third-party contractor, or an independent contractor. The services shall include:

1. Assistance with medical examinations, including dental screening;
2. Screening of hearing;
3. The maintenance of student health records, with notification of local or county health officials of any

student who has not been properly immunized pursuant to N.J.A.C. 8:57-4;

4. Scoliosis examinations of students between the ages of 10 and 18; and

5. The extension of emergency care provided to public school students to those students who are enrolled full-time in the nonpublic school who are injured or become ill at school, or during participation on a school team or squad pursuant to N.J.A.C. 6A:16-1.4(a)1.

(c) Each district board of education may also provide additional services.

1. Such additional medical services may only be provided when all basic nursing services required under (b) have been provided, or will be provided.

2. Such additional medical services may include the necessary equipment, materials and services for immunizing students who are enrolled full-time in the nonpublic school from diseases as required by the State Sanitary Code adopted, pursuant to N.J.S.A. 26:1A-7 and N.J.A.C. 8:57.

3. Equipment comparable to that in use in the district may be purchased for loan without charge to the nonpublic school for the purpose of providing services under this section. However, such equipment shall remain the property of the district board of education.

4. Costs of supplies comparable to that in use in the district and transportation costs may be charged to the funds allocated for each participating nonpublic school as long as they are directly related to the provision of the required basic nursing services and additional medical services which may be provided.

(d) Each chief school administrator or designee of a district in which a nonpublic school is located shall confer annually with the administrator of the nonpublic school for the following purposes:

1. To advise the nonpublic school of the amount of funds allocated to the nonpublic school by the Department of Education or otherwise made available by the district for the provision of nursing services for the full-time students enrolled in the nonpublic schools;

2. To agree on the basic nursing services to be provided and additional medical services which may be provided as set forth in N.J.S.A. 18A:40-23 et seq.;

3. To assure that in the event that the chief school administrator or designee and the nonpublic school administrator cannot reach agreement regarding the nursing services and additional medical services to be provided, the county office of education shall be consulted for clarification; and

4. To assure that each nonpublic school which receives nursing services has a copy of N.J.S.A. 18A:40-23 to 31 and this subchapter.

(e) The nursing services provided to nonpublic school students shall not include instructional services.

(f) A student who is enrolled in a nonpublic school and whose parent or guardian objects to the student receiving any services provided under this subchapter shall not be compelled to receive the services except for a physical or medical examination to determine whether the student is ill or infected with a communicable disease.

(g) Each participating nonpublic school shall receive nursing services based upon its enrollment on the last school day prior to October 16 of the preceding school year.

(h) Each district board of education providing nursing services to nonpublic schools shall retain the following information for monitoring purposes and shall make it available to the Commissioner of Education upon request:

1. A written statement verifying that the required conference was held with the nonpublic school(s);

2. A copy of the contract document and minutes of the district board of education meeting approving the contract, which describe the methods by which the nursing services to the nonpublic school students will be provided for the ensuing year and a rationale for the distribution of funds; and

3. A description of the type and number of services which were provided during the previous school year to students in each nonpublic school on a form provided by the Commissioner of Education as required in N.J.A.C. 6A:16-2.4(a).

SUBCHAPTER 3. COMPREHENSIVE SUBSTANCE 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 public elementary and secondary schools of the district according to the requirements of N.J.S.A. 18A:40A-10.

1. The purpose of the prevention component of the program shall be to:

i. Keep students from using alcohol, tobacco or other drugs;

ii. Reduce the incidence and prevalence of student alcohol, tobacco and other drug abuse;

iii. Reduce the age of onset of students' first use of alcohol, tobacco or other drugs;

iv. Reduce the factors that place students at risk for involvement with alcohol, tobacco or other drugs through school and community-based planning processes;

v. Contribute to the development of school environments and alternative activities that are alcohol, tobacco and other drug-free;

vi. Increase the knowledge and skills of students, staff and community members for avoiding the harmful effects of alcohol, tobacco and other drug use; and

vii. Actively involve staff, parents and other community members in the development and implementation of prevention program plans.

2. The purpose of the intervention, referral for evaluation and referral for treatment components of the program shall be to:

i. Identify students who are at risk for, or who have exhibited, alcohol, tobacco or other drug abuse or related problems;

ii. Help students or their families who have requested assistance for an alcohol, tobacco or other drug abuse problem;

iii. Make a preliminary assessment of a student's need for educational programs, supportive services or treatment which extends beyond the general school program by virtue of the use of alcohol, tobacco or other drugs by the student or the student's family;

iv. Refer students for evaluation to make a positive determination regarding a student's need for alcohol, tobacco or other drug treatment; and

v. Help a student or a student's family follow through on the recommendations of an evaluation which has positively determined the harmful use of alcohol, tobacco or other drugs by the student or the student's family.

3. The purpose of the continuity of care component of the program shall be to:

i. Assist with the provision of educational programs and services for students in treatment; and

ii. Plan and provide supportive services for students who are returning from treatment.

4. Each district board of education shall ensure that all educational staff members receive in-service training in alcohol, tobacco and other drug abuse prevention and intervention according to the requirements of N.J.S.A. 18A:40A-3 and 15. The in-service training shall be updated annually in order to ensure educational staff members have the most current information available on the subject of

substance abuse and the district's comprehensive alcohol, tobacco and other drug abuse program, policies and procedures.

5. Substance awareness coordinators employed by district boards of education shall assist local school districts in the effective implementation of the requirements of N.J.S.A. 18A:40A-1 through 18 and N.J.A.C. 6A:16-3 through 7.

6. Each district board of education shall establish educational programs on alcohol, tobacco and other drug abuse for parents and guardians according to the requirements of N.J.S.A. 18A:40A-16 and 17(a) and offered at times and places convenient to the parents and guardians of enrolled students.

7. Each district board of education shall make and enforce regulations to prohibit the smoking of any substance and the use of tobacco products anywhere in its buildings or on school grounds, except as part of a classroom instruction or theatrical production, according to the requirements of N.J.S.A. 26:3D-17.

Amended by R.2002 d.396, effective December 16, 2002.

See: 34 N.J.R. 3157(a), 34 N.J.R. 4433(a).

In (a)7, substituted "smoking of any substance and the use of tobacco products anywhere in its buildings or on school grounds, except" for "smoking of tobacco anywhere in its buildings except".

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:

1. Confidentiality of alcohol and drug abuse patient records, pursuant to 42 CFR Part 2; and

2. Confidentiality of information provided by an elementary or secondary school student while participating in a school-based drug and alcohol counseling program which indicates that the student's parent or other person residing in the student's household is dependent upon or illegally using substances pursuant to N.J.S.A. 18A:40A-7.1 and 7.2.

SUBCHAPTER 4. PROCEDURES FOR SUBSTANCE ABUSE INTERVENTION

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

(a) Each district board of education shall adopt and implement policies and procedures for the assessment, intervention, referral for evaluation, referral for treatment, and discipline of students whose use of alcohol or other drugs has affected their school performance, or for students who consume or who are suspected of being under the influence of

the following substances in school or at school functions, according to the requirements of N.J.S.A. 18A:40A-9, 10 and 11:

1. Alcoholic beverages;

2. Any controlled dangerous substance, as identified in N.J.S.A. 24:21-2;

3. Any chemical or chemical compound which releases vapor or fumes causing a condition of intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system, including, but not limited to, glue containing a solvent having the property of releasing toxic vapors or fumes, as defined in N.J.S.A. 2A:170-25.9;

4. Over-the-counter and prescription medications which are improperly used to cause intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system; and

5. Anabolic steroids.

(b) In adopting and implementing policies and procedures for the assessment, intervention, referral for evaluation and referral for treatment of alcohol or other drug-affected students, district boards of education shall consult with community agencies licensed by the New Jersey Department of Health and Senior Services, Division of Addiction Services, out-of-State agencies licensed by the appropriate State regulatory agency for alcohol and other drug services or private practitioners certified by the appropriate drug and alcohol licensing board.

(c) Each district board of education's alcohol and other drug policies for students using substances, as defined in N.J.A.C. 6A:16-4.1(a), shall include the following components:

1. The role of appropriate school staff when handling a variety of possible alcohol or other drug-related situations involving students on school property or at school functions;

2. Specific procedures, sanctions and due process provisions for violations of the alcohol and other drug policy requiring disciplinary action by the district board of education, including consequences for not following through on the recommendations of an evaluation for alcohol or other drug abuse and related behaviors. The sanctions should be graded according to the severity of the offense, the nature of the problem and the student's needs;

3. Appropriate steps for ameliorating student problems related to alcohol and other drug use and for providing support for student transitions to and from health and social service agencies;

4. Specific procedures to govern instances where emergency room services are required in treating alcohol or other drug-affected students;

5. The provision of assessment or evaluation services for students who are affected by alcohol or other drug use. These services shall include any of the following:

i. Assessment by individuals who are certified by the State Board of Examiners of the New Jersey Department of Education as substance awareness coordinators or by individuals who hold the following endorsements on the Educational Services Certificate: school nurse, school psychologist, school social worker, or student personnel services and are trained to assess alcohol and other drug abuse;

ii. Examination by a physician for the purpose of determining whether alcohol or other drug use interferes with a student's physical and mental ability to perform in school a student is under the influence of alcohol or other drugs;

iii. Referral for evaluation to a community agency, as defined in N.J.A.C. 6A:16-4.1(b), or to out-of-State agencies licensed by the appropriate State regulatory agency for alcohol and other drug services, or private practitioners certified by the appropriate drug and alcohol licensing board; and

iv. Evaluation by the child study team to determine a student's eligibility for special education and related services, pursuant to N.J.A.C. 6A:14-3.5 and 3.6;

6. The provision of intervention, referral for evaluation and referral for treatment services for students who are affected by alcohol or other drug use. Intervention, referral for evaluation and referral for treatment shall be provided by individuals who are certified by the State Board of Examiners of the New Jersey Department of Education as substance awareness coordinators or by individuals who hold the following endorsements on the Educational Services Certificate: school nurse, school psychologist, school social worker, or student personnel services and are trained in alcohol and other drug abuse intervention, assessment, referral for evaluation and referral for treatment skills. These programs and services shall include any of the following:

i. Provisions for a program of instruction, counseling and related services provided by the district board of education while a student is receiving medical treatment for a diagnosed alcohol or other drug dependency problem;

ii. Referral to a community agency as defined in N.J.A.C. 6A:16-4.1(b) or to out-of-State agencies licensed by the appropriate State regulatory agency for alcohol and other drug services, or private practitioners authorized by the appropriate drug and alcohol licensing board;

iii. Provisions for support services for students who are in, or returning from, medical treatment for alcohol and other drug dependency; and

iv. A special class, course or educational program designed to meet the needs of students with alcohol or other drug use problems; and

7. Provisions for assisting parents who believe that their child may be involved with alcohol or other drug use, in accordance with the requirements of N.J.S.A. 18A:40A-17(b).

