

CHAPTER 16
PROGRAMS TO SUPPORT STUDENT
DEVELOPMENT

Authority

N.J.S.A. 2A:4A-60, 2A:170-25.9, 2C:5, 2C:12-1, 2C:33-19, 2C:39, 9:6-1, 10:4-6, 18A:40-12.5 to 12.6, 18A:17-46, 18A:35-4.8, 18A:37-2.1 to 2.5, 18A:37-7 to 12, 18A:38-1, 18A:38-25, 18A:38-31, 18A:40-1, 18A:40-3 to 4, 18A:40-7 to 18, 18A:40-23 to 31, 18A:40A-1 to 17, 18A:46-18.1, 24:21-2, 26:3d-17, 26:5C, 34:2-21.8(3), 34 CFR Part 98, 34 CFR Part 99, 42 CFR Part 2, 18 U.S.C. § 921 and 20 U.S.C. § 1400.

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).

Executive Order No. 66(1978) Expiration Date

Chapter 16, Programs to Support Student Development, expires on May 7, 2006.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 6A:16-1.1 Purpose
- 6A:16-1.2 Scope
- 6A:16-1.3 Definitions
- 6A:16-1.4 District policies and procedures
- 6A:16-1.5 Student health records

SUBCHAPTER 2. GENERAL PROVISIONS FOR SCHOOL HEALTH SERVICES

- 6A:16-2.1 Health services personnel
- 6A:16-2.2 Required student medical examinations
- 6A:16-2.3 Required school health services
- 6A:16-2.4 Nursing services to nonpublic school students

SUBCHAPTER 3. COMPREHENSIVE SUBSTANCE ABUSE PROGRAMS

- 6A:16-3.1 Establishment of comprehensive alcohol, tobacco and other drug abuse programs
- 6A:16-3.2 Confidentiality of student alcohol and other drug information

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
- 6A:16-4.2 Review and availability of policies and procedures for the intervention of student alcohol or other drug abuse
- 6A:16-4.3 Reporting, notification and examination procedures for students suspected of being under the influence of alcohol or other drugs

SUBCHAPTER 5. SCHOOL SAFETY

- 6A:16-5.1 Code of student conduct
- 6A:16-5.2 Emergency and crisis management plans
- 6A:16-5.3 Incident reporting of violence, vandalism and substance abuse
- 6A:16-5.4 Access to juvenile justice information
- 6A:16-5.5 Removal of students from general education for firearms offenses
- 6A:16-5.6 Removal of students from general education for assaults with weapons offenses

- 6A:16-5.7 Assaults on district board of education members or employees
- 6A:16-5.8 Remotely activating paging devices

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

- 6A:16-6.1 Adoption of policies and procedures
- 6A:16-6.2 Development and implementation of policies and procedures
- 6A:16-6.3 Reporting students or staff members to law enforcement authorities
- 6A:16-6.4 Handling of substances, firearms and other items
- 6A:16-6.5 Confidentiality of student or staff member involvement in substance abuse intervention and treatment programs

SUBCHAPTER 7. INTERVENTION AND REFERRAL SERVICES

- 6A:16-7.1 Establishment of intervention and referral services
- 6A:16-7.2 Functions of intervention and referral services
- 6A:16-7.3 School staff and community member roles for planning and implementing intervention and referral services

SUBCHAPTER 8. ALTERNATIVE EDUCATION PROGRAMS

- 6A:16-8.1 Program approval
- 6A:16-8.2 Application process and approval criteria
- 6A:16-8.3 Mandatory student placements

SUBCHAPTER 9. HOME OR OUT-OF-SCHOOL INSTRUCTION FOR GENERAL EDUCATION STUDENTS

- 6A:16-9.1 Student placement
- 6A:16-9.2 Service requirements

SUBCHAPTER 10. REPORTING ALLEGATIONS OF CHILD ABUSE AND NEGLECT

- 6A:16-10.1 Purpose
- 6A:16-10.2 Adoption of policies and procedures

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 pre-school 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.

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.

“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.

“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.

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

“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” means a written plan developed for a student who has been assigned to home instruction or to an alternative education program. The Individualized Program Plan (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.

“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 noncertified 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.

“Removal” means the exclusion of a student from the general education program in the school to which the student was assigned for the purpose of offering a thorough and efficient, free public education and assignment of the student to an alternative education setting or home instruction.

