

CHAPTER 29

HEALTH, SAFETY AND PHYSICAL EDUCATION

Authority

N.J.S.A. 18A:1-1, 18A:4-10, 18A:4-15, 18A:28-7, 18A:16-2, 18A:35-5, 18A:36-19, 18A:40A, 18A:40-16, 18A:42-1, 18A:40A-1, 18A:40A-2, 18A:40-4, 18A:40A-10, 18A:40A-22, 18A:40A-12, 18A:40A-13, 18A:40A-14, 18A:40A-15 and 42 CFR 2.

Source and Effective Date

R.1996 d.415, effective September 3, 1996.
See: 28 N.J.R. 2729(a), 28 N.J.R. 4096(a).

Executive Order No. 66(1978) Expiration Date

Chapter 29, Health, Safety and Physical Education, expires on September 3, 2001.

Chapter Historical Note

Chapter 29, Health, Safety and Physical Education, became effective prior to September 1, 1969. Subchapter 7, Comprehensive Health Education, became effective April 17, 1980 as R.1980 d.164. See: 12 N.J.R. 105(b), 12 N.J.R. 251(b). Amendments became effective August 7, 1980 as R.1980 d.353. See: 12 N.J.R. 388(c), 12 N.J.R. 505(c). Subchapter 8, Audiometric Screening, became effective June 21, 1982 (operative September 1, 1982) as R.1982 d.195. See: 14 N.J.R. 108(a), 14 N.J.R. 654(c). Subchapter 6, Physical Education and Athletics Personnel and Procedures, was readopted as R.1984 d.192, effective May 21, 1984. See: 16 N.J.R. 303(a), 16 N.J.R. 1197(a). Subchapter 4, School Health Services, was readopted as R.1984 d.264 effective June 13, 1984. See: 16 N.J.R. 300(a), 16 N.J.R. 1731(a). Subchapter 7, Comprehensive Health Education, was readopted as R.1985 d.185, effective March 25, 1985. See: 16 N.J.R. 3377(a), 17 N.J.R. 906(a). Subchapter 9, Substance Abuse, became effective October 6, 1986 as R.1986 d.396. See: 18 N.J.R. 1237(b), 18 N.J.R. 2009(a).

Pursuant to Executive Order No. 66(1978), Chapter 29 was readopted as R.1990 d.154, effective February 8, 1990. See: 21 N.J.R. 3815(b), 22 N.J.R. 793(a). As part of R.1990 d.154, Subchapters 1, 2, 3 and 5 were repealed; Subchapter 4 was recodified to 2, Subchapter 6 was recodified to 3, Subchapter 7 was recodified to 4, Subchapter 8 was recodified to 5, Subchapter 9 was recodified to 6; and new Subchapter 1, General Provisions, and Subchapter 7, School Employee Physical Examinations, were adopted. A new Subchapter 8, Nursing Services to Nonpublic Schools, was adopted as R.1993 d.41, effective January 19, 1993. See: 24 N.J.R. 3495(a), 25 N.J.R. 300(a). Subchapter 9, The Reporting of Allegations of Child Abuse and Neglect, and Subchapter 10, Safe and Drug Free Schools, were adopted as R.1993 d.272, effective June 7, 1993. See: 25 N.J.R. 1095(a), 25 N.J.R. 2249(a).

Pursuant to Executive Order No. 22(1994), the expiration date of Chapter 29, Health, Safety and Physical Education, was extended to August 8, 1996. See: 26 N.J.R. 3783(a) and 3942(a). Pursuant to Executive Order No. 66(1978), Chapter 29 expired on August 8, 1996. Chapter 29, Health, Safety and Physical Education, was adopted as new rules by R.1996 d.415, effective September 3, 1996. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

6:29-1.1 Purpose

These rules provide standards to district boards of education in their development of policies and procedures to insure the health and safety of students and personnel within the school setting.

New Rule R.1990 d.154, effective March 5, 1990.
See: 21 N.J.R. 3815(a), 22 N.J.R. 793(a).

6:29-1.2 Health services personnel

(a) Every district board of education shall appoint at least one medical inspector pursuant to N.J.S.A. 18A:40-1.

1. The medical inspector, under the general supervision of the chief school administrator, shall direct the conduct of physical examinations or health screenings, shall develop and provide standards governing professional techniques, and shall direct the professional duties or activities of other medical staff.

(b) Every district board of education in this State shall appoint at least one school nurse pursuant to N.J.S.A. 18A:40-1.

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

- i. Assisting with physical examinations pursuant to N.J.S.A. 18A:40-4;
- ii. Conducting yearly screenings for scoliosis on all pupils 10 years of age through 18 years of age pursuant to N.J.S.A. 18A:40-4.3;
- iii. Annually conducting audiometric screening in grades preschool through 4, 6, 8 and 10 pursuant to N.J.S.A. 18A:40-4 and N.J.A.C. 6:29-5.2(c);
- iv. Maintaining student health records pursuant to N.J.S.A. 18A:40-4;
- v. Observing 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; and
- vi. Lecturing to teachers on communicable diseases and other health concerns pursuant to N.J.S.A. 18A:40-3.

New Rule R.1990 d.154, effective March 5, 1990.
See: 21 N.J.R. 3815(a), 22 N.J.R. 793(a).

Case Notes

Any medical professional licensed to dispense medication may do so, only educational functions must be performed by a certified school nurse. *Communications Workers of America, et al. v. New Jersey Dept. of Educ.*, 92 N.J.A.R.2d (EDU) 326.

Registered nurses could be employed as "Head Nurses" at state school for deaf. *Communications Workers of America v. New Jersey Department of Education*, 92 N.J.A.R.2d (EDU) 326.

Presence of properly certified school nurse in building. *Smith v. Bd. of Ed., Caldwell-West Caldwell Boro., Essex Cty.*, 1972 S.L.D. 232.

6:29-1.3 Policies and procedures

(a) District boards of education shall adopt written policies and procedures for:

1. Care of pupils who are injured or become ill at school or during participation on a school athletic team or squad;
2. Isolation, exclusion, and readmission of pupils suspected of having a communicable disease;
3. Notification of parents or guardians of students determined to be in need of further immediate medical care;
4. Transportation of students determined to be in need of further immediate medical care;
5. Safe and sanitary operation and maintenance of school buildings and grounds according to the provisions established in N.J.A.C. 6:22;
6. Supervision of pupil safety in the school district which shall include:
 - i. Safe storage and use of potentially hazardous materials on school property;
 - ii. Prevention of accidents, panic and fire; and
 - iii. Provision for and maintenance of suitable and safe equipment;
7. Organization of school safety patrols pursuant to N.J.S.A. 18A:42-1, if the decision is made to organize safety patrols;
8. Prohibition of smoking in public school buildings pursuant to P.L. 1989, c.96; and
9. Administration of medication, in consultation with the medical inspector.

(b) All employees shall be informed of such policies and procedures at the beginning of each school year.

(c) District boards of education, medical and other staff shall comply with the rules and regulations of the local boards of health and the State Department of Health.

(d) N.J.A.C. 8:57, pertaining to reportable diseases, shall guide district boards of education in developing their policies and procedures.

(e) Any pupil absent or excluded from school by reason of having or suspected of having communicable disease shall not be readmitted to school until written evidence is presented that risk of contagion is not present. Such evidence shall be by a physician licensed to practice medicine or the school medical inspector who has examined the pupil.

New Rule R.1990 d.154, effective March 5, 1990.
See: 21 N.J.R. 3815(b), 22 N.J.R. 793(a).

Case Notes

Comprehensive Drug Reform Act prohibiting the distributing, dispensing or possessing controlled dangerous substances with intent to distribute on school property not unconstitutionally vague. *State v. Morales*, 224 N.J.Super. 72, 539 A.2d 769 (Law Div.1987).

6:29-1.4 Records and reports

(a) The results of student physical examination and health screening procedures by the medical inspector or district personnel shall be recorded upon a record form recommended by the Commissioner of Education.

(b) Such form shall be kept in a permanent file and shall be the property of the district board of education. The original health record shall be forwarded with other school records of pupils who transfer to another school district. If a child leaves for any other reason than transfer, the record shall remain the property of the school. Retention and destruction of such record form shall be in accordance with N.J.A.C. 6:3-2.8.

(c) The results of physical examinations and screenings shall be provided to the pupil's parent or guardian when any condition is identified which requires follow-up by a physician or family health care provider.

New Rule R.1990 d.154, effective March 5, 1990.
See: 21 N.J.R. 3815(b), 22 N.J.R. 793(a).

6:29-1.5 Health facilities, equipment and supplies

District boards of education shall provide the necessary facilities, equipment and supplies for the performance of the duties required, under State law and rule, by the medical staff.

New Rule R.1990 d.154, effective March 5, 1990.
See: 21 N.J.R. 3815(b), 22 N.J.R. 793(a).

6:29-1.6 Safe drinking water

(a) District boards of education shall assure the availability of potable drinking water through sanitary means in school buildings or upon school grounds in accordance with the Safe Drinking Water Act, N.J.S.A. 58:11-1 et seq., the rules promulgated pursuant thereto, N.J.A.C. 7:10, and N.J.A.C. 6:22, School Facility Planning Service.