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

(a) Each district board of education shall establish a process for an annual review of the effectiveness of its policies and procedures on student substance abuse. The district board of education shall solicit community input, as well as consult in the review process with local substance abuse prevention, intervention and treatment agencies licensed by the New Jersey Department of Health and Senior Services.

(b) Each district board of education shall annually make available to all school staff, students, and parents its adopted policies and procedures for implementing N.J.A.C. 6A:16-4.

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

(a) In instances involving alcoholic beverages, controlled dangerous substances other than anabolic steroids, or any other chemical or chemical compound as identified in 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 property or at a school function shall report the matter as soon as possible to the principal and the certified or noncertified school nurse or the school physician, according to the requirements of N.J.S.A. 18A:40A-12.

i. In the absence of the principal, his or her designee shall be notified.

ii. In instances where the principal and the certified or noncertified school nurse or the school physician are not in attendance, the staff member responsible for the school function shall be immediately notified.

iii. The referring staff member shall complete the Violence, Vandalism and Substance Abuse Incident Report, according to the requirements of N.J.S.A. 18A:17-46 and N.J.A.C. 6A:16-5.3.

2. In response to every report by an educational staff member or other professional of suspected student alcohol or other drug use, the principal or his or her designee shall:

- i. Immediately notify the parent and the chief school administrator; and
 - ii. Arrange for an immediate medical examination of the student for the purposes of providing appropriate health care for the student and for determining whether the student is under the influence of alcohol or other drugs, other than anabolic steroids.
3. The medical examination shall be performed by a physician licensed to practice medicine or osteopathy that is selected by the parent.
- i. The district, in cooperation with medical professionals licensed to practice medicine or osteopathy, may establish the minimum requirements for the medical examination.
 - ii. When the medical examination is conducted by a physician selected by the parent, the examination shall be at the expense of the parent and shall not be at the expense of the district board of education.
4. If the physician chosen by the parent is not immediately available, the medical examination shall be conducted by the school physician.
- i. If the school physician is not available, the student shall be accompanied by a member of the school staff, designated by the principal, to the emergency room of the nearest hospital for examination.
 - ii. The student's parent, if available, shall also accompany the student.
 - iii. When the medical examination is conducted by the school physician or a physician at the emergency room of the nearest hospital, such examination shall be at the expense of the district board of education.
5. Each district board of education shall have a plan in place for the appropriate supervision of the student:
- i. While waiting for a parent to take the student to the physician selected by the parent, or while the student is waiting for and receiving the medical examination by the school physician or an emergency room; and
 - ii. Provisions shall be made for the appropriate care of the student while awaiting the results of the medical examination.
6. A written report of the medical examination shall be furnished to the parent or guardian of the student, the principal and the chief school administrator by the examining physician within 24 hours of the referral of the student for suspected drug or alcohol use.
- i. The district, in cooperation with the school physician or medical professionals licensed to practice medicine or osteopathy, may establish the minimum requirements for the medical report.

7. When the medical examination is performed by a physician other than the school physician or at the emergency room of the nearest hospital, the district shall require the parent to verify that a medical examination was performed within 24 hours of the referral of the student for suspected drug or alcohol use. Such verification shall include, at a minimum, the signature, printed name, address and phone number of the examining physician indicating the report required by (a)6 above is pending, and the date by which the report will be provided.

- i. Refusal or failure by a parent to comply with this requirement shall be treated as a policy violation and handled in accordance with (d) below.

8. If the written report of the medical examination is not submitted to the parent, principal and chief school administrator within 24 hours of the referral of the student for suspected drug or alcohol use, the student shall be allowed to return to school until such time as a positive determination of alcohol or other drug use is received from the physician.

9. If the written report of the medical examination verifies that alcohol or other drugs do not interfere with the student's physical and mental ability to perform in school, the student shall be immediately returned to school.

10. If there is a positive determination from the medical examination, indicating that the student's alcohol or other drug use interferes with his or her physical or mental ability to perform in school:

- i. The student shall be returned to the care of a parent as soon as possible.

- 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 physical or mental ability to perform in school.

- iii. The report shall verify that the student's alcohol or other drug use no longer interferes with his or her physical and mental ability to perform in school; and

- iv. Removal of a student with a disability shall be made in accordance with N.J.A.C. 6A:14-2.8.

11. While the student is at home because of the medical examination or after the student returns to school, a substance awareness coordinator or individuals who hold school nurse, school psychologist, school social worker, or student personnel services endorsements on the Educational Services Certificate and are trained to assess alcohol and other drug abuse shall:

- i. Conduct an alcohol and other drug assessment of the student and a reasonable investigation of the situation for the purpose of making a preliminary

determination of the student's need for educational programs, supportive services or treatment which extend beyond the general school program by virtue of the use of alcohol or other drugs by the student. The findings of the assessment alone shall not be used to prevent a student from attending school; and

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

12. While the student is at home because of the medical examination or after his or her 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 which extend beyond the general school program, as necessary. The findings of these additional evaluations alone shall not be used to prevent a student from attending school.

13. If at any time it is determined that the student's use of substances presents a danger to the student's health and well-being, the substance awareness coordinator or individuals who hold school nurse, school psychologist, school social worker, or student personnel services endorsements on the Educational Services Certificate and are trained in alcohol and other drug abuse treatment referral shall initiate a referral for substance abuse treatment.

14. The district board of education may provide additional intervention and referral services for the student according to the requirements of N.J.S.A. 18A:40A-10 and N.J.A.C. 6A:16-7.1 through 7.3.

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

1. Whenever any teaching staff member, certified or noncertified school nurse or other educational personnel shall have reason to believe that a student has used or may be using anabolic steroids, that person shall report the matter as soon as possible to the principal (or, in his or her absence, to his or her designee) and to the certified or noncertified school nurse or school physician or to the substance awareness coordinator.

2. The principal or designee shall immediately notify the parent and the chief school administrator and shall arrange for an examination of the student by a physician licensed to practice medicine or osteopathy selected by the parent.

i. If the physician chosen by the parent is not available to perform the examination, the examination shall be conducted by the school physician.

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

3. The examining physician shall provide a written report of the examination to the parent and to the chief school administrator.

4. If it is determined that the student has used anabolic steroids, a substance awareness coordinator or individuals who hold school nurse school psychologist, school social worker, or student personnel services endorsements on the Educational Services Certificate and are trained to assess alcohol and other drug abuse shall interview the student and others, as necessary, for the purpose of determining the extent of the student's involvement with and use of these substances and the possible need for referral for treatment.

i. To make this determination, the school staff members identified in (b)4 above may conduct a reasonable investigation which may include interviews with the student's teachers and parent.

ii. The school staff members identified in (b)4 above may also consult with physicians and such experts in the field of substance abuse as may be appropriate.

5. If the results of a referral for evaluation have positively determined that the student's involvement with and use of these substances represents a danger to the student's health and well-being, the substance awareness coordinator or individuals who hold school nurse, school psychologist, school social worker, or student personnel services endorsements on the Educational Services Certificate and are trained to assess alcohol and other drug abuse shall initiate a referral for treatment to appropriate community agencies as defined in N.J.A.C. 6A:16-4.1(b), to out-of-State agencies licensed by the appropriate State regulatory agency for alcohol and other drug services, or to private practitioners certified by the appropriate drug and alcohol licensing board.

(c) Any educational or non-educational school staff member who in good faith reports a student to the principal or his or her designee in compliance with the provisions of this subsection shall not be liable in civil damages as a result of making such a report, as specified in N.J.S.A. 18A:40A-13 and 14.

(d) Refusal or failure by a parent to comply with the provisions of N.J.S.A. 18A:40A-12 and this section shall be treated as a policy violation of the Compulsory Education Act, pursuant to N.J.S.A. 18A:38-25 and 31, and child neglect laws, pursuant to N.J.S.A. 9:6-1 et seq.

(e) Refusal or failure of a student to comply with the provisions of N.J.S.A. 18A:40A-12 and this section shall be treated by the district as a policy violation and handled in accordance with N.J.A.C. 6A:16-4.1(c)2.

SUBCHAPTER 5. SCHOOL SAFETY

6A:16-5.1 School safety plans

(a) Each district board of education shall develop and implement comprehensive plans, procedures and mechanisms that provide for safety in the public elementary and secondary schools of the school district. The plans and procedures, which shall be in written form, and the mechanisms, at a minimum, shall provide for:

1. The protection of the health, safety and welfare of the school population;
2. The prevention of, intervention in, response to and recovery from emergency and crisis situations;
3. The establishment and maintenance of a climate of civility; and
4. Support services for staff, students and their families.

(b) The chief school administrator shall consult with law enforcement agencies, health and social services provider agencies, emergency management planners and other school and community resources, as appropriate, in the development of the district board of education's plans, procedures and mechanisms for school safety.