“School complex” means two or more buildings identified for the purpose of assigning school nurses, pursuant to N.J.A.C. 6A:16-2.1(f)1.

“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.

“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. 6:11-4.5.

“Supervision” means the active process of directing, guiding and influencing the outcome of an individual’s performance of an activity.

“Suspension” means temporary exclusion of a student from school, following due process procedures.

“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).

6A:16-1.4 District policies and procedures

(a) Each district board of education shall approve written policies and programs governing the following school functions and services:

1. Care of any student who becomes injured or ill while at school or during participation in school sponsored activities;
2. Notification of parents or guardians 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 epi-pen 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 that meet the requirements of N.J.A.C. 6A:16-7;

13. Development and implementation of a code of student conduct pursuant to N.J.A.C. 6A:16-5.1;

14. Emergency and crisis management plans as required by N.J.A.C. 6A:16-5.2;

15. Removal of students from general education 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;

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; and

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:16-10.2.

(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 titled Protection of Pupil Rights.

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.

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 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; and

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

(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 Cardiopulmonary 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 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 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 two or more 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 assignment plan for nurses working in this capacity shall be submitted to the county superintendent for review and approval as part of the certificated staff report, pursuant to N.J.A.C. 6A:30-1.4(a)9.

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, and a full report sent to the school. 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.

(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) An annual 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.

(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;

6A:16-5.5 Removal of students from general education 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 property, 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 property, 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 property, on a school bus, or at a school-sponsored function.

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

1. Pursuant to N.J.S.A. 7 through 12, the provisions in this section shall be construed in a manner consistent with 20 U.S.C. §§ 1400 et seq. and N.J.A.C. 6A:14-2.8. Nothing in this section shall be construed as prohibiting the removal of a student with a disability or the expulsion of a general education student.

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

(c) 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 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 student's due process rights.

(d) 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:16-8.

1. If placement in an alternative education program is not available, the student shall be provided home or other out-of-school instruction, according to N.J.A.C. 6A:16-9, until placement is available.

(e) Any student removed pursuant to (b) above shall be entitled to a hearing before the district board of education.

1. The hearing shall take place no later than 30 days following the day the student is removed from the general education program.

2. The hearing is not subject to the provisions of the "Open Public Meetings Act," pursuant to N.J.S.A. 10:4-6.

3. The decision of the district board of education shall be made within five days after the close of the hearing.

4. Any appeal of the district board of education's decision shall be made to the Commissioner of Education within 90 days of the board's decision. See N.J.A.C. 6A:4.

(f) If it is found that the student is not guilty of the offenses in (a) above, the student shall be immediately returned to the general education program.

(g) The chief school administrator shall make the final determination on whether the 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.

(h) This section does not apply to any student who has obtained the written authorization of the chief school administrator to lawfully possess a firearm 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 for a crime involving the use of a firearm.

(i) 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(d)1.

(j) 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 or guardians.

6A:16-5.6 Removal of students from general education 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 on any school property, 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 shall be immediately removed from the school's general education program for a period not exceeding one calendar year.

1. The provisions in this section shall be construed in a manner consistent with 20 U.S.C. §§ 1400 et seq. and N.J.A.C. 6A:14-2.8. Nothing in this section shall be construed as prohibiting the removal of a student with a disability or the expulsion of a general education student.

(c) 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 law enforcement official takes custody of the student;
3. Immediately report the removal of the student to the 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 student's due process rights.

(d) 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:16-8.

1. If placement in an alternative education program is not available, the student shall be provided home or other out-of-school instruction, according to N.J.A.C. 6A:16-9, until placement is available.

(e) Any student removed pursuant to (b) above shall be entitled to a hearing before the district board of education.

1. The hearing shall take place no later than 30 days following the day the student is removed from the general education program.

2. The hearing is not subject to the provisions of the "Open Public Meetings Act," pursuant to N.J.S.A. 10:4-6.

3. The decision of the district board of education shall be made within five days after the close of the hearing.

4. Any appeal of the district board of education's decision shall be made to the Commissioner of Education within 90 days of the board's decision. See N.J.A.C. 6A:4.

(f) If it is found that the student is not guilty of these offenses, the student shall be immediately returned to the general education program.

(g) The chief school administrator shall make the final determination on when the 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.

(h) 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.

(i) 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(d)1.

(j) 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 or guardians.