(b) Testing of school drinking water quality shall be in accordance with the Safe Drinking Water Act, N.J.S.A. 58:11-1 et seq., the rules promulgated pursuant thereto,

N.J.A.C. 7:10 and N.J.A.C. 6:22, School Facility Planning Service.

New Rule R.1990 d.154, effective March 5, 1990.
See: 21 N.J.R. 3815(b), 22 N.J.R. 793(a).

6:29-1.7 Eye protection in schools

(a) Each district board of education shall require each pupil, staff member and visitor in its schools, including evening adult school programs, to wear appropriate eye protective devices while participating in any educational activities and programs as defined in N.J.A.C. 6:4-1.2 in which caustic or explosive chemicals or materials, hot liquids or solids, molten materials, welding operations of any type, repairing or servicing of vehicles, heat treatment or tempering of metals, the shaping of solid materials and laser device operation and experimentation or any similar process or activity is engaged in, exposure to which might have a tendency to cause damage to the eyes.

(b) The term "appropriate eye protective device" shall include plain or prescription lenses provided the lenses and other portions of the device meet or exceed the prescribed specifications for the device. Specifications for appropriate eye protection for various activities shall meet or exceed standards described in (b)1 and 2 below. The standards, with all subsequent amendments and supplements, are hereby adopted as rules and incorporated herein by reference.

1. American National Standard Practice for Occupational and Educational Eye and Face Protection, ANSI Z87.1-1989.

2. American National Standard Practice for the Safe Use of Lasers, ANSI Z136.1-1986 and eye protective procedures recommended by the manufacturer of the laser device.

(c) The documents in (b)1 and 2 above are available for review at the Administrative Code Office, Department of Education, 225 East State Street, CN 500, Trenton, New Jersey 08625-0500. These documents may be purchased from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

(d) Emergency eye wash fountains or similar devices, capable of a minimum 15 minutes continuous flow of eye wash solution shall be provided in classrooms, shops, laboratories or other area where pupils or instructors are exposed to caustic materials that can cause damage to the eyes.

(e) The following types of eye protective devices shall be used to fit the designated activities or processes:

Potential Eye Hazard—Eye Protective Device(s)

1. Caustic or explosive—Goggles, flexible fitting, hooded ventilation; add plastic window face shield for severe exposure;

2. Dust producing operations—Goggles, flexible fitting, hooded ventilation;

3. Electric arc welding—Welding helmet in combination with spectacles with eye cup or semi or flat-fold side shields;

4. Oxy-acetylene welding—Welding goggles, eye cup type with tinted lenses; welding goggle, coverspec type with tinted lenses or tinted plate lens;

5. Hot liquids and gases—Goggles, flexible fitting, hooded ventilation; add plastic window face shield for severe exposure;

6. Hot solids—Clear or tinted goggles or spectacles with side shields;

7. Molten materials—Clear or tinted goggles and plastic or mesh window face shield;

8. Heat treatment or tempering—Clear or tinted goggles or clear or tinted spectacles with side shields;

9. Glare operations—Tinted goggles; tinted spectacles with side shields or welding goggles, eye cup or coverspec type with tinted lenses or tinted plate lenses;

10. Shaping solid materials—Clear goggles, flexible or rigid body; clear spectacles with side shields; add plastic window face shield for severe exposure;

11. Laser device operation or experimentation—Appropriate for specific hazard;

12. Repair or servicing of vehicles—Clear goggles, flexible or rigid body; clear spectacles with side shields;

13. Other potentially eye hazardous processes or activities—Appropriate for specific hazard.

(f) Each district board of education shall establish and implement a specific eye protective policy and program to assure that:

1. No staff member, pupil or visitor shall be subjected to any hazardous environmental condition without appropriate eye protection;

2. The detection of eye hazardous conditions shall be continuous;

3. Eye protection devices shall be inspected regularly and adequately maintained;

4. Shared eye protective devices shall be disinfected between uses by a method prescribed by the local school medical inspector;

5. All eye protective devices shall meet or exceed the appropriate specifications for the various types of devices and suppliers of eye protective devices shall certify, in writing, that the devices meet or exceed said specifications;

6. Specific policy and procedures shall be established to deal with individuals who refuse to abide by established eye safety practices and procedures;

7. The use of contact lenses shall be restricted in learning environments which entail exposure to chemical fumes, vapors or splashes, intense heat, molten metals, or highly particulate atmospheres. Contact lenses, when permitted, shall only be worn in conjunction with appropriate eye protective devices and the lens wearer shall be identified for appropriate emergency care in eye hazardous learning environments;

8. All spectacle type eye protective devices shall have side shields of the eye cup, semi or flat-fold type;

9. Pupils, staff members or visitors wearing personal corrective eyewear shall be required to wear cover goggles or similar devices unless it can be certified, by competent authority, that the personal eyewear meets or exceeds standards identified in (b) above.

(g) Each district shall provide annual training and appropriate supplies and equipment to all school personnel responsible for implementing the eye safety policies and program. The training shall cover all aspects of eye protection in schools as described in (a) through (f) above.

New Rule, R.1993 d.272, effective June 7, 1993.

See: 25 N.J.R. 1095(a), 25 N.J.R. 2249(a).

Amended by R.1994 d.238, effective May 16, 1994.

See: 26 N.J.R. 537(a), 26 N.J.R. 2019(a).

Amended by R.1996 d.415, effective September 3, 1996.

See: 28 N.J.R. 2729(a), 28 N.J.R. 4096(a).

SUBCHAPTER 2. SCHOOL HEALTH SERVICES

6:29-2.1 Student physical examination

(a) Every pupil shall be examined to learn whether any physical defect exists pursuant to N.J.S.A. 18A:40-4.

(b) The examination shall include as a minimum the following components contained in the record form recommended by the Commissioner of Education:

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

2. Health history including allergies, past serious illnesses, injuries and/or operations and current health problems;

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

4. Physical examination of the body by the school medical inspector.

(c) Medical inspectors may accept a record of a thorough physical examination made by a physician licensed to practice medicine. Such examination shall not be at the expense of the district board of education but shall be reported on a form furnished by the district board of education.

(d) District boards of education shall develop a vision screening program in consultation with the medical inspector, for the early detection of visual problems among pupils. District boards of education may employ one or more optometrists, licensed to practice optometry within the State, pursuant to N.J.S.A. 18A:40-1.

New Rule R.1990 d.154, effective March 5, 1990.
See: 21 N.J.R. 3815(b), 22 N.J.R. 793(a).

6:29-2.2 Dental clinics

District boards of education may maintain and conduct dental clinics for the treatment of children pursuant to N.J.S.A. 44:6-2.

New Rule R.1990 d.154, effective March 5, 1990.
See: 21 N.J.R. 3815(b), 22 N.J.R. 793(a).

6:29-2.3 Testing for tuberculosis infection

(a) The following are the rules of the State Department of Education concerning testing for tuberculosis infection by district boards of education for implementation of N.J.S.A. 18A:16-2 and 40-16.

1. The Mantoux intradermal tuberculin test using five T.U. (Tuberculin Units) of PPD tuberculin shall be the only skin test used to detect evidence of tuberculosis infection in pupils and employees.

2. The only pupils who shall be tested are those in grades and schools identified and/or under circumstances specified by the State Department of Health based upon the high incidence of tuberculosis or reactor rates in the communities or population groups concerned.

3. A Mantoux intradermal tuberculin test shall be given upon employment to all newly hired employees (full-time and part-time), all student teachers, school bus drivers for companies under contract with the district and other persons who have contact with pupils.

i. An employee with a documented Mantoux test administered within the previous six months does not have to be retested.

ii. An employee transferring between school districts within New Jersey would not have to be tuberculin tested if there is a documented record of a Mantoux tuberculin skin test being administered upon his or her initial employment in a New Jersey public school.

4. Procedures for the administration of the Mantoux test, interpretation of tuberculin reactions, follow-up procedures (including a chest x-ray and medical evaluation) and reporting shall be in accordance with the New Jersey Department of Health's document, School Tuberculin

Testing in New Jersey, Reference Guide for Physicians and Nurses. For copies contact the New Jersey State Department of Health, Division of Epidemiology and Disease Control, Communicable Disease Control Program, PO Box 360, Trenton, New Jersey 08625-0360.

5. All pupils, employees and other personnel referred for the necessary chest X-ray and medical evaluation shall submit a physician's report. If the physician's report is not received by the school medical inspector within four weeks, or if the medical inspector is unwilling to accept the findings, the pupil, employee or other persons shall have a chest X-ray examination in the manner prescribed by the district board of education.

6. In accordance with standards, referenced in (a)4, above, provided by the New Jersey Department of Health, any pupil or employee shall be exempt from tuberculin skin testing upon presentation of documentation from a licensed physician showing a significant tuberculin reaction and a subsequent negative chest X-ray.

As amended, R.1974 d.154, eff. June 19, 1974.

See: 6 N.J.R. 258(c).

As amended, R.1974 d.155, eff. June 19, 1974.

See: 6 N.J.R. 258(c).

As amended, R.1977 d.276, eff. August 3, 1977.

See: 9 N.J.R. 308(a), 9 N.J.R. 416(c).

As amended, R.1979 d.148, eff. July 1, 1979.

See: 11 N.J.R. 118(a), 11 N.J.R. 224(a).