1. The plans, procedures and mechanisms shall be consistent with the provisions of this section and the format and content established by the Attorney General and the Commissioner of Education.

(c) The district board of education shall disseminate a copy of the school safety plan to all district board of education employees.

1. New district board of education employees shall receive a copy of the school safety plan, as appropriate, within 60 days of the effective date of their employment.
2. All district board of education employees shall be briefed in writing, as appropriate, regarding updates and changes to the school safety plan.

(d) The district board of education shall develop and provide an in-service training program for district board of education employees to enable them to recognize and appropriately respond to safety concerns, including emergencies and crises, consistent with the school district's plans, procedures and mechanisms for school safety and the provisions of this section.

1. New district board of education employees shall receive the in-service training, as appropriate, within 60 days of the effective date of their employment.
2. The in-service training program shall be reviewed and updated on an annual basis.

Recodified from N.J.A.C. 6A:16-5.2 and amended by R.2005 d.297, effective September 6, 2005.
See: 37 N.J.R. 1570(a), 37 N.J.R. 3295(b).

Rewrote the section.

Former N.J.A.C. 13:35-5.1 recodified as N.J.A.C. 13:35-7.1.

6A:16-5.2 School Violence Awareness Week

(a) Each district board of education shall observe "School Violence Awareness Week" by organizing activities to prevent school violence according to N.J.S.A. 18A:36-5.1.

1. The district board of education's activities shall include, but are not limited to, age-appropriate opportunities for student discussion on conflict resolution, issues of student diversity and tolerance.

2. The district board of education shall invite law enforcement personnel to join members of the teaching staff in the discussions.

3. The district board of education shall provide programs for school board employees that are designed to help them recognize warning signs of school violence and to instruct them on recommended conduct during an incident of school violence.

4. The district board of education shall hold an annual public hearing on violence and vandalism pursuant to N.J.S.A. 18A:17-46 and N.J.A.C. 6A:16-5.3.

(b) The observance of "School Violence Awareness Week," as set forth in (a) above, applies to private schools for the disabled and public college operated programs for the disabled.

1. During "School Violence Awareness Week," private schools for the disabled and public college operated programs for the disabled shall meet with staff and parents to review the incidents of violence and vandalism that occurred in the schools or programs during the previous school year.

New Rule, R.2005 d.297, effective September 6, 2005.

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

Former N.J.A.C. 13:35-5.2 recodified as N.J.A.C. 13:35-5.1 and amended.

6A:16-5.3 Incident reporting of violence, vandalism and substance abuse

(a) For purposes of reporting information to the New Jersey Department of Education, pursuant to N.J.S.A. 18A:17-46, any school employee who observes or has direct knowledge from a participant or victim of an act of violence or the possession or distribution of substances on school grounds, and any school employee who reports a student for being under the influence of alcohol or other drugs, according to the requirements of N.J.S.A. 18A:40A-12 and N.J.A.C. 6A:16-4.3, shall file a report describing the incident to the school principal, in accordance with N.J.S.A. 18A:17-46.

1. The report shall be on a form adopted for such purposes by the district board of education.

i. The form shall include all of the incident detail and offender and victim information that is reported on the Electronic Violence and Vandalism Reporting System.

(b) The principal shall:

1. Review the incident report for accuracy in indicating the incident type, offender information, victim information, student demographics, and location of the incident;

2. Forward a copy of the incident report to the chief school administrator; and

3. Notify the chief school administrator of the action taken regarding the incident.

(c) The district board of education shall not discharge or subject to any manner of discrimination any school employee who files a report pursuant to this section.

(d) The majority representative of the school employees' bargaining units shall have access monthly to the number and disposition of all reported acts of school violence and vandalism, pursuant to N.J.S.A. 18A:17-46.

1. Personally identifying information may be provided to the majority representative of the school employees' bargaining units only in instances when school administrators have reason to believe that the safety of a school staff member is at risk.

(e) The chief school administrator annually shall:

1. Submit a report to the Commissioner of Education of each incident of violence, vandalism and substance abuse in the school district utilizing the Electronic Violence and Vandalism Reporting System (EVVRS);

2. Verify that the data entered onto the EVVRS are correct; and

3. Provide for the annual training of staff to prepare them to fulfill the reporting requirements set forth in this section.

(f) At the annual hearing held pursuant to N.J.S.A. 18A:17-46, the chief school administrator shall report to the district board of education all acts of violence and vandalism and incidents of substance abuse that occurred during the previous school year, according to the provisions of N.J.S.A. 18A:17-46.

1. The proceedings of the public hearing shall be transcribed, kept on file by the district board of education and shall be made available to the public, pursuant to N.J.S.A. 18A:17-46.

2. The district board of education shall file the transcript of the public hearing with the Department of Education by November 1 of each year, pursuant to N.J.S.A. 18A:17-46.

(g) Each district board of education shall adopt and implement procedures regarding any school employee who knowingly falsifies the annual report on violence and vandalism required under N.J.S.A. 18A:17-46.

1. Whenever it is alleged that a school employee has knowingly falsified the annual report, the district board of education shall make a determination as to whether the employees committed the act.

2. Any employee alleged to have knowingly falsified the annual report shall be notified in writing of such allegation and shall be entitled to a hearing before the district board of education.

i. The hearing shall take place within 30 business days of the date on which the employee is notified of the allegation;

ii. The employee shall be entitled to be represented by a person of his or her choosing and to present witnesses on his or her behalf; and

iii. The district board of education shall notify the employee of its determination in writing within five business days of the hearing.

3. Upon determination by the district board of education that an employee has knowingly falsified the annual report, it shall take one or more of the following actions:

i. Impose minor discipline on a tenured or non-tenured employee notwithstanding any other law to the contrary and if negotiated with the majority representative of the employees in the appropriate collective bargaining unit;

ii. Withhold a tenured or nontenured employee's increment for predominantly disciplinary reasons, which shall be subject to the grievance procedures established pursuant to law and shall be subject to the grievance procedures of section 8 of N.J.S.A. 34:13A-29;

iii. File tenure charges with the secretary of the district board of education in writing and with a written statement of evidence under oath to support such charges;

iv. Terminate employment for an employee;

(1) For tenured employees, the termination shall be in accordance with the outcome of the proceedings in (g)3iii above; or

v. Impose such other disciplinary sanctions as may be authorized by law.

4. Any action taken by a district board of education pursuant to (g)3 above, shall be based on its consideration of:

i. The nature of the conduct;

- ii. The circumstances under which it occurred; and
- iii. The employee's prior employment record.

5. Any employee having been found responsible for the falsification of the annual report by the district board of education shall have the right to:

- i. File a grievance under their respective bargaining agreements;
- ii. Appeal the district board of education's determination to the Commissioner of Education in accordance with N.J.A.C. 6A:3-1.3 through 1.17 and subsequently to the State Board of Education; or
- iii. Appeal the decision to the Superior Court of New Jersey.

6. The availability of appeal options shall be based upon the action taken by the district board of education.

(h) Private schools for the disabled and public college operated programs for the disabled shall take action regarding any school employee who knowingly falsifies the annual report on violence and vandalism required under N.J.S.A. 18A:17-46, which may be in accordance with the provisions set forth in (g) above.

(i) Each district board of education shall submit and implement corrective action plans for high incidences of violence, vandalism or substance abuse upon notification by the Commissioner of Education.

Amended by R.2003 d.326, effective August 4, 2003.

See: 35 N.J.R. 1503(a), 35 N.J.R. 3610(a).

In (e), substituted "hearing pursuant to N.J.S.A. 18A:17-46" for "meeting"; added (f).

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

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

Rewrote section, added (h) and (i).

6A:16-5.4 Access to juvenile justice information

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

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

(a) Each district board of education shall adopt and implement policies and procedures regarding student offenses involving firearms, as defined in N.J.S.A. 2C:39-1(f) and 18 U.S.C. §921, according to the requirements of the Zero Tolerance for Guns Act, pursuant to N.J.S.A. 18A:37-7 through 12. These policies and procedures shall apply to:

1. A student who is convicted or adjudicated delinquent for possession of a firearm on any school grounds, including on a school bus or at a school-sponsored function;

2. A student who is convicted or adjudicated delinquent for committing a crime while in possession of a firearm on school grounds, including on a school bus or at a school-sponsored function; and

3. A student who is found knowingly in possession of a firearm on any school grounds, including on a school bus or at a school-sponsored function.

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

1. The chief school administrator may modify the removal of a general education student on a case-by-case basis.

i. The chief school administrator shall develop and maintain a written record of any case-by-case modifications of the removal requirement in this subsection.

2. Nothing in this section shall be construed to prohibit the expulsion of a general education student.

(c) A district board of education shall immediately remove students with disabilities for offenses involving firearms in accordance with the provisions of N.J.A.C. 6A:14 and the applicable Federal regulations incorporated therein.

(d) The principal or his or her designee shall:

1. Remove any student as set forth in (a) through (c) above;

2. Isolate the student and place the student under the supervision of school staff until such time as the parent or law enforcement official takes custody of the student;

3. Immediately report the removal of the student to the chief school administrator;

4. Notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice; and

5. Notify the parent of the following information:

i. The removal action;

ii. The law enforcement notification;

iii. The change of custody, if it occurs; and

iv. The general education student's due process rights, as set forth in N.J.A.C. 6A:16-7.2 through 7.6 or, in the case of a student with a disability, the student's due process rights, as set forth in N.J.A.C. 6A:14-2.7 through 2.8 and N.J.A.C. 6A:16-7.2 through 7.6.

(e) Any student that is removed from the general education program pursuant to this section shall be placed in

an alternative education program, according to the requirements of N.J.A.C. 6A:16-9.

1. If placement in an alternative education program is not available, the general education student shall be provided home or other out-of-school instruction, according to N.J.A.C. 6A:16-10, until placement is available.

(f) Any student with a disability removed pursuant to (a) and (c) above shall receive a placement in accordance with N.J.A.C. 6A:14.

(g) Any student removed pursuant to (b) above shall be entitled to a hearing before the district board of education in accordance with N.J.A.C. 6A:16-7.2 through 7.6.

(h) If it is found that the removed student is not guilty of the offenses in (a) and (c) above, the student shall be immediately returned to the program from which the student was removed.

(i) The chief school administrator shall make the final determination on whether the general education student is prepared to return to the general education program or whether the student shall remain in an alternative education program, pursuant to N.J.A.C. 6A:16-9, or receive home or other out-of-school instruction, pursuant to N.J.A.C. 6A:16-10, based on the following criteria:

1. The nature and severity of the offense;
2. The district board of education removal decision;
3. The results of any relevant testing, assessments or evaluation of the student; and
4. The recommendation of the principal or director of the alternative education program or home or other out-of-school instruction program in which the student has been placed.

(j) This section does not apply to a firearm that is lawfully stored in a locked vehicle on school grounds, or when it is for activities approved and authorized by the district board of education, so long as the district board of education adopts appropriate safeguards to ensure student safety.

1. All students must obtain written authorization from the chief school administrator to possess a firearm stored inside a locked vehicle on school grounds or used for participation in a school-sponsored function.

i. The chief school administrator shall not provide such authorization to any student who has been convicted or adjudicated delinquent for possession of a firearm or for a crime involving the use of a firearm.

(k) Each chief school administrator shall submit a report annually to the Commissioner of Education on each incident

under this section utilizing the Electronic Violence and Vandalism Reporting System pursuant to N.J.A.C. 6A:16-5.3(e)1.

(l) Each district board of education shall annually make available its adopted policies and procedures for implementing this section to all school staff, students, and parents.

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

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

Rewrote the rule heading and the section.

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

(a) Each district board of education shall adopt and implement policies and procedures regarding any student who commits an assault, as defined under N.J.S.A. 2C:12-1(a)1, with a weapon, which includes, but is not limited to, those items enumerated in N.J.S.A. 2C:39-1(r), except a firearm as defined by N.J.S.A. 2C:39-1(f) and 18 U.S.C. §921, upon a teacher, administrator, board member, other employee of a school board or another student on any school grounds, including on a school bus or at a school-sponsored function, according to the requirements of N.J.S.A. 18A:37-2.2 through 2.5.

(b) Any student as set forth in (a) above, other than a student with a disability, shall be immediately removed from the school's general education program for a period not exceeding one calendar year.

1. The chief school administrator may modify the removal of a general education student on a case-by-case basis.

2. Nothing in this section shall be construed to prohibit the expulsion of a general education student.

(c) District boards of education shall immediately remove students with disabilities for assaults with weapons offenses in accordance with the provisions of N.J.A.C. 6A:14 and the applicable Federal regulations incorporated therein.

(d) The principal or his or her designee shall:

1. Remove any student as set forth in (a) through (c) above;

2. Isolate the student and place the student under the supervision of school staff until such time as the parent or law enforcement official takes custody of the student;

3. Immediately report the removal of the student to the school district's chief school administrator;

4. Notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice; and

5. Notify the student's parent of the following information:

i. The removal action;

- ii. The law enforcement notification;
- iii. The change of custody, if it occurs; and
- iv. The general education student's due process rights, pursuant to N.J.A.C. 6A:16-7.2 through 7.6 or in the case of a student with a disability, the student's due process rights, as set forth in N.J.A.C. 6A:14-2.7 through 2.8 and N.J.A.C. 6A:16-7.2 through 7.6.

(e) Any student that is removed from the general education program pursuant to (b) above shall be placed in an alternative education program, according to the requirements of N.J.A.C. 6A:16-9.

1. If placement in an alternative education program is not available, the general education student shall be provided home or other out-of-school instruction, according to N.J.A.C. 6A:16-10, until placement is available.

(f) A student with a disability removed pursuant to (a) and (c) above shall receive a placement in accordance with N.J.A.C. 6A:14.

(g) Any student removed pursuant to (b) above shall be entitled to a hearing before the district board of education, pursuant to the requirements set forth at N.J.A.C. 6A:16-7.2 and 7.3.

(h) If it is found that the removed student is not guilty of these offenses, the student shall be immediately returned to the program from which the student was removed.

(i) The chief school administrator shall make the final determination on when the general education student is prepared to return to the general education program or whether the student shall remain in an alternative education program or receive home or other out-of-school instruction based on the following criteria:

1. The nature and severity of the offense;
2. The district board of education removal decision;
3. The results of any relevant testing, assessments or evaluation of the student; and
4. The recommendation of the principal or director of the alternative education program or home or other out-of-school instruction program in which the student has been placed.

(j) This section does not apply to any student who has obtained the written authorization of the chief school administrator to lawfully possess a firearm or other weapon while participating in a school-sponsored function.

1. The chief school administrator shall not provide such authorization to any student who has been convicted or adjudicated delinquent for possession of a firearm or weapon or for a crime involving the use of a firearm.

(k) Each chief school administrator shall submit a report annually to the Commissioner of Education on each incident and the circumstances surrounding the removal of students pursuant to (b) above utilizing the Electronic Violence and Vandalism Reporting System pursuant to N.J.A.C. 6A:16-5.3(e)1.

(l) Each district board of education shall make available annually its adopted policies and procedures for implementing this section to all school staff, students, and parents.

Administrative correction.

See: 33 N.J.R. 3034(b).

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

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

Rewrote the rule heading and the section.

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

(a) Each district board of education shall adopt and implement policies and procedures regarding any 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, board member or other employee of a school board 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, according to the requirements of N.J.S.A. 18A:37-2.1.

(b) Any general education student who commits an assault pursuant to (a) above, shall be immediately removed from school consistent with due process procedures, pending a hearing pursuant to N.J.A.C. 6A:16-7.2 through 7.6.

1. Nothing in this section shall be construed as prohibiting the expulsion of a general education student.

(c) Any student with a disability who commits an assault pursuant to (a) above shall be removed in accordance with N.J.A.C. 6A:14.

(d) The principal or his or her designee shall:

1. Remove any student as set forth in (a) above;
2. Isolate the student and place the student under the supervision of school staff until such time as the parent or appropriate agency takes custody of the student;
3. Immediately report the removal of the student to the district's chief school administrator; and
4. Notify the student's parent of the removal action and the student's due process rights.

(e) The district board of education shall provide due process proceedings for a general education student in accordance with N.J.A.C. 6A:16-7.2 through 7.3 and 7.5 through 7.6, or in the case of a student with a disability, in accordance with N.J.A.C. 6A:14-2.7 through 2.8.

(f) Each chief school administrator shall submit a report annually to the Commissioner of Education on each incident and the circumstances surrounding the removal of students, pursuant to (b) above, utilizing the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e)1.

(g) Each district board of education shall annually make available its adopted policies and procedures for implementing N.J.A.C. 6A:16-5.7 to all school staff, students and parents.

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

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

Rewrote (b) through (e), recodified (e) as (g), added (f).

6A:16-5.8 Remotely activating paging devices

(a) Each district board of education shall adopt and implement policies and procedures regarding the prohibition of remotely activating paging devices, according to the requirements of N.J.S.A. 2C:33-19.

(b) Without the express written permission of the school board, the chief school administrator, or the school principal, students are prohibited from bringing or possessing any remotely activating paging device on any school grounds, including on a school bus or at a school-sponsored function, at any time and regardless of whether school is in session or other persons are present.

(c) School authorities shall not grant permission for a student to bring or possess a remotely activating paging device on any school grounds, including on a school bus or at a school-sponsored function unless and until a student shall have established to the satisfaction of the school authorities a reasonable basis for the possession of the device.

(d) The principal or his or her designee shall immediately notify the chief school administrator and the appropriate criminal justice or juvenile justice agency of a violation of this section.

(e) Each district board of education shall annually make available its adopted policies and procedures for implementing this section to all school staff, students and parents.

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

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

Rewrote (b) and (c); in (e), deleted “,” following “students”.

SUBCHAPTER 6. LAW ENFORCEMENT OPERATIONS FOR SUBSTANCES, WEAPONS AND SAFETY

6A:16-6.1 Adoption of policies and procedures

(a) District boards of education shall adopt and implement policies and procedures to ensure cooperation

between school staff and law enforcement authorities in all matters relating to:

1. The unlawful possession, distribution and disposition of the following:

i. Controlled dangerous substances, including anabolic steroids, as defined in N.J.S.A. 24:21-2 and N.J.S.A. 2C:35-2;

ii. Drug paraphernalia as defined in N.J.S.A. 2C:36-1;

iii. Alcoholic beverages;

iv. Firearms, as defined in subsection f of N.J.S.A. 2C:39-1f; and

v. Other deadly weapons, as defined in N.J.S.A. 2C:391r; and

2. The planning and conduct of law enforcement activities and operations occurring on school grounds, including on a school bus or at a school-sponsored function, including arrest procedures and undercover school operations.

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).

Law Reviews and Journal Commentaries:

Outline of the Laws and Regulations Governing Student Discipline in the Public Schools. Richard H. Bauch, 222 N.J.L.J. 74 (2003).

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

(a) School district policies and procedures developed pursuant to this subchapter shall be:

1. Developed, implemented, and revised, as necessary, in consultation with the county prosecutor and such other law enforcement officials as may be designated by the county prosecutor;

2. Reviewed and approved by the county superintendent;

3. Made available annually to all school staff, students and parents; and

4. Consistent with reporting, notification and examination procedures of students suspected of being under the influence of alcohol and other drugs according to the requirements of N.J.A.C. 6A:16-4.3.