As amended, R.1982 d.120, eff. April 19, 1982 (operative September 1, 1982).

See: 13 N.J.R. 914(b), 14 N.J.R. 385(a).

Section substantially amended.

Amended by R.1988 d.563, effective December 5, 1988.

See: 20 N.J.R. 1981(a), 20 N.J.R. 3016(a).

Substantially amended.

Recodified by R.1990 d.154, effective March 5, 1990.

See: 21 N.J.R. 3815(b), 22 N.J.R. 793(a).

Recodified from N.J.A.C. 6:29-4.2; requirement to follow New Jersey Department of Health guidelines for tuberculin testing added.

Case Notes

Public school student failing to offer cognizable reasons for exclusion must comply with state's tuberculin testing program. *M.F. v. Board of Education of the Borough of West Cape May, Cape May County*, 97 N.J.A.R.2d (EDU) 486.

6:29-2.4 Attendance at school by pupils or adults infected by Human Immunodeficiency Virus (HIV)

(a) The following words when used in this section shall have the following meanings unless the context clearly indicates otherwise:

1. "Adult" means a teacher, administrator, food service employee or other school staff member compensated or uncompensated; and

2. "Pupil" means an individual who is entitled to attendance at school in grades K through 12, as well as a pre-kindergarten child who is entitled to attendance at school.

(b) For pupils with HIV infection who are enrolled or seeking enrollment in a school program, the regulations and procedures in this section shall apply.

1. All information about the identity of a pupil with HIV infection shall be kept confidential and shall comply with the provisions of N.J.A.C. 6:3-2.

(c) Pupils with HIV infection shall not be excluded from attending school for reason of the HIV infection in accordance with N.J.A.C. 8:61-1.1.

1. The presence of HIV infection in a pupil does not constitute reason for exclusion of such pupil from school, nor may a pupil so infected be excluded for reason of his or her own protection against possible exposure to the infectious diseases of others.

2. The presence of HIV infection in and of itself may not serve as a basis for excluding a pupil by way of classification as eligible for home instruction in accordance with N.J.A.C. 6:28-3.5(c)2ii.

(d) Pupils with HIV infection who are symptomatic and/or diagnosed with AIDS shall not be excluded by virtue of the diagnosis. The only medical grounds for exclusion from school shall be those established in N.J.S.A. 18A:40-7 and 8 and N.J.A.C. 8:61-1.1(e). Pursuant to N.J.A.C. 8:57-2.5, AIDS or HIV infection shall not be considered a communicable disease for purposes of admission to or attendance in an education facility, or eligibility for educational transportation.

(e) In accordance with N.J.A.C. 8:61-1.1:

1. Adults with HIV infection in all school settings shall not be restricted from their normal employment for reason of HIV infection unless they have another illness which would restrict that employment;

2. No pupil or adult shall be excluded from school solely by virtue of the fact of living with or being related to an HIV-infected individual;

3. Any pupil or adult, with or without HIV infection, shall be removed from school if and when the individual has weeping skin lesions that cannot be covered, in accordance with N.J.A.C. 8:61-1.1;

4. It is not necessary that anyone in the school be specially notified that an HIV infected individual is registered to attend school or is an employee of the school. Therefore, HIV/AIDS status is an exception to records required pursuant to student physical examinations, N.J.A.C. 6:29-2.1 and school employee examinations, N.J.A.C. 6:29-7. If school officials receive notification of the presence of an HIV infected individual, records containing identifying information regarding the HIV status of the individual shall be kept confidential as required by N.J.S.A. 26:5C-5 et seq. Information regarding an HIV infected pupil can be shared, only with the written consent of the pupil's parent or guardian, with those who need to know the status to determine the educational program for the pupil, N.J.A.C. 8:61-1.1.

(f) District boards of education shall annually provide pupils and their parents/guardians and district employees and/or volunteers with HIV/AIDS awareness information.

(g) District boards of education shall provide HIV/AIDS awareness information to their school communities. This may be accomplished in cooperation with State and local agencies, and in consultation with the county superintendent of schools, and may include utilization of district newsletters, bulletins or other media.

New Rule R.1986 d.445, effective November 3, 1986.

See: 18 N.J.R. 1509(a), 18 N.J.R. 2206(a).

Sections 4 and 5 recodified to 5 and 6.

Recodified by R.1990 d.154, effective March 5, 1990.

See: 21 N.J.R. 3815(b), 22 N.J.R. 793(a).

Recodified from N.J.A.C. 6:29-4.4; confidentiality provision and requirement to determine admissibility of pupil within 10 days added. Administrative Correction to (d): Deleted 1.1.

See: 22 N.J.R. 2359(a).

Public Notice: Public testimony session held on June 17, 1992.

See: 24 N.J.R. 2081(a).

Amended by R.1992 d.398, effective October 5, 1992.

See: 24 N.J.R. 2124(a), 24 N.J.R. 3538(a).

Eliminated any reason for exclusion of HIV-infected pupils from schools; added language including employees and added a definition section.

Case Notes

Commissioner could override power of boards of education to exclude students from public schools due to health reasons. Board of Educ., Plainfield v. Cooperman, 105 N.J. 587, 523 A.2d 655 (1987).

6:29-2.5 Routine procedures for sanitation and hygiene when handling body fluids

(a) District boards of education shall develop written policies and procedures for sanitation and hygiene when handling blood and body fluids in conformance with N.J.A.C. 8:61-1.1(j) and in conformance with Centers for Disease Control guides, "Recommendations for Prevention of HIV Transmission in Health Care Settings," MMWR Supplement, August 1987, and "Update: Universal Precautions for Prevention of Transmission of Human Immunodeficiency Virus, Hepatitis B Virus, and Other Bloodborne Pathogens in Health-Care Settings" from MMWR, June 24, 1988, Vol. 37, No. 24, pp. 337-382, 387-388. Copies are available through the National AIDS Information Clearinghouse, P.O. Box 6003, Rockville, MD 20850.

(b) District boards of education shall make available to school personnel, compensated and uncompensated (volunteer), training and appropriate supplies for the handling of blood and body fluids, whether or not pupils or school staff with HIV infection are present. School nurses, custodians and teachers in particular should have knowledge of the proper techniques in the handling and disposal of materials.

New Rule R.1990 d.154, effective March 5, 1990.

See: 21 N.J.R. 3815(a), 22 N.J.R. 793(a).

SUBCHAPTER 3. PHYSICAL EDUCATION AND ATHLETICS PERSONNEL AND PROCEDURES

6:29-3.1 Physical education personnel

(a) In all schools not having the services of certificated physical education teachers, the responsibility for the program of activities and instruction shall be that of each teacher, or such responsibility may be delegated to one or more teachers designated by the chief school administrator.

(b) Any person not certified as a teacher and not in the employ of a district board of education shall not be permitted to organize public school pupils during school time or during any recess in the school day for purposes of instruction; or for conducting games, events or contests in physical education.

As amended, R.1984 d.192, effective May 21, 1984.
See: 16 N.J.R. 303(a), 16 N.J.R. 1197(a).

The word "not" was inserted.
Amended by R.1990 d.154, effective March 5, 1990.
See: 21 N.J.R. 3815(a), 22 N.J.R. 793(a).

Recodified from 6:29-6.1; authority to delegate changed from superintendent of schools to chief school administrator.

6:29-3.2 (Reserved)

Repealed by R.2000 d.190, effective May 1, 2000.
See: 32 N.J.R. 395(a), 32 N.J.R. 1528(a).

Section was "Physical education exemption procedures".

6:29-3.3 Athletics personnel

(a) Any person not certified as a teacher and not in the employ of a district board of education shall not be permitted to organize public school pupils during school time or during any recess in the school day for purposes of instruction, or coaching or for conducting games, events or contests in physical education or athletics.

(b) School districts shall be permitted to employ any holder of a New Jersey teaching certificate to work in the interscholastic athletic program provided that the position has been advertised.

(c) In the event there is no qualified and certified applicant, the holder of a county substitute certificate is authorized to serve as an athletic coach in the district in which he or she is employed for a designated sports season, provided that:

1. The district chief school administrator demonstrates to the county superintendent that:

i. The vacant coaching position had been advertised; and

ii. There was no qualified applicant based on the written standards of the district board of education;

2. The district chief school administrator will provide a letter to the county superintendent attesting to the

prospective employee's knowledge and experience in the sport in which he or she will coach; and

3. Approval of the county superintendent shall be obtained prior to such employment by the district board of education. The 20-day limitation noted in N.J.A.C. 6:11-4.4(i) shall not apply to such coaching situations.

As amended, R.1972 d.88, effective May 8, 1972.

See: 4 N.J.R. 65(b), 4 N.J.R. 118(a).

As amended, R.1973 d.223, effective August 10, 1973.

See: 5 N.J.R. 298(b).

As amended, R.1977 d.69, effective March 3, 1977.

See: 9 N.J.R. 67(a), 9 N.J.R. 167(b).

As amended, R.1982 d.486, effective January 17, 1983.

See: 14 N.J.R. 1010(a), 15 N.J.R. 84(c).

Added (f).

As amended, R.1983 d.493, effective November 7, 1983.

See: 15 N.J.R. 1152(b), 15 N.J.R. 1860(c).

Deleted old (b)-(f) and added new (b)-(c).