(b) School district policies and procedures shall include the following components:

1. The designation of liaisons to law enforcement agencies and the description of their roles and responsibilities by the district chief school administrator;

2. Specific procedures for and responsibilities of staff in summoning appropriate law enforcement authorities onto school grounds, including on a school bus or at a school-sponsored function, for the purpose of conducting law enforcement investigations, searches, seizures and arrests;

3. Specific procedures and responsibilities of staff for notifying parents in instances of law enforcement interviews involving their children;

4. Specific procedures for and responsibilities of staff in cooperating with arrests made by law enforcement authorities on school grounds, including on a school bus or at a school-sponsored function;

5. Specific procedures for and responsibilities of staff in initiating or conducting searches and seizures of students, their property, and personal effects.

i. All searches and seizures conducted by school staff shall comply with the standards prescribed by the United States Supreme Court in *New Jersey v. T.L.O.*, 469 U.S. 325 (1985).

ii. Any question concerning searches conducted by school officials shall be directed to the appropriate county prosecutor.

iii. School officials may request that law enforcement authorities assume responsibility for conducting any search or seizure.

iv. No school staff member shall impede any law enforcement officer engaged in a lawful search, seizure, or arrest whether pursuant to a warrant or otherwise.

v. School staff shall permit law enforcement authorities upon their arrival to assume responsibility for conducting any search or seizure.

vi. All inspections of lockers, desks or other objects or personal property on school grounds, including on a school bus or at a school-sponsored function, involving the use of law enforcement drug-detection canines only may be undertaken with the express permission of the county prosecutor or the Director of the Division of Criminal Justice or designee in the New Jersey Department of Law and Public Safety.

vii. Any questions concerning the legality of any contemplated or ongoing search, seizure, or arrest conducted by a law enforcement officer on school grounds, including on a school bus or at a school-sponsored function, shall be directed to the county prosecutor or, in the case of a search, seizure or arrest undertaken by the Division of Criminal Justice or designee in the New Jersey Department of Law and Public Safety, to the assigned Assistant Attorney General;

6. The procedures for and responsibilities of staff, with regard to interviews of students suspected of possessing or distributing a controlled dangerous substance, including anabolic steroids, drug paraphernalia or a firearm or other deadly weapon;

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

i. The chief school administrator and school principal shall cooperate with law enforcement authorities in the planning and conduct of undercover school operations. The chief school administrator shall approve such undercover operations without prior notification to the district board of education.

ii. All information concerning requests to undertake any undercover school operation, information supplied by law enforcement authorities to justify or explain the need for and of a proposed undercover school operation, and all other information concerning an ongoing undercover school operation, including the identity of any undercover officer placed in a school, shall be kept strictly confidential by the chief school administrator and school principal.

iii. The chief school administrator and principal shall not divulge information concerning any undercover school operation to any person without the prior express approval of the county prosecutor or designee.

iv. In the event that the chief school administrator, principal or any other school staff or district board member who may have been informed regarding the existence of the undercover school operation subsequently learns of any information which suggests that the true identity of the undercover officer has been revealed, or that any person has questioned the identity or status of the undercover officer as a bona fide member of the school community, or that the integrity of the undercover school operation has been in any other way compromised, such information shall be immediately communicated to the county prosecutor or designee;

8. The procedures for and responsibilities of staff concerning the safe and proper handling of any seized controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon, and the prompt delivery of such items to appropriate law enforcement authorities in accordance with this subchapter;

9. The procedures for and responsibilities of staff in notifying authorities of any suspected violation of any laws prohibiting the possession, sale or other distribution of any controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon;

10. Provisions for requesting uniformed police attendance at extracurricular school events;

11. Provisions for notifying parents as soon as possible whenever a student is arrested for violating any law prohibiting the possession, sale or other distribution of any controlled dangerous substance, including anabolic steroids, drug paraphernalia, or a firearm or other deadly weapon;

12. Provisions for the in-service training of school staff concerning policies and procedures established in this subchapter, and the exchange of information regarding the practices of the education and law enforcement agencies;

13. An agreement or memorandum of understanding with appropriate law enforcement authorities.

i. The agreement or memorandum of understanding shall be consistent with the policies and procedures established in this subchapter and shall be consistent with the format and content established by the Attorney General and the Commissioner of Education.

ii. The agreement or memorandum of understanding shall define the reciprocal rights and obligations of students, parents, school staff, and law enforcement officials with respect to the possession, distribution and disposition of controlled dangerous substances, including anabolic steroids, drug paraphernalia, and firearms and other deadly weapons; with respect to the planning and conduct of law enforcement activities and operations, occurring on school grounds, including on a school bus or at a school-sponsored function, including arrests and undercover school operations; and with respect to law enforcement's participation in substance abuse prevention programs.

iii. Copies of all agreements or memoranda of understanding entered into with law enforcement authorities shall be approved by the district board of education and shall be submitted to and approved by the county prosecutor and county superintendent of schools.

14. Provisions for resolving disputes concerning law enforcement activities occurring on school grounds, including on a school bus or at a school-sponsored function; and

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

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

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

Rewrote the section.

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

(a) Subject to the provisions of N.J.A.C. 6A:16-6.5, any staff member who, in the course of his or her employment, has reason to believe that a student or staff member has unlawfully possessed or in any way been involved in the distribution of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, shall report the matter as soon as possible to the principal or, in the absence of the principal, to the staff member responsible at the time of the alleged violation.

1. Either the principal or the responsible staff member shall notify the chief school administrator, who in turn shall notify as soon as possible the appropriate county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.

2. The chief school administrator or designee shall provide to the county prosecutor or designee all known information concerning the matter, including the identity of the student or staff member involved.

3. The chief school administrator or designee shall not disclose, however, the identity of any student or staff member who has voluntarily sought and participated in an appropriate treatment or counseling program for a substance abuse problem provided the student or staff member is not reasonably believed to be involved or implicated in drug distribution activities.

i. For the purpose of this section, an admission by a student or staff member in response to questioning initiated by the principal or teaching staff member, or following the discovery of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia by the principal or teaching staff member, shall not constitute a voluntary, self-initiated request for counseling and treatment.

4. The chief school administrator or designee may, but need not disclose to law enforcement authorities the identity of a student suspected to be under the influence of alcohol and/or controlled dangerous substances, including anabolic steroids, and who is referred for a medical examination, pursuant to N.J.A.C. 6A:16-4.3(a) or (b), for the purposes of providing appropriate health care for the student and for determining whether the student is under the influence of alcohol or other drugs or has been using anabolic steroids, provided that the student is not reasonably believed to be in possession of a controlled dangerous substance or drug paraphernalia, and is not reasonably believed to be involved or implicated in drug distribution activities.

(b) Whenever any school employee develops reason to believe that a firearm, as defined in N.J.S.A. 2C:39-1(f) and 18 U.S.C. §921, or other deadly weapon, whether enumerated in N.J.S.A. 2C:39-1(r) or not, except a firearm as defined by N.J.S.A. 2C:39-1(f) and 18 U.S.C. §921, has unlawfully been

brought onto school grounds, including on a school bus or to a school-sponsored function, or that any student or other person is in unlawful possession of a firearm or other deadly weapon, whether on or off school grounds, including on a school bus or at a school-sponsored function, or that any student or other person has committed an offense with or while in possession of a firearm, whether or not such offense was committed on school grounds, including on a school bus or at a school-sponsored function, or during school operating hours, the matter shall be reported as soon as possible to the principal, or in the absence of the principal, to the staff member responsible at the time of the alleged violation.

1. Either the principal or the responsible staff member shall notify the chief school administrator, who in turn shall notify, as soon as possible, the county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.

2. The chief school administrator or designee shall provide to the county prosecutor or designee all known information concerning the matter, including the identity of the student or staff member involved.

(c) The designated school official, as defined by (b)1 above, shall immediately notify the designated law enforcement official whenever any school employee in the course of his or her employment develops reason to believe that 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 that 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 by (b)1 above, shall immediately notify the designated law enforcement official whenever any school employee in the course of his or her employment develops reason to believe that a crime involving sexual penetration or criminal sexual conduct has been committed on school grounds, including on a school bus or at a school-sponsored function, or by or against a student during school operating hours or during school-related functions or activities.

(e) School employees shall immediately notify the building principal and chief school administrator when in the course of their employment they develop reason to believe that a hate crime has been committed or is about to be committed on school grounds, including on a school bus or at a school-sponsored function, or has been or is about to be committed by any student, whether on or off school grounds, including on a school bus or at a school-sponsored function, and whether or not such offense was or is to be committed during operating school hours, or a student enrolled in the school has been or is about to become the victim of a hate crime, whether committed on or off school grounds, including on a school bus or at a school-sponsored function, or during operating school hours.

1. The designated school official, as defined by (b)1 above, shall promptly notify the local police department and the bias investigation officer for the county prosecutor's office in the instances described above.

2. The designated school official, as defined by (b)1 above, shall immediately notify the local police department and the bias investigation officer for the county prosecutor's office where there is reason to believe that a hate crime that involves an act of violence has been or is about to be physically committed against a student, or there is otherwise reason to believe that a life has been or will be threatened.

(f) All incidents shall be reported under this section utilizing the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e)1 where 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), (b), (d), (e); added (f).

6A:16-6.4 Handling of substances, firearms and other items

(a) Any school employee who seizes or discovers any substance or item believed to be a controlled dangerous substance, including anabolic steroids, or drug paraphernalia, shall immediately notify and turn over the substance or item to the principal or designee.

1. The principal or designee shall immediately notify the chief school administrator or his or her designee who in turn shall notify the appropriate county prosecutor or other law enforcement official designated by the county prosecutor to receive such information.

2. The school employee, principal or designee shall safeguard the substance or paraphernalia against further use or destruction and shall secure the substance or paraphernalia until such time as the substance or paraphernalia can be turned over to the county prosecutor or designee.

3. The principal or designee shall provide to the county prosecutor or his or her designee all information concerning the manner in which the substance or paraphernalia was discovered or seized, including:

i. The identity of all persons who had custody of the substance or paraphernalia following its discovery or seizure; and

ii. The identity of any student or staff member believed to have been in possession of the substance or paraphernalia.

4. The principal or designee shall not disclose the identity of any student or staff member who voluntarily and on his or her own initiative turned over the substance or paraphernalia to a school employee, provided that there

is reason to believe that the student or staff member was involved with the substance or paraphernalia for the purpose of personal use, not distribution activities, and further provided that the student or staff member agrees to participate in an appropriate treatment or counseling program.

i. For the purposes of this section, an admission by a student or staff member in response to questioning initiated by the principal or teaching staff member, or following the discovery of a controlled dangerous substance, including anabolic steroids, or drug paraphernalia by the principal or teaching staff member shall not constitute a voluntary self-initiated request for counseling and treatment.

(b) Whenever a school employee seizes or comes upon any firearm or dangerous weapon, school officials shall:

1. In the case of a firearm, immediately advise the county prosecutor or appropriate law enforcement official, and secure the firearm or weapon pending the response by law enforcement to retrieve and take custody of the firearm or dangerous weapon; and

2. In the case of a dangerous weapon other than a firearm, immediately advise the county prosecutor or appropriate law enforcement official, and secure the firearm or weapon pending the response by law enforcement to retrieve and take custody of the firearm or dangerous weapon.

(c) School employees having custody of a firearm or dangerous weapon shall take reasonable precautions, according to district board of education procedures, to prevent the theft, destruction or unlawful use of the firearm or dangerous weapon by any person.

6A:16-6.5 Confidentiality of student or staff member involvement in substance abuse intervention and treatment programs

(a) All information concerning a student's or staff member's involvement in a school intervention or treatment program for substance abuse shall be kept strictly confidential, according to the requirements of 42 CFR Part 2 and N.J.S.A. 18A:40A-7.1 and 7.2.

(b) Nothing in this subchapter shall be construed in any way to authorize or require the transmittal of any information or records which are in the possession of a substance abuse counseling or treatment program.

(c) The principal or designee shall not disclose to law enforcement officials or to any person other than a member of the local district's comprehensive alcohol, tobacco and other drug abuse program that a student or staff member has received or is receiving services through the local district's comprehensive alcohol and other drug abuse program, nor shall the principal or designee disclose any information, including the student's or staff member's identity or

information about illegal activity, where such information was learned in the course of or as a result of services provided through the local district's comprehensive alcohol and other drug abuse program.

(d) Nothing in this section shall be construed to preclude the disclosure of information about illegal activity which was learned by any school employee outside of the local district's comprehensive alcohol and other drug abuse program.

1. Any such information about illegal activity shall be reported according to the requirements of N.J.A.C. 6A:16-6.3 and 6.4.

SUBCHAPTER 7. STUDENT CONDUCT

6A:16-7.1 Code of student conduct

(a) Each district board of education shall develop and implement a code of student conduct which establishes standards, policies and procedures for positive student development and student behavioral expectations on school grounds, including on a school bus or at school-sponsored functions, and, as appropriate, for conduct away from school grounds, in accordance with N.J.A.C. 6A:16-7.6.

1. The code of student conduct shall be based on parent, student and community involvement which represents, where possible, the composition of the schools and community.

2. The code of student conduct shall be based on locally determined and accepted core ethical values adopted by the district board of education.

3. The district board of education shall establish a process for the annual review and update of the code of student conduct that provides for:

i. Parent, student and community involvement which represents, where possible, the composition of the schools and community; and

ii. Consideration of the findings of the annual reports of student conduct, including suspensions and expulsions, pursuant to (a)5 and 6 below, and the incidences reported under the Electronic Violence and Vandalism Reporting System, in accordance with N.J.A.C. 6A:16-5.3.

4. The code of student conduct shall be disseminated annually to all school staff, students and parents;

5. The chief school administrator shall report annually on the implementation of the code of student conduct to the district board of education at a public meeting. The annual summary shall contain, at a minimum:

i. A numerical inventory of all violations of the student behavioral expectations in the code of student conduct;

ii. Associated school responses to the violations of the student behavioral expectations;

iii. An explanation and evidence of the effectiveness of the code of student conduct. The explanation and evidence, at a minimum, shall address:

(1) The degree of effectiveness of the school district's activities in achieving the purposes of the code of student conduct, pursuant to (b) below; and

(2) The degree of implementation and effectiveness of the implementation of the contents of the code of student conduct, pursuant to (c) below; and

iv. Any proposed changes to the district's current policies, procedures, programs or initiatives, based on the report pursuant to (a)5 above.

6. The chief school administrator shall submit a report annually to the New Jersey Department of Education on student conduct, including all student suspensions and expulsions, and the implementation of the code of student conduct, pursuant to this section, in accordance with the format prescribed by the Commissioner of Education and the Electronic Violence and Vandalism Reporting System, pursuant to N.J.A.C. 6A:16-5.3(e).

7. For students with disabilities, subject to Individualized Education Programs in accordance with 20 U.S.C. §1400, the Individuals with Disabilities Act, and accommodation plans under 29 U.S.C. §§794 and 705(20), the code of student conduct shall be implemented in accordance with the components of the applicable plans.

(b) The code of student conduct shall be established to achieve the following purposes:

1. Foster the health, safety and social and emotional well-being of students;

2. Support the establishment and maintenance of civil, safe, supportive and disciplined school environments conducive to learning;

3. Promote achievement of high academic standards;

4. Prevent the occurrence of problem behaviors;

5. Establish parameters for the intervention and remediation of student problem behaviors at all stages of identification; and

6. Establish parameters for school responses to violations of the code of student conduct that take into account, at a minimum, the severity of the offenses, the

developmental ages of the student offenders and students' histories of inappropriate behaviors.

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

1. A description of student responsibilities that includes expectations for academic achievement, behavior and attendance, pursuant to N.J.A.C. 6:3-9;

2. A description of the behaviors that will 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 will result in suspensions and expulsions that have been identified under authority of N.J.S.A. 18A:37-2;

ii. Education that supports students' development into productive citizens;

iii. Attendance in safe school environments;

iv. Attendance at school irrespective of students' marriage, pregnancy or parenthood;

v. Due process and appeal procedures, 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;

vi. Parent notification consistent with the policies and procedures established pursuant to N.J.A.C. 6A:16-6.2(b)3; and

vii. Protections pursuant to 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. 6:3-6, Pupil 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 protections;

4. A description of comprehensive behavioral supports that promote positive student development and the students' abilities to fulfill the behavioral expectations established by the school district, including:

i. Positive reinforcement for good conduct and academic success;

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

iii. Remediation of problem behavior that take into account the nature of the behaviors, the developmental ages of the students and the student's histories of problem behaviors and performance; and

iv. For students with disabilities, the behavior interventions and supports shall be determined and provided pursuant to the requirements of N.J.A.C. 6A:14;

5. A description of school responses to violations of the behavioral expectations established by the district board of education that, at a minimum, are graded according to the severity of the offenses, consider the developmental ages of the student offenders and students' 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, 5.6 and 5.7 above;

iii. Provide for the equitable application of the code of student conduct without regard to 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, pursuant to N.J.S.A. 10:5; and

iv. Be consistent with the provisions of N.J.S.A. 18A:6-1, Corporal punishment of pupils;

6. A policy and procedures regarding the attendance of students in accordance with N.J.S.A. 18A:38-25 through 31 and N.J.A.C. 6:3-9 and 6A:16-7.8;

7. A policy and procedures regarding intimidation, harassment and bullying in accordance with N.J.S.A. 18A:37-13 et seq. and N.J.A.C. 6A:16-7.9; and

8. 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) The code of student conduct shall include the due process procedures and policies for students and their families and shall include the provisions set forth at N.J.A.C. 6A:16-7.2 through 7.6.

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).

6A:16-7.2 Short-term suspensions

(a) In each instance of a short-term suspension, a district board of education shall provide for the following:

1. As soon as practicable, oral or written notice of charges to the student and the student's parents.

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

2. An informal hearing prior to the suspension in which the student is given the opportunity to present the student's side of the story regarding the student's actions leading to the short-term suspension and the school district's actions taken pursuant to N.J.A.C. 6A:16-7.1(c) 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 should 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. Notification to the student's parents of the student's removal from the student's educational program prior to the end of the school day on which the school administrator makes the decision to suspend the student;

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

i. Services shall be provided within five school days of the suspension.

ii. Educational services provided to a student with a disability shall be provided consistent with the student's Individualized Education Program in accordance with N.J.A.C. 6A:14.

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

(c) A district board of education may deny participation in extracurricular activities, school functions, sports or graduation exercises as disciplinary sanctions, where such

measures are designed to maintain the order and integrity of the school environment.

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

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 school days by providing:

1. Immediate notification to the student of the charges, prior to the student's removal from school;
2. Immediate notification to the student's parents of the student's removal from school;
3. Appropriate supervision of the student while waiting for the student's parents to remove the student from school during the school day;
4. 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:16-7.2 through 7.6; and
 - iv. That 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:16-7.5.
- (1) The district board of education shall request written acknowledgement of the notification of the provisions of (a)4iv above from the parents and the student subsequent to the removal from the student's educational program, pursuant to this section;
5. A list of witnesses and their statements or affidavits, if any;
6. A student with a disability, a manifestation determination pursuant to N.J.A.C. 6A:14-2.8 and Federal regulations incorporated by reference therein;
7. Information on the right of the student to secure an attorney and legal resources available in the community identified pursuant to N.J.A.C. 6A:16-7.1(c)8;
8. Educational services, either in school or out of school, that are comparable to those provided in the public schools for students of similar grades and attainments, pursuant to N.J.S.A. 18A:38-25, which may include a

public education program provided in accordance with the provisions of N.J.A.C. 6A:16-9 or 10.

i. The services shall be provided within five school days of the suspension.

ii. Educational services provided to a student with a disability shall be provided consistent with the student's Individualized Education Program, in accordance with N.J.A.C. 6A:14.