Amended by R.1990 d.154, effective March 5, 1990.

See: 21 N.J.R. 3815(b), 22 N.J.R. 793(a).

Recodified from N.J.A.C. 6:29-6.3; responsibility in (c)1 and 2 changed from superintendent of schools to chief school administrator. Public Notice: Public testimony session November 18, 1992.

See: 24 N.J.R. 4130(a).

Amended by R.1993 d.80, effective February 16, 1993.

See: 24 N.J.R. 4150(a), 25 N.J.R. 686(c).

Expanded time from 60 days prior to up to 365 prior to first practice session for physical exam for athletic participation; dropped requirement of before and after exercise heart rate assessment.

Law Review and Journal Commentaries

Education. Judith Nallin, 138 N.J.L.J. 54 (1994).

Case Notes

Qualifications for school coaches. Barber and Kelner v. Bd. of Ed., Kearny, Hudson Cty., 1975 S.L.D. 58, 1976 S.L.D. 1105; Brick Tp. Ed. Ass'n v. Bd. of Ed., Brick, Ocean Cty., 1975 S.L.D. 265, 1975 S.L.D. 268; Point Pleasant Teacher's Ass'n v. Bd. of Ed., Point Pleasant Beach, Ocean Cty., 1974 S.L.D. 241.

Employment of extra district, certified teacher as head girls' basketball coach was authorized. Krupp v. Board of Educ. of Union County Regional High School Dist. No. 1, Union County, 278 N.J.Super. 31, 650 A.2d 366 (A.D.1994), certification denied 140 N.J. 277, 658 A.2d 301.

School boards may hire intra or extra district qualified, certified teachers as coaches provided that the coaching position is first advertised. Krupp v. Board of Educ. of Union County Regional High School Dist. No. 1, Union County, 278 N.J.Super. 31, 650 A.2d 366 (A.D.1994), certification denied 140 N.J. 277, 658 A.2d 301.

Coaches need not be certified teachers and employed by a school district in the state, but does not require that coaches be certified teachers employed by the school district in which they are employed. Krupp v. Board of Educ. of Union County Regional High School Dist. No. 1, Union County, 278 N.J.Super. 31, 650 A.2d 366 (A.D.1994), certification denied 140 N.J. 277, 658 A.2d 301.

In-district teachers applying for coaching position were not entitled to automatic first review. McLoughlin v. Middletown Township Board of Education, 96 N.J.A.R.2d (EDU) 467.

Head wrestling coach holding county substitute certificate was not properly appointed to position. Harris v. Board of Education of the Hunterdon Central Regional High School District, 96 N.J.A.R.2d (EDU) 312.

Athletic officials disciplined by affiliate organization were required to exhaust procedural remedies in affiliation agreement before seeking

recognition as separate entity. *Basketball Officials v. State Interscholastic Athletic Association*, 95 N.J.A.R.2d (EDU) 499.

Hiring athletic coach did not require school board to first choose from among candidates in district. *Krupp v. Union County Board of Education*, 95 N.J.A.R.2d (EDU) 446.

It was abuse of discretion to fail to appoint petitioner who was only qualified and certified applicant to indoor and outdoor coaching assignments. *Union City Education Association v. Union City Board of Education*, 94 N.J.A.R.2d (EDU) 431.

Appointment of experienced individual as head varsity football coach was reasonable. *Taylor v. Waldwick Borough Board of Education*, 94 N.J.A.R.2d (EDU) 369.

Monetary sanction levied against high school wrestling coach was justified. *Bower v. NJSIAA*, 94 N.J.A.R.2d (EDU) 80.

Coaching position; no automatic preference exists for full-time employees over part-time employees. *Dorsett v. Union City Board of Education*, 94 N.J.A.R.2d (EDU) 30.

Board of education violated rule governing hiring of coaches when there is no qualified and certified applicant. *Daniel v. Board of Education of Township of Irvington*, 93 N.J.A.R.2d (EDU) 613.

Coaching position; hiring outside of full-time district teaching staff. *Norcross v. Board of Education of North Hunterdon Regional High School District*, 92 N.J.A.R.2d (EDU) 176.

Rules violation; hiring out-of-district applicant for position of head baseball coach. *Capraro v. Woodbridge Tp. Bd. of Educ.*, 91 N.J.A.R.2d 17 (EDU).

6:29-3.4 Athletics procedures

(a) The program of activities or sports to be employed by any public school in competitive contests, games or events or in exhibitions with individual pupils or teams of one or more schools of the same district, or of other districts, shall be recommended annually by the chief school administrator to the district board of education for approval.

(b) In cases in which the athletic facilities are not owned by the municipality or the district board of education, the district board of education shall require that adequate safeguards to players and spectators be provided by the owner. The field, room, court, track, stands and surrounding premises shall be kept in good condition and free from hazards.

(c) Upon the recommendation of the chief school administrator, the district board of education shall adopt, and thereafter, annually review a policy of emergency medical procedures for all practice sessions, and competitive contests, games, events or exhibitions with individual pupils or teams of one or more schools of the same district or of other districts. Said policy should be disseminated to appropriate personnel.

(d) Each candidate for a place on a school athletic squad or team shall be given a medical examination by the medical inspector or designated team doctor within 365 days prior to the first practice session with examinations being made available throughout the school year consistent with the district's athletic schedule. In lieu thereof, the medical inspector may accept the report of such an examination by a physician licensed to practice medicine.

1. To participate on an 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, which shall be completed by the parent or legal guardian. The health history update shall include, but not be limited to, the following information:

- i. Hospitalizations/operations;
- ii. Illnesses;
- iii. Injuries;
- iv. Care administered by a physician; and
- v. Medications.

2. The parent or legal guardian shall receive written notification signed by the medical inspector or team doctor approving the pupil's participation in athletics based upon the medical examination or the reasons for the medical inspector's or team doctor's disapproval of the pupil's participation shall be included in such notification. The health findings of the medical examination for participation shall be made a part of the pupil's health record.

(e) A medical examination to determine the fitness of a pupil to participate in athletics shall include, as a minimum, no less than the following:

1. A medical history questionnaire, completed by the parent or legal guardian of the pupil, to determine if the pupil:

- i. Has been medically advised not to participate in any sport, and the reason for such advice;
- ii. Is under 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 regular basis, the names of such medication and the reasons for such medication;
- vii. Has allergies including hives, asthma or reaction 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 having sudden death.

2. A physical examination which shall include, as a minimum, no less than the following:

i. Measurement of weight, height and blood pressure;

ii. Examination of the skin to determine the presence of infection, scars of 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 and 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 and the presence of abnormal reflexes.

(f) The district board of education shall adopt a policy regarding the content and procedures for the administration of the medical examination required in (e) above. Nothing in this section shall be interpreted as precluding the district board of education from adopting content and procedures in excess of the minimum requirements set forth herein.

(g) Any examination conducted by a physician other than the medical inspector or designated team doctor must be reported to the medical inspector or designated team doctor on a form furnished by the district board of education and, as a minimum, include that content adopted by the board. If, at the request of the parent or legal guardian, the medical examination is conducted by a physician other than

the medical inspector or designated team doctor, such examination shall not be at the expense of the district board of education.

(h) A pupil representing his or her school in interscholastic athletic competition shall sign a form furnished by the district board of education, the wording of which shall embody a request to be enrolled as a candidate for a place on a school team in a specified sport. The parent or legal guardian must execute an acknowledgement that physical hazards may be encountered.

(i) Every candidate for a place on the school athletic squad or team shall submit a form furnished by the district board of education conveying the consent of his or her parent or legal guardian to participate.

As amended, R.1972 d.87, effective May 8, 1972.

See: 4 N.J.R. 65(a), 4 N.J.R. 117(c).

As amended, R.1984 d.192, effective May 21, 1984.

See: 16 N.J.R. 303(a), 16 N.J.R. 1197(a).

Substantially amended.

Amended by R.1985 d.281, effective June 3, 1985.

See: 17 N.J.R. 659(a), 17 N.J.R. 1410(a).

Substantially amended.

Amended by R.1990 d.154, effective March 5, 1990.

See: 21 N.J.R. 3815(b), 22 N.J.R. 793(a).

Recodified from N.J.A.C. 6:29-6.4; requirement for health history update added at (d)3.

Case Notes

Park owned by school board, which contained athletic fields regularly used for public and parochial school athletics, was a "school property used for school purposes" within narcotics statute. *State v. Ivory*, 124 N.J. 582, 592 A.2d 205 (1991).

Failure of required academic course triggered high school basketball player's ineligibility. *D.M. v. New Jersey State Interscholastic Athletic Association*, 96 N.J.A.R.2d (EDU) 527.

Matter of banning parent from high school athletic events was moot once school year ended and ban expired. *Griffin v. Monmouth Board of Education*, 95 N.J.A.R.2d (EDU) 204.

Barring parent from athletic events for assaulting visiting coach was not a violation of due process. *Griffin v. Monmouth Board of Education*, 95 N.J.A.R.2d (EDU) 85.

Wheelchair-bound student ineligible to compete in running events for high school track team. *Carlstadt-East Rutherford Board of Education v. New Jersey State Interscholastic Athletic Association*, 94 N.J.A.R.2d (EDU) 563.

Failure to establish that he would suffer irreparable harm by not being able to compete in track meets. *Dean v. New Jersey State Interscholastic Athletic Association*, 94 N.J.A.R.2d (EDU) 437.

Participation in interscholastic athletics; eight-semester rule. *J.C. V. New Jersey State Interscholastic Athletic Association*, 94 N.J.A.R.2d (EDU) 349.

Emergent Relief Motion denied; power point penalty was imposed against a high school football team; ineligibility to participate in play-off games. *Elmwood Park Borough Board of Education v. New Jersey State Interscholastic Athletic Association*, 94 N.J.A.R.2d (EDU) 106.

The eight-semester rule would not be waived to permit participation by student who spent year in Belgium. *Bradford v. New Jersey State Interscholastic Athletic Association*, 93 N.J.A.R.2d (EDU) 165.

Forfeiture of football game; student whose parents did not move with him to new school district; thirty-day abstention from interscholastic

tic sports. Board of Education of City of Gloucester v. New Jersey State Interscholastic Athletic Association, 93 N.J.A.R.2d (EDU) 69.

Scholastic ineligibility for participation in varsity sports; notification. R.J.P. on Behalf of His Minor Child, C.R.P. v. Board of Education of Cumberland Regional School District, 93 N.J.A.R.2d (EDU) 35.

Student transfer for athletic advantage; ineligible to play basketball. Van Velsen v. New Jersey State Interscholastic Athletic Association, 92 N.J.A.R.2d (EDU) 264.

Post-game melee; penalty probation of high school basketball program. Board of Education of City of Camden v. New Jersey State Interscholastic Athletic Association, 92 N.J.A.R.2d (EDU) 182.

Interscholastic sports; rule imposing waiting period on transferring students was valid. Board of Education of City of Trenton, Mercer County v. New Jersey Interscholastic Athletic Association, 92 N.J.A.R.2d (EDU) 31.

Evidence was sufficient to find that members of high school football team were responsible for fight; sanctions. Board of Educ. of the City of Newark, Essex County v. New Jersey State Interscholastic Athletic Ass'n, 91 N.J.A.R.2d 164 (EDU).

Senior who had failed sociology course in his junior year of spring term was not entitled to waiver of six-day academic credit rule. R.D. v. New Jersey State Interscholastic Athletic Ass'n, 91 N.J.A.R.2d 130 (EDU).

Student excluded from participating in sports was not entitled to emergency relief. R.D. v. New Jersey State Interscholastic Athletic Ass'n, 91 N.J.A.R.2d 61 (EDU).

Student who transferred to another school four days after being informed he was not eligible to participate in interscholastic sports was not eligible to play at his new school. B.C. v. New Jersey State Interscholastic Athletic Ass'n, 91 N.J.A.R.2d 30 (EDU).

Participation on interscholastic soccer team contingent on discretion of medical inspector. "P.N." by his parents v. Bd. of Ed., Elizabeth, Union Cty., 1975 S.L.D. 783.

SUBCHAPTER 4. (RESERVED)

Subchapter Historical Note

Subchapter 4, Comprehensive Health Education, was repealed by R.2000 d.190, effective May 1, 2000. See: 32 N.J.R. 395(a), 32 N.J.R. 1528(a).

SUBCHAPTER 5. AUDIOMETRIC SCREENING

6:29-5.1 Definitions

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

"Audiometer" means an electroacoustical generator which provides pure tones at selected frequencies of output through calibrated earphones mounted in MX-41/AR earmuffs.

"Audiometric screening" means a procedure used to determine a pupil's response to an auditory signal at a given frequency and decibel level.

"Health care personnel" means a certified school nurse or an employee of the district board of education trained in audiometric screening and who is working under the immediate direction of the medical inspector, including but not limited to speech correctionists and audiologists.

"Pupils at risk for hearing impairment" means pupils with communication disorders, pupils with cleft palate, pupils with allergies, pupils with frequent upper respiratory or middle ear infections, pupils taking ototoxic medication, and pupils who are exposed to sudden or continuous loud noises.

"Screening room" means any environment in which an adult with normal hearing can hear a 20dB HL signal at the frequencies of 500Hz, 1000Hz, 2000Hz, 3000Hz and 4000Hz.

Amended by R.1987 d.33, effective January 5, 1987.

See: 18 N.J.R. 1996(a), 19 N.J.R. 76(b).

Amended text for Audiometer.

Recodified by R.1990 d.154, effective March 5, 1990.

See: 21 N.J.R. 3815(a), 22 N.J.R. 793(a).

Recodified from N.J.A.C. 6:29-8.1.

6:29-5.2 Screening procedures

(a) Each district board of education shall develop and adopt policies and procedures to provide audiometric screening.

(b) Audiometric screening shall be conducted for pupils who are:

1. Enrolled in pre-school programs;
2. Enrolled in grades kindergarten through 4;
3. Enrolled in grades 6, 8, and 10;
4. Entering the district with no recent record of audiometric screening;
5. At risk for hearing impairments;
6. Referred to the child study team for evaluation; or
7. Referred for screening by a teacher, a parent or at the pupil's own request.

(c) The medical inspector, certified school nurse or the health care personnel shall conduct the audiometric screening. All screening shall be conducted in cooperation with the school nurse.

(d) Audiometric screening shall be conducted with an audiometer which is calibrated annually in accordance with ANSI S3.6-1969, American National Standard Specifications for Audiometers, which with all subsequent amendments and supplements is incorporated herein by reference. These standards may be purchased from the American National Standards Institute, Inc. 1430 Broadway, New York, New York 10018.

(e) Each pupil shall be screened individually at 20dB HL in a screening room at the following frequencies: 500Hz, 1000Hz, 2000Hz, 3000Hz and 4000Hz.

(f) If a pupil fails the first screening, the school nurse, using an otoscope, may look into the external ear canal and identify any condition which could interfere with the hearing. If there is a possible problem, the pupil and parent shall be notified and a recommendation made for a medical examination.

(g) A pupil who fails to respond to any one frequency in either ear shall be screened again in four to six weeks.

(h) If a pupil fails to respond to the same frequency or frequencies in the same ear on the second valid screening, the pupil shall be considered to have failed the screening and should be referred for further evaluation.

(i) A pupil who fails to respond at a different frequency or different frequencies on the second screening shall be screened a third time within two weeks.

(j) A pupil who fails to respond at any one frequency on the third screening shall be considered to have failed the screening and shall be referred for further evaluation.

(k) The school nurse shall notify in writing the parent or guardian of pupils failing audiometric screening of the necessity for additional evaluation by a physician or family health care provider.

Administrative Correction: Deleted (k) and recodified (l) to (k).
See: 22 N.J.R. 2359(a).

SUBCHAPTER 6. SUBSTANCE ABUSE

6:29-6.1 Purpose

These rules are designed to provide standards for district boards of education in their development of policies and procedures to evaluate and treat pupils who have alcohol and other drug-related problems in the school setting.

Amended by R.1989 d.480, effective September 5, 1989.
See: 21 N.J.R. 1603(a), 21 N.J.R. 2784(b).

Changed words "guidance to" to "standards for" and added reference to . . . alcohol and "other" drug-related. . . .
Recodified by R.1990 d.154, effective March 5, 1990.
See: 21 N.J.R. 3815(a), 22 N.J.R. 793(a).

Rule on physical education personnel recodified to N.J.A.C. 6:29-3.1. Rule on the purpose of the subchapter on substance abuse recodified from N.J.A.C. 6:29-9.1.

6:29-6.2 Definitions

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

"Evaluation" means those procedures used to determine a pupil's need for an educational program or treatment which extends beyond the regular school program by virtue of the use of alcohol or other drugs by the pupil or the pupil's family.

"Intervention and referral to treatment" means those programs and services offered to help a pupil because of the use of alcohol or other drugs by the pupil or the pupil's family.

Amended by R.1989 d.480, effective September 5, 1989.

See: 21 N.J.R. 1603(a), 21 N.J.R. 2784(b).

Amended definition for "evaluation" and for "treatment" by deleting 1.-4. under each definition and recodified those procedures to N.J.A.C. 6:29-9.3.

Recodified by R.1990 d.154, effective March 5, 1990.

See: 21 N.J.R. 3815(a), 22 N.J.R. 793(a).

Rule on physical education exemption procedures recodified to N.J.A.C. 6:29-3.2.

Definitions regarding substance abuse recodified from N.J.A.C. 6:29-9.2.

Case Notes

Temporary excuse from physical education class. *J.L. v. Bd. of Ed., West Orange, Essex Cty., 1974 S.L.D. 842.*

6:29-6.3 Adoption of policies and procedures

(a) District boards of education shall adopt and implement policies and procedures for the evaluation, intervention and referral to treatment of pupils whose use of alcohol and other drugs has affected their school performance or who possess, consume or who on reasonable grounds are suspected of being under the influence of the following substances in school or at school functions:

1. Alcoholic beverages;
2. Any controlled dangerous substance, as identified in N.J.S.A. 24:21-2; and/or
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.

(b) In adopting and implementing policies and procedures for the evaluation, intervention and referral to treatment of alcohol or other drug-affected pupils, district boards of education shall:

1. Consult with local agencies approved by the State Department of Health; and

2. Provide for compliance with the confidentiality requirements established in Federal regulations found at 42 CFR Part II.