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

i. Be conducted by the board of education or delegated by the board to a board committee or to a school administrator for the purpose of determining facts or making recommendations.

(1) The board of education as a whole shall receive and consider either a transcript or detailed report on such hearing before taking final action;

ii. Include the opportunity for the student to:

(1) Confront and cross-examine witnesses, when 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. Not be subject to the provisions of the "Open Public Meetings Act," pursuant to N.J.S.A. 10:4-6;

10. A written statement to the student's parents of the district board of education's decision within five school days after the close of the hearing that includes, 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; and

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

11. Immediate return to the general education program if at any time it is found that the general education student is not guilty of the offense; and

12. For a student with a disability found not guilty of the offense, the student's program shall be determined in accordance with the provisions of N.J.A.C. 6A:14.

(b) Any appeal of the district board of education's decision regarding the student's general education program shall be made to the Commissioner of Education 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 general education students may not be continued beyond the district board of education's second regular 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. The district board of education removal decision;
- iii. The results of any relevant testing, assessments or evaluations of the student; and
- iv. The recommendation of the chief school administrator, principal or director of the alternative education program or home or other out-of-school instruction program in which the student has been placed.

2. The district board of education shall 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 the suspension of a general education student, the board of education, in consultation with the chief school administrator, shall review the case 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 current educational program for the suspended student; and
3. If the suspended student's current placement should continue or if the student should return to the general education program.

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

1. When the student is prepared to return to the general education program;
2. Whether the student shall remain in an alternative education program or receive home or other in-school 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:16-7.5.

(f) The district board of education shall make decisions regarding the appropriate educational program and support services for the suspended general education student, at a minimum, based on the following criteria:

1. A behavioral assessment or evaluation including, but not limited to, a referral to the child study team, as appropriate;
2. The results of any 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; or
5. Consultation with the Intervention and Referral Services team, in accordance with N.J.A.C. 6A:16-8, as appropriate.

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

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

(h) 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:14-2.8 in determining, altering 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 shall be afforded to each 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 (g) above shall not apply to students with disabilities.

6A:16-7.4 Mandated student removals from general education

(a) The district board of education shall follow N.J.A.C. 6A:16-5.5 for student removals for firearms offenses.

(b) The district board of education shall follow N.J.A.C. 6A:16-5.6 for student removals for assaults with weapons offenses.

(c) The district board of education shall follow N.J.A.C. 6A:16-5.7 for student removals for assaults on district board of education members or employees.

6A:16-7.5 Expulsions

(a) A district board of education may expel, that is discontinue the educational services or discontinue payment of educational services for, 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:16-7.3 and 7.4, subsequent to a long-term suspension pursuant to N.J.A.C. 6A:16-7.3; and
2. An appropriate educational program or appropriate educational services, based on the criteria set forth under N.J.A.C. 6A:16-7.3(f).
 - i. The educational program 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 school or out of school, shall be comparable to those provided in the public schools for students of similar grades and attainments, pursuant to the provisions of N.J.S.A. 18A:38-25.

(b) Any 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 of Education 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 appropriate educational services, in accordance with N.J.A.C. 6A:16-7.5(a)2, until a final determination has been made on the appeal of the district board of education's action to expel a student.

(c) An expulsion of a student with a disability from a receiving school shall be handled in accordance with N.J.A.C. 6A:14.

6A:16-7.6 Conduct away from school grounds

(a) School authorities have the right to impose a consequence on a student for conduct away from school grounds, including on a school bus or at a school-sponsored function 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 and well-being or for reasons relating to the safety 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 which 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 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 7.5.

6A:16-7.7 Staff responsibilities and rights

(a) District boards of education shall provide for the equitable application of the code of student conduct.

(b) District boards of education shall delineate the roles and responsibilities of each staff member in the implementation of the code of student conduct.

(c) District boards of education shall provide to all school staff training annually on the code of student conduct, which shall include training on the prevention, intervention and remediation of student conduct in violation of the district board of education's code of student conduct.

1. Information on the code of student conduct shall be incorporated into the orientation program for new employees.

6A:16-7.8 Attendance

(a) Each district board of education shall 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. 6:3-9, at the public schools of the district or day schools in which students are provided with equivalent instruction, according to the requirements of N.J.S.A. 18A:38-25, that shall include, at a minimum:

1. The expectations and consequences regarding the 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, for the purpose of this section, that, at a minimum, shall be based on the definition of a school day, pursuant to N.J.A.C. 6:3-9.3 and the following considerations:
 - i. Family illness or death;
 - ii. Educational opportunities;
 - iii. Written parental permission; and

iv. Where appropriate, Individualized Education Programs pursuant to 20 U.S.C. §1400, the Individuals with Disabilities Act, accommodation plans under 29 U.S.C. §§794 and 705(20), and individualized health care plans, pursuant to N.J.A.C. 6A:16-2.1(e)1x; and

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) Conduct an investigation of the cause of each unexcused absence, including contact with the student's parents;

(3) Develop an action plan in consultation with the student's parents 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 the provisions of N.J.S.A. 9:6-1 et seq. and N.J.A.C. 6A:16-11, if child abuse and neglect is suspected; 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) Conduct a follow-up investigation, including contact with the student's parents, to determine the cause of each unexcused absence;

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

(4) Revise the action plan, as needed, to identify patterns of unexcused absences and establish outcomes based upon the student's needs and specify the interventions for achieving the outcomes, supporting the student's return to school and regular attendance that 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 a community-based social and health provider agency or other community resource;

(E) Refer to the court program designated by the New Jersey Administrative Office of the Courts; and

(F) Proceed in accordance with the provisions of N.J.S.A. 9:6 and N.J.A.C. 6A:16-11, if child abuse and neglect is suspected; and

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

iii. For cumulative unexcused absences of 10 or more, the student is truant, pursuant to N.J.S.A. 18A:38-27, and the school district shall:

(1) Make a mandatory referral to the court program required by the New Jersey Administrative Office of the Courts;

(2) Make a reasonable attempt to notify the student's parents of the mandatory referral;

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

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

(5) 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.

(b) For students with disabilities, the attendance plan and punitive and remedial procedures set forth therein shall be applied, where applicable, in accordance with the students' Individualized Education Programs, pursuant to 20 U.S.C. §1400, the Individuals with Disabilities Act; the procedural protections set forth in N.J.A.C. 6A:14, accommodation plans under 29 U.S.C. §§794 and 705(20); and individualized health care plans, pursuant to N.J.A.C. 6A:16-2.1(e)1x.

(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 district.

i. The sending 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 iii and (b) above, as appropriate.

(d) The chief school administrator shall submit annually a report to the Commissioner of Education containing information on student attendance, including, but not limited to,

the district board of education's implementation of each of the requirements pursuant to this section.

6A:16-7.9 Intimidation, harassment and bullying

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

1. Each district board of education shall develop the policy in consultation with parents and other community members, including appropriate community-based social and health provider agencies, law enforcement officials, school employees, school volunteers, students and school administrators.

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

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

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

iii. A 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 is:

(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 any staff member who commits an act of harassment, intimidation or bullying;

vii. A procedure for reporting an act of harassment, intimidation or bullying, including a provision that

permits a person to report anonymously an act of harassment, intimidation or bullying;

(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 reports of violations and complaints, identifying either the principal or the principal's designee as the person responsible for the investigation;

(1) Reports and complaints include, but are not limited to, oral reports, written reports or electronic reports;

ix. The range of ways in which a school will respond once an incident of harassment, intimidation or bullying is identified;

x. A statement that prohibits reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying and the consequence and appropriate remedial action 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 as a means of harassment, intimidation or bullying; and

xii. A statement of how the 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 comprehensive rules, procedures and standards of student conduct, pursuant to N.J.A.C. 6A:16-7.1, for schools within the school district.

(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 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.

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 district and any information the 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. 6:3-6.5(c)10iv.

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. 6:3-6, Pupil 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.

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 staffs who have difficulties in addressing students' learning, behavior, or health needs. District boards of education shall choose the appropriate multidisciplinary 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 with learning disabilities 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) added "in which general education students are served" after "school building".

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. 6:3-6, Pupil 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.

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 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 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 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.

SUBCHAPTER 9. ALTERNATIVE EDUCATION PROGRAMS

6A:16-9.1 Program approval

(a) Each district board of education intending to operate an alternative education program shall first submit an application and obtain approval from the Commissioner of Education.

(b) Each district board of education of an Abbott district, as defined in N.J.A.C. 6A:24-1.2, N.J.A.C. 6A:24-1.4(j) and N.J.A.C. 6A:24-6.1(a) 3, shall implement plans providing for the establishment of an alternative middle school and high school.

6A:16-9.2 Application process and approval criteria

(a) Each district board of education intending to operate a high school alternative education program shall submit an application to the county office of education and receive approval to operate based on documentation that the following criteria will be met:

1. A maximum student-teacher ratio of 12:1;
2. An Individualized Program Plan for each student enrolled in the program;
3. Individualized instruction to students that address the Core Curriculum Content Standards;
4. Comprehensive support services and programs which address each student's health, social development and behavior;
5. Work-based learning experiences that are made available for all students;
6. Instruction by staff who are appropriately certified;
7. Compliance with attendance policies in N.J.A.C. 6:8-7.1(d)2;
8. Program services to students at least four hours per day and a minimum of 180 days per year; and
9. Credits based on the program completion option pursuant to N.J.A.C. 6A:8-5.1(a)1ii.