(c) Alcohol and other drug policies of district boards of education shall include, but not be limited to, the following components:

1. The roles of appropriate school staff when handling a variety of possible alcohol or other drug-related situations involving pupils 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. The sanctions should be graded according to the severity of the offense;

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

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

i. Examination by a physician for the purpose of diagnosing whether the pupil is under the influence of alcohol and/or other drugs;

ii. Evaluation by the child study team to determine a pupil's eligibility for special education and/or related services when the pupil has been identified as potentially educationally handicapped;

iii. Assessment by individuals who are certified by the New Jersey State Board of Examiners as substance awareness coordinators or by individuals who are appropriately certified by the New Jersey State Board of Examiners and trained in alcohol and other drug abuse prevention; and/or

iv. Referral to a community agency approved by the County Local Advisory Council on Alcoholism and Drug Abuse or the State Department of Health;

5. The provision of intervention and treatment-referral services for pupils who are affected by alcohol or other drug use. Intervention and treatment-referral shall be provided by individuals who are certified by the New Jersey State Board of Examiners as substance awareness coordinators or by individuals who are appropriately certified by the New Jersey State Board of Examiners and trained in alcohol and other drug abuse prevention. 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 pupil is receiving medical or therapeutic care for a diagnosed alcohol or other drug dependency problem;

ii. Referral to a community agency approved by the County Local Advisory Council on Alcoholism and Drug Abuse or the State Department of Health;

iii. Providing support services for pupils who are in care or returning from care for alcohol and other drug dependency; and/or

iv. A special class or course designed to meet the needs of pupils with alcohol or other drug use problems;

6. Procedures for cooperating with law enforcement drug operations and activities on or near school property in accordance with the provisions established in N.J.A.C. 6:3-6; and

7. Provisions for the establishment of parent/guardian substance abuse educational programs offered at times and places convenient to the parents of the district on school premises or other facilities.

(d) The policies and procedures for the evaluation, intervention and referral to treatment of alcohol and other drug-affected pupils developed under this section shall be reviewed and approved by the Department of Education.

Amended by R.1989 d.480, effective September 5, 1989.
See: 21 N.J.R. 1603(a), 21 N.J.R. 2784(b).

At (b)2. added provision for compliance with Federal confidentiality requirements; at new (c)4i-iv, delineated evaluation services; at (c)5i-iv delineated treatment services and added new (c)6 and 7.
Recodified by R.1990 d.154, effective March 5, 1990.

See: 21 N.J.R. 3815(a), 22 N.J.R. 793(a).

Rule on physical education exemption procedures recodified to N.J.A.C. 6:29-3.3.

Rule on adoption of policies and procedures recodified from N.J.A.C. 6:29-9.3.

Case Notes

Teacher who reported to school authorities his suspicion that student was under influence of drugs or alcohol was statutorily immune from liability to student or her parents for such action. *Hedges v. Musco*, 33 F.Supp.2d 369 (D.N.J. 1999).

Substance abuse guidance counselor's notes of interviews regarding incident in which high school students were charged with aggravated sexual assault were privileged. *State in Interest of L.P.*, 250 N.J.Super. 103, 593 A.2d 393 (Ch.1991).

Proper manner for determining worker's compensation rate for injured employee holding multiple positions was to aggregate salaries from all three positions. *Stack v. Boonton Bd. of Ed.*, 199 N.J.Super. 121, 488 A.2d 1032 (App.Div.1985).

Alcohol consumption; students prohibited from participation in graduation ceremonies. *R.F. Et Al. v. Board of Education of Park Ridge*, 93 N.J.A.R.2d (EDU) 79.

6:29-6.4 Review and availability of policies and procedures

(a) Each district board of education shall establish an annual process to review the effectiveness of its alcohol and other drug policies and procedures. The district board of education shall solicit community input as well as consult with local agencies approved by the State Department of Health in the review process.

(b) Alcohol and other drug policies and procedures for discipline, evaluation, intervention and referral to treatment of pupils shall be made available annually to all school staff, pupils, and parents or guardians.

Amended by R.1989 d.480, effective September 5, 1989.

See: 21 N.J.R. 1603(a), 21 N.J.R. 2784(b).

Added phrase . . . alcohol and "other" drug. . . .

Recodified by R.1990 d.154, effective March 5, 1990.

See: 21 N.J.R. 3815(a), 22 N.J.R. 793(a).

Rule on athletics procedures recodified to N.J.A.C. 6:29-3.4. Rule on review and availability of policies and procedures recodified from N.J.A.C. 6:29-9.4.

6:29-6.5 Reporting, notification and examination procedures

(a) In instances involving alcoholic beverages, controlled dangerous substances or any chemical or chemical compound as identified in N.J.A.C. 6:29-6.3(a), the following shall apply:

1. Any professional staff member to whom it appears that a pupil may be under the influence of alcoholic beverages or other drugs on school property or at a school function shall report the matter as soon as possible to the school nurse or medical inspector and the principal.

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

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

2. The principal or his or her designee shall immediately notify the parent or guardian and the chief school administrator and arrange for an immediate examination of the pupil. The examination may be performed by a physician selected by the parent or guardian or by the medical inspector. If the chosen physician is not immediately available, the examination shall be conducted by the medical inspector or, if the medical inspector is not available, the pupil shall be accompanied by a member of the school staff, designated by the principal, to the emergency room of the nearest hospital for examination. If available, a parent or guardian should also accompany the pupil.

3. If, at the request of the parent or legal guardian, the medical examination is conducted by a physician other than the medical inspector, such examination shall not be at the expense of the district board of education.

4. Provisions shall be made for the appropriate care of the pupil while awaiting the results of the medical examination.

5. A written report of the medical examination shall be furnished to the parent or guardian of the pupil, the principal and the chief school administrator by the examining physician within 24 hours.

6. If the written report of the medical examination is not submitted to the parent or guardian, principal and chief school administrator within 24 hours, the pupil shall be allowed to return to school until such time as a positive diagnosis of alcohol or other drug use is received.

7. If there is a positive diagnosis from the medical examination, indicating that the pupil is under the influence of alcoholic beverages or other drugs, the pupil shall be returned to the care of a parent or guardian as soon as possible. Attendance at school shall not resume until a written report has been submitted to the parent or guardian of the pupil, the principal and chief school administrator from a physician who has examined the pupil to diagnose alcohol or other drug use. The report shall certify that substance abuse no longer interferes with the pupil's physical and mental ability to perform in school. In addition, the staff member shall complete the Violence, Vandalism and Substance Abuse Incident Report.

8. Refusal or failure by a parent to comply with the provisions of N.J.S.A. 18A:40A-12 shall be deemed a violation of the compulsory education (N.J.S.A. 18A:38-25 and 18A:38-31) and/or child neglect (N.J.S.A. 9:6-1 et seq.) laws.

9. While the pupil is at home because of the medical examination or after his or her return to school, the school may require additional evaluation for the purpose of determining the extent of the pupil's alcohol or other drug use and its effect on his or her school performance.

(b) In instances involving anabolic steroids, the following shall apply after July 1, 1990:

1. Whenever any teaching staff member, school nurse or other educational personnel of any public school shall have reason to believe that a pupil has used or may be using anabolic steroids, that teaching staff member, school nurse or other educational personnel shall report the matter as soon as possible to the school nurse or medical inspector, as the case may be, or to a substance awareness coordinator, and to the principal or, in his or her absence, to his or her designee.

2. The principal or his or her designee, shall immediately notify the parent or guardian and the superintendent of schools, if there be one, or the administrative principal and shall arrange for an examination of the pupil by a doctor selected by the parent or guardian or by the medical inspector. The pupil shall be examined as soon as possible for the purpose of diagnosing whether or not the pupil has been using anabolic steroids.

3. A written report of that examination shall be furnished by the examining physician to the parent or guardian of the pupil and to the superintendent of schools or administrative principal.

4. If it is determined that the pupil has been using anabolic steroids, the pupil shall be interviewed by a substance awareness coordinator or another appropriately trained teaching staff member for the purpose of determining the extent of the pupil's involvement with these substances and possible need for treatment. In order to make this determination, the coordinator or other teaching staff member may conduct a reasonable investigation which may include interviews with the pupil's teachers and parents. The coordinator or other teaching staff member may also consult with such experts in the field of substance abuse as may be necessary and appropriate.

5. If it is determined that the pupil's involvement with and use of these substances represents a danger to the pupil's health and well-being, the coordinator or other teaching staff member shall refer the pupil to an appropriate treatment program which has been approved by the Commissioner of Health.

(c) Any staff member who reports a pupil 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 N.J.S.A. 18A:40A-14.

Amended by R.1989 d.480, effective September 5, 1989.
See: 21 N.J.R. 1603(a), 21 N.J.R. 2784(b).

Deleted (a)1-8 and recodified (b) to new (a) incorporating alcohol and other drug policy as one uniform policy, added new 6 regarding written medical report and new 8 regarding parents' refusal to comply with N.J.S.A. 18A:40A-12.

Recodified by R.1990 d.154, effective March 5, 1990.
See: 21 N.J.R. 3815(a), 22 N.J.R. 793(a).

Recodified from N.J.A.C. 6:29-9.5.