(b) Each district board of education intending to operate a middle school alternative education program shall submit an application to the county office of education and receive approval to operate based on documentation that the following criteria will be met:

1. A maximum student-teacher ratio of 10:1;
2. An Individualized Program Plan for each student enrolled in the program;
3. Individualized instruction to students that address the Core Curriculum Content Standards;
4. Comprehensive support services and programs which address each student's health, social development and behavior;
5. Case management services, including, but not limited to, monitoring and evaluating student progress and coordinating services;
6. Instruction by staff who are appropriately certified;

7. Compliance with attendance policies in N.J.A.C. 6:8-5.1(a)2;

8. Program services to students at least four hours per day and a minimum of 180 days per year; and

9. Transition services returning the student to the general education program.

6A:16-9.3 Mandatory student placements

(a) The district shall provide placement for a student in an alternative education program in the following instances:

1. A student removed from general education for a firearms offense, pursuant to N.J.A.C. 6A:16-5.5; and
2. A student removed from general education for an assault with weapons offense, pursuant to N.J.A.C. 6A:16-5.6.

(b) If placement in an alternative education program is not available, the student shall be provided instruction at home or in another suitable facility until placement is available, pursuant to N.J.A.C. 6A:16-10.

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

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

In (b) updated N.J.A.C. cite.

SUBCHAPTER 10. HOME OR OUT-OF-SCHOOL INSTRUCTION FOR GENERAL EDUCATION STUDENTS

6A:16-10.1 Student placement

(a) The district is responsible for providing general education students with an appropriate program of home or other out-of-school instruction in the following circumstances:

1. When placement in an alternative education program is not immediately available for violations of N.J.A.C. 6A:16-5.5 and 5.6;
2. When home or other out-of-school placements have been ordered by the courts; and
3. When there are exclusions from school for non-medical health-or rehabilitation-related purposes.

(b) In all instances, the school district in which a student resides is responsible for the costs of providing the home or out-of-school instruction.

(c) In any instance in which a program of home or other out-of-school instruction is provided, the district shall initiate instructional services to the student no later than five working days after the student has left the general education program.

(d) Nothing in this section supersedes N.J.A.C. 6:9, under the State Facilities Education Act.

6A:16-10.2 Service requirements

(a) The school district shall assure a multidisciplinary approach to planning the delivery of the following services, and ensure that professionals with appropriate instructional and educational services certificates are consulted. The functions of the multidisciplinary team shall be to:

1. Assess and evaluate student needs and establish an appropriate program of home or other out-of-school instruction;

2. Develop an Individualized Program Plan that addresses:

- i. The student's individual educational and behavioral needs; and

- ii. Placement in an appropriate educational program, including transition back to the general education setting; and

3. Conduct periodic assessment of the placement, instructional services and student progress and make appropriate revisions to the Individualized Program Plan every 60 days to determine progress and facilitate a transition to another appropriate educational program, if appropriate.

(b) Each district board of education shall provide home or other out-of-school instruction according to the following minimum standards:

1. A record of the student's home or other out-of-school instruction shall be maintained;

2. The teacher providing the instruction shall be appropriately certified for the subject or level in which the instruction is given;

3. Instruction shall be provided for no fewer than 10 hours per week;

4. Instruction may be provided by direct communication to a classroom program by distance learning devices;

5. Students shall receive a program that meets the Core Curriculum Content Standards in accordance with N.J.A.C. 6A:8 and that meets the requirements of the district board of education for promotion and graduation;

6. The instructional program shall be in accordance with the student's Individual Program Plan;

7. 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; and

8. If instruction is provided in the home, refusal or failure by a parent to comply with the provisions of N.J.A.C. 6A:16-10 shall be deemed a violation of compulsory education laws, pursuant to N.J.S.A. 18A:38-1 and 25, and child neglect laws, pursuant to N.J.S.A. 9:6-1 et seq.

(c) The district shall provide the student with the home or out-of-school placement until the student is placed in another appropriate educational program.

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.

SUBCHAPTER 11. REPORTING ALLEGATIONS OF CHILD ABUSE AND NEGLECT

6A:16-11.1 Purpose

The purpose of this subchapter is to establish uniform Statewide policies and procedures for public school personnel to report allegations of child abuse and neglect to the Division of Youth and Family Services (DYFS) and to cooperate with the investigation of such allegations.

6A:16-11.2 Adoption of policies and procedures

(a) District boards of education shall adopt and implement policies and procedures for the reporting to, and the cooperation with, the Division of Youth and Family Services in investigations of alleged child abuse and neglect. District policies and procedures developed pursuant to this subchapter shall be reviewed and approved by the county superintendent. These policies and procedures shall:

1. Include provisions requiring school personnel, compensated and uncompensated (volunteer), to immediately report to the Division of Youth and Family Services alleged incidents of child abuse and neglect. The person reporting the alleged child abuse and neglect shall inform the school principal or designee of the report after the Division of Youth and Family Services referral has been made. However, notice to the principal or designee need not be given when the person believes that such notice would likely endanger the referrer or child(ren) involved or when the person believes that such disclosure would likely result in retaliation against the child or in discrimination against the referrer with respect to his or her employment.

- i. School personnel having reasonable cause to believe that a child has been subjected to child abuse or neglect or acts of child abuse or neglect as defined under N.J.S.A. 9:6-8.9 shall immediately report to the Division of Youth and Family Services (see N.J.S.A. 9:6-8.10). When referring cases to the Division of Youth and Family Services, the school referrer shall provide, when possible, the following information:

- (1) The name of the child;
 - (2) The age and grade of the child;
 - (3) The name and address of the child's parent;
 - (4) A description of the child's condition, including any available information concerning current or previous injuries, abuse, or maltreatment and including any evidence of previous injuries;
 - (5) The nature and extent of the child's injuries, abuse, or maltreatment; and
 - (6) Any other pertinent information that the referrer believes may be relevant with respect to the child abuse and to the identity of the alleged perpetrator;
2. Include a statement indicating the importance of early identification of child abuse or neglect;
 3. Provide assurances that no school personnel will be discharged from employment or in any manner discriminated against with respect to compensation, tenure or terms, conditions or privileges of employment as a result of making in good faith a report or causing to be reported an allegation of child abuse (N.J.S.A. 9:6-8.13);
 4. Require procedures for the following:
 - i. District cooperation with the Division of Youth and Family Services in investigations of alleged child abuse or neglect that has occurred at any time outside or within the confines of the school or during a school-related function;
 - ii. District action as defined in N.J.S.A. 9:6-3.1 in response to the findings at each stage of the investigation as it affects the child(ren) and the school personnel;
 - iii. Release of the child(ren) from the school; and
 - iv. Transfer of the child(ren) between schools;
 5. Provide for the establishment of a liaison to the Division of Youth and Family Services from the district board of education.
 - i. The liaison shall:
 - (1) Facilitate communication and cooperation between the district and the Division of Youth and Family Services; and
 - (2) Act as the primary contact person between the schools and the Division of Youth and Family Services with regard to general information sharing and the development of mutual training and other cooperative efforts;
 6. Include provisions for the annual delivery of information and in-service training programs to school personnel concerning child abuse or neglect, instructional methods and techniques relative to issues of child abuse or

neglect in the local curriculum, and personnel responsibilities pursuant to N.J.S.A. 9:6-8.10 et seq.;

- i. All new school district employees, both paid and voluntary, shall receive the required information and training as part of their orientation; and
7. Detail the responsibilities of the district board of education as follows:
 - i. Permit the Division of Youth and Family Services investigator to interview the child(ren) in the presence of the school principal or designee. If the child(ren) is intimidated by the presence of that school representative, the child(ren) shall name a staff member, whom he or she feels will be supportive, who will be allowed to accompany the child during the interview. The purpose of including a school representative is to provide comfort and support to the child, not to participate in the investigation;
 - ii. Cooperate with the Division of Youth and Family Services in scheduling interviews with any school personnel who may have information relevant to the investigation;
 - iii. Release, in accordance with N.J.S.A. 18A:36-19 and N.J.A.C. 6:3-6, all student records of the child(ren) under investigation that are deemed to be relevant to the assessment or treatment of child abuse (see N.J.S.A. 9:6-8.40);
 - iv. Maintain, secure, and release all confidential information about child abuse or neglect cases in accordance with N.J.S.A. 18A:36-19 and 9:6-8.10a, and N.J.A.C. 6:3-6;
 - (1) Information regarding allegations of child abuse or neglect reported to, investigated and reported upon by the Division of Youth and Family Services about a school employee shall be considered confidential and may be disclosed only as required in order to cooperate with the Division of Youth and Family Services investigations pursuant to (a)4 above or by virtue of a court order. Records pertaining to such information shall be maintained in a secure location separate from other employee personnel records and accessible only to the district chief school administrator or his or her designee.
 - v. Permit the Division of Youth and Family Services to physically remove pupils from school during the course of a school day when it is necessary to protect the child or take the child to a service provider. Such removal shall take place once the principal or his or her designee has been provided, either in advance or at the time removal is sought, with appropriate authorization as specified in N.J.S.A. 9:6-8.27 through 8.30;
 - vi. Cooperate with the Division of Youth and Family Services when it is necessary to remove the child(ren) from his or her home for proper care and

protection and when such removal results in the transfer of the child to a school other than the one in which he or she is enrolled;

vii. Provide due process rights to school personnel who have been reassigned or suspended in accordance with N.J.S.A. 18A:6-10 et seq., 18A:25-1, 18A:25-6, and 9:6-3.1. Temporary reassignment or suspension of school personnel alleged to have committed an act of child abuse shall occur if there is reasonable cause to believe that the life or health of the alleged victim or other children is in imminent danger due to continued contact between the school personnel and a child (see N.J.S.A. 18A:6-10 et seq. and 9:6-3.1); and

viii. Remove from the employee's personnel records all references to a report to the Division of Youth and

Family Services and/or the official notice from the Division of Youth and Family Services of alleged child abuse or neglect regarding a school district employee, immediately following the receipt of an official notice from the Division of Youth and Family Services that the allegation was not to be used against the employee for any purpose relating to employment, including but not limited to, discipline, salary, promotion, transfer, demotion, retention or continuance of employment, termination of employment or any right or privilege related thereto.

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

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

Inserted "alleged" before "child abuse" throughout.