6:29-6.6 (Reserved)

Amended by R.1989 d.480, effective September 5, 1989.
See: 21 N.J.R. 1603(a), 21 N.J.R. 2784(b).

Deleted (a) and recodified (b) to (a); added new (b) establishing need for 10 hours minimum instruction per school year in grades seventh through twelfth.

Recodified by R.1990 d.154, effective March 5, 1990.
See: 21 N.J.R. 3815(a), 22 N.J.R. 793(a).

Text on curriculum and instruction recodified from N.J.A.C. 6:29-9.6; requirements for programs regarding tobacco and anabolic steroids added; (c) added.

Repealed by R.2000 d.190, effective May 1, 2000.
See: 32 N.J.R. 395(a), 32 N.J.R. 1528(a).

Section was "Curriculum and instruction".

SUBCHAPTER 7. SCHOOL EMPLOYEE PHYSICAL EXAMINATIONS

6:29-7.1 Scope and purpose

This subchapter designates the minimum assessments to be used by district boards of education in establishing physical examinations for candidates for employment and district employees.

New Rule R.1990 d.154, effective March 5, 1990.
See: 21 N.J.R. 3815(a), 22 N.J.R. 793(a).

Case Notes

Regulation upheld against freedom of religion and due process constitutional challenges; adoption of regulation procedurally proper. *Smith v. Ricci*, 89 N.J. 514, 446 A.2d 501 (1982), dismissed 103 S.Ct. 286, 459 U.S. 962, 74 L.Ed.2d 272.

6:29-7.2 Definitions

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

"Employee" means the holder of any full- or part-time position of employment.

"Employee assurance statement" means a statement signed by the employee, certifying that information supplied by the employee is true to the best of his or her knowledge.

"Health history" means the record of a person's past health events obtained in writing, completed by the individual or their physician.

"Health screening" means the testing of people, using one or more diagnostic tools, to determine the presence or precursors of a particular disease.

"Medical evaluation" means the examination of the body by the school medical inspector or by any physician licensed to practice medicine.

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

"Psychiatric examination" means an examination for the purpose of diagnosis and treatment of mental disorders.

New Rule R.1990 d.154, effective March 5, 1990.
See: 21 N.J.R. 3815(a), 22 N.J.R. 793(a).

Case Notes

Teacher's petition alleging health problems due to working conditions was dismissed where teacher refused to comply with order to take medical exam. *Suarez v. Board of Education of the Town of West New York*, 96 N.J.A.R.2d (EDU) 940.

Teacher who was ordered to undergo psychiatric evaluation not required to use school district's choice of psychiatrist. *Pleasantville Board of Education*, 96 N.J.A.R.2d (EDU) 447.

6:29-7.3 Policies and procedures for employee physical examinations

District boards of education shall adopt written policies and procedures for the physical examination of employees, and may adopt written policies and procedures for candidates for employment. Such policies shall be based on the advice and recommendation of the district medical inspector, provide for notification to school employees regarding the requirements for physical examinations, and establish procedures to assure confidentiality during the collection, transmission and storage of employee medical records pursuant to N.J.A.C. 6:29-7.4.

New Rule R.1990 d.154, effective March 5, 1990.

See: 21 N.J.R. 3815(a), 22 N.J.R. 793(a).

Amended by R.1991 d.283, effective June 3, 1991.

See: 23 N.J.R. 336(b), 23 N.J.R. 1817(a).

Added role of district medical inspector and requirements for procedures to assure confidentiality of employee medical records.

6:29-7.4 Requirements of physical examinations

(a) Any candidate for employment may be required to undergo a physical examination that may include, but not be limited to, health history, health screenings and medical evaluation. The preemployment physical examination shall not be used to determine a candidate's disabilities. Such examination shall be used only to determine whether the applicant is able to perform with reasonable accommodation job-related functions pursuant to P.L. 101-336, Americans with Disabilities Act of 1990.

(b) Newly employed staff shall be required to undergo a physical examination which shall include, but not be limited to:

1. A health history completed by the individual or their physician which shall include:
 - i. Past serious illnesses and injuries;
 - ii. Current health problems;
 - iii. Allergies; and
 - iv. Record of immunizations.
2. Health screenings including:
 - i. Height and weight;
 - ii. Blood pressure;
 - iii. Pulse and respiratory rate; and
 - iv. Vision screening, hearing screening and Mantoux test for tuberculosis.

3. A medical evaluation which shall include, but not be limited to, a record of immunizations. Guidance regarding immunizations for adults may be found in the document *Adult Immunization: Recommendations of the Immunization Practices Advisory Committee (ACIP)*. Copies are available from the Immunization Program, Centers for Disease Control, Public Health, United States Department of Health and Human Services, Atlanta, Georgia 30333.

(c) Each school employee shall submit annually an updated health history with an assurance statement. If the employee refuses to submit this information the employee shall undergo a physical examination which includes (b)1 and 3 above.

(d) Individual employees may provide health status information, including medications, which may be of value to medical personnel in the event of an emergency requiring treatment. In such instances, an employee may also choose to share with the building principal and, if desired, with the certified school nurse, information regarding current health status to assure ready access in a medical emergency.

(e) Any examinations or assurances required or permitted by N.J.S.A. 18A:16-2 or this subchapter shall be limited to those assessments or information necessary to determine the individual's physical and mental fitness to perform with reasonable accommodation in the position which he or she seeks or currently holds, and to detect any health risks to students and other employees.

(f) Additional individual psychiatric or physical examinations of any employee may be required by the district board of education whenever, in the judgment of the board, an employee shows evidence of deviation from normal physical or mental health. When a board requires an employee to undergo such an individual examination:

1. The board must provide the employee with a written statement of reasons for the required additional examination. The board, if requested, shall provide the employee with a hearing.

2. The determination of such a hearing shall be appealable to the Commissioner of Education pursuant to N.J.S.A. 18A:6-9 and N.J.A.C. 6A:3.

(g) All employee medical records for the district, including computerized records, shall be secured, and shall be stored and maintained separately from other personnel files. Only the employee, the chief school administrator and the school medical inspector, shall have access to the medical information in that individual's file. The section of the medical record which contains the health history may be shared with the building principal and the school nurse with the consent of the employee as provided for in (d) above.

(h) Cost for examinations made by a physician or institution designated by the district board of education shall be

borne by the district board of education. If, however, the examination is performed by a physician or institution designated by the employee, with approval of the district board of education, the cost shall be borne by the employee.

New Rule R.1990 d.154, effective March 5, 1990.

See: 21 N.J.R. 3815(b), 22 N.J.R. 793(a).

Amended by R.1991 d.283, effective June 3, 1991.

See: 23 N.J.R. 336(b), 23 N.J.R. 1817(a).

Rule brought into compliance with the "Americans with Disabilities Act of 1990" (P.L. 101-336); greater detail of requirements regarding physical exams and assessability of records.

Amended by R.2000 d.137, effective April 3, 2000.

See: 31 N.J.R. 4173(a), 32 N.J.R. 1177(a).

In (f)2, changed N.J.A.C. reference.

SUBCHAPTER 8. NURSING SERVICES TO NONPUBLIC SCHOOLS

6:29-8.1 Purpose

These rules are designed to provide standards for district boards of education for the provision of required nursing services to nonpublic school pupils and for additional medical services which may be provided to nonpublic school pupils, according to N.J.S.A. 18A:40-23 et seq.

6:29-8.2 Adoption of policies and procedures

(a) District boards of education having nonpublic schools within their district boundaries shall adopt and implement policies and procedures for the following:

1. The extension of nursing services provided to public school pupils to those pupils who are enrolled full-time in the nonpublic school within the limits of funds appropriated or otherwise made available for this purpose. Such 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. Independent contractor means an individual whose employment criteria satisfies those requirements necessary for treatment as an independent contractor for federal employment tax purposes. The services shall include:

i. Assistance with medical examinations, including dental screening;

ii. Conducting screening of hearing examinations;

iii. 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; and

iv. Conducting scoliosis examinations of pupils between the ages of 10 and 18; and

2. The extension of emergency care provided to public school pupils to those pupils 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. 6:29-1.3(a)1.

(b) District boards of education having nonpublic schools within their district boundaries may adopt and implement policies and procedures for providing the pupils who are enrolled full-time in the nonpublic school with additional medical services.

1. Such additional medical services may only be provided when all services required in (a)1 and 2 above have been provided for or will be provided to pupils enrolled full-time in the nonpublic school as documented in the reporting procedures required in N.J.A.C. 6:29-8.6(a)2.

6:29-8.3 Conference with nonpublic school

(a) 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 limit of funds appropriated or otherwise made available for the provision of nursing services for the full-time pupils enrolled in the nonpublic schools; and

2. To agree upon the nursing services which shall be provided and additional medical services which may be provided as set forth in N.J.S.A. 18A:40-23 et seq. and within the limit of available funds.

(b) 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.

6:29-8.4 Administrative guidelines

(a) The nursing services provided to nonpublic school pupils shall not include instructional services.

(b) District boards of education may provide the necessary equipment, materials and services for immunizing pupils 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 or for diseases against which immunization may be recommended by the State Department of Health.

(c) Equipment and supplies comparable to that in use in the district can be purchased and transportation costs charged to the funds allocated for each participating nonpublic school as long as they are directly related to the provision of the required nursing services and additional medical services which may be provided. Such equipment may be loaned without charge to the nonpublic school for the purpose of providing the services under these provisions. However, such equipment remains the property of the district board of education.

(d) A pupil who is enrolled in a nonpublic school and whose parent or guardian objects to the pupil receiving any services provided under the rules in this subchapter shall not

be compelled to receive the services except for a physical or medical examination to determine whether the pupil is ill or infected with a communicable disease.

6:29-8.5 Fiscal responsibilities

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

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

6:29-8.6 Reporting procedures

(a) Each board of education providing nursing services to nonpublic schools shall submit the following information to the county superintendent of schools on or before October 1 and a copy shall be forwarded to the administrator(s) of the nonpublic school(s) within their district boundaries:

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 board of education meeting submitted for approval, which describe the methods by which the nursing services to the nonpublic school pupils will be provided for the ensuing school year, including a rationale for the distribution of funds; and
3. A description of the kind and number of services which were provided during the previous school year on a form provided by the Department of Education.

6:29-8.7 Authorizing statutes and regulations

Each nonpublic school which receives nursing services shall be provided with a copy of N.J.S.A. 18A:40-23 et seq. and this subchapter, by the board of education which is responsible for such services.

SUBCHAPTER 9. THE REPORTING OF ALLEGATIONS OF CHILD ABUSE AND NEGLECT

6:29-9.1 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.

Amended by R.1994 d.237, effective May 16, 1994.
See: 26 N.J.R. 537(a), 26 N.J.R. 2019(a).

6:29-9.2 Adoption of policies and procedures

(a) District boards of education shall adopt and implement policies and procedures for the reporting and the cooperation with the Division of Youth and Family Services (DYFS) in investigations of 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 not be limited to the following, but shall:

1. Include provisions requiring school personnel, compensated and uncompensated (volunteer), to immediately report to the DYFS incidents of child abuse and neglect. The person reporting the alleged child abuse and neglect shall inform the school principal or his or her designee of the report after the DYFS referral has been made. However, notice to the principal or his or her designee need not be given when the person believes that such notice would be likely to endanger the referrer or child(ren) involved or when the person believes that such disclosure would be likely to 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 DYFS (see N.J.S.A. 9:6-8.10). When referring cases to the DYFS, 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 or guardian or other person having custody and control (for example, foster 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 possible 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/or 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, hire, 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 DYFS in investigations of 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 process 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 DYFS from the district board of education.
- i. The function of the liaison is to:
 - (1) Facilitate communication and cooperation between the district and the DYFS; and
 - (2) Act as the primary contact person between the schools and the DYFS 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 DYFS investigator to interview the child(ren) in the presence of the school principal or his or her 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 DYFS 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 pupil 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, N.J.S.A. 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 DYFS about a school employee shall be considered confidential and may be disclosed only as required in order to cooperate with DYFS investigations pursuant to N.J.A.C. 6:29-9.2(a)4 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 DYFS 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 DYFS 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 N.J.S.A. 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 N.J.S.A. 9:6-3.1); and

viii. Remove from the employee's personnel records all references to a report to the DYFS and/or the official notice from the DYFS of child abuse or neglect regarding a school district employee, immediately following the receipt of an official notice from the DYFS that the allegation was unfounded. Such DYFS report regarding a school employee shall not 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.1994 d.237, effective May 16, 1994.
See: 26 N.J.R. 538(a), 26 N.J.R. 2019(b).

SUBCHAPTER 10. SAFE AND DRUG FREE SCHOOLS

6:29-10.1 Purpose

The purpose of this subchapter is to establish uniform Statewide policies and procedures for cooperating with law enforcement operations and activities on or near school grounds to ensure a safe school environment, and to identify the circumstances under which school officials shall refer violations to the police for handling, as authorized by the Attorney General's Executive Directive 1988-1. Such policies and procedures shall be consistent with and complementary to the State Memorandum of Agreement approved by the Department of Law and Public Safety and the Department of Education.

6:29-10.2 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;
 - ii. Drug paraphernalia;
 - iii. Alcohol;
 - iv. Firearms, as defined in N.J.S.A. 2C:39-1f; and
 - v. Other deadly weapons, as defined in N.J.S.A. 2C:39-1r; and
2. The planning and conduct of law enforcement activities and operations occurring on school property, including arrest procedures and undercover school operations.

6:29-10.3 General requirements

(a) District policies and procedures developed pursuant to this section shall:

1. Be developed, implemented, and revised, as necessary, through consultation with the county prosecutor and such other law enforcement officials as may be designated by the county prosecutor;
2. Be reviewed and approved by the county superintendent;
3. Be made available annually to all school staff, pupils, and parents or guardians; and
4. Be consistent with reporting, notification and examination procedures of students suspected of being under the influence of alcohol and other substances in accordance with N.J.A.C. 6:29-6.

(b) District policies and procedures shall include, but not be limited to, the following components:

1. The designation of liaisons to law enforcement agencies and the prescription 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 property for the purpose of conducting law enforcement investigations, searches, seizures, and arrests;
3. Specific procedures for and responsibilities of staff in cooperating with arrests made by law enforcement authorities on school property;
4. Specific procedures for and responsibilities of staff in initiating or conducting searches and seizures of pupils, their property, and personal effects. 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), as set forth in the "Attorney General's Guidelines Regarding School Searches," issued in 1985;

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

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

iii. 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.

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

v. Any questions concerning the legality of any contemplated or ongoing search, seizure, or arrest conducted by a law enforcement officer on school property shall be directed to the county prosecutor or, in the case of a search, seizure or arrest undertaken by the Division of Criminal Justice in the Department of Law and Public Safety, to the Assistant Attorney General in charge;

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

6. 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. 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. In the event that the chief school administrator, principal or any other school staff or district board member who may have been informed as to 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;

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

8. 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, drug paraphernalia, or a firearm or other deadly weapon;

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

10. Provisions for notifying parents or guardians as soon as possible whenever a pupil is arrested for violating any laws prohibiting the possession, sale or other distribution of any controlled dangerous substance, drug paraphernalia, or a firearm or other deadly weapon;

11. Provisions for the inservice 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; and

12. An agreement or memorandum of understanding with appropriate law enforcement authorities. Such agreements or memoranda of understanding shall be consistent with the policies established in this subchapter and in the State Memorandum of Agreement. These agreements or memoranda of understanding shall define the reciprocal rights and obligations of pupils, parents or guardians, school staff, and law enforcement officials with respect to the possession, distribution and disposition of controlled dangerous substances, drug paraphernalia, and firearms and other deadly weapons; with respect to the planning and conduct of law enforcement activities and operations, occurring on school property, including arrests and undercover school operations; and with respect to law enforcement's participation in substance abuse prevention programs;

i. 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;

13. Provisions for resolving disputes concerning law enforcement activities occurring on school property; and

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

6:29-10.4 Reporting pupils or staff members to law enforcement authorities

(a) Subject to the provisions of N.J.A.C. 6:29-10.6 below, any teaching staff member having reason to believe that a pupil 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, on or near school property, 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. 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.

1. 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 pupil or staff member involved. The chief school administrator or designee shall not disclose, however, the identity of any pupil or staff member who has voluntarily sought treatment or counseling for a substance abuse problem provided the pupil or staff member is not currently involved or implicated in drug distribution activities.

i. For the purpose of this section, an admission by a pupil 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 any school employee develops reason to believe that a firearm or other deadly weapon has unlawfully been brought onto school property, or that any student or other person is in unlawful possession of a firearm or other deadly weapon, whether on or off school property, 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 property 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. 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. 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 pupil or staff member involved.

6:29-10.5 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. Either the principal or designee shall then immediately notify the chief school administrator or designee who in turn shall notify the appropriate county prosecutor or other law enforcement official designated by the county prosecutor to receive such information. 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.

1. The principal or designee shall provide to the county prosecutor or designee all information concerning the manner in which the substance or paraphernalia was discovered or seized, the identity of all persons who had custody of the substance or paraphernalia following its discovery or seizure, and the identity of any pupil or staff member believed to have been in possession of the substance or paraphernalia. However, the principal or designee shall not disclose the identity of any pupil 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 pupil or staff member was involved with the substance or paraphernalia for the purpose of personal use, not distribution activities, and further provided that the pupil or staff member agrees to participate in an appropriate treatment or counseling program.

i. For the purposes of this section, an admission by a pupil 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 should in the case of a dangerous weapon other than a firearm, and shall 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. School employees having custody of a firearm or dangerous weapon will take reasonable precautions, as per local board of education procedures, to prevent its theft, destruction or unlawful use by any person.

6:29-10.6 Confidentiality of pupil or staff member involvement in substance abuse intervention and treatment programs

(a) All information concerning a pupil's or staff member's involvement in a school intervention or treatment program for substance abuse shall be kept strictly confidential in accordance with applicable Federal regulations (42 C.F.R. Part 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 substance abuse program that a pupil or staff member has received or is receiving evaluation or treatment services from the local district's substance abuse program; nor shall the principal or designee disclose any

information, including the pupil'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 evaluation or treatment services provided by the local district's substance abuse program.

(d) Nothing in the 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 substance abuse program, and any such information about illegal activity shall be reported in accordance with N.J.A.C. 6:3-6.4 and 10.5.