

**SUBCHAPTER 6. SCHOOL EMPLOYEE PHYSICAL EXAMINATIONS****6A:32-6.1 Scope and purpose**

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

(b) This subchapter applies to all district boards of education or private agencies which provide educational services by means of public funds.

**6A:32-6.2 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 school 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. 6A:32-6.3(f).

**6A:32-6.3 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 eval-

uation and drug testing. 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 his or her physician which shall include:

- i. Past serious illnesses and injuries;
- ii. Current health problems;
- iii. Allergies; and
- iv. Record of immunizations.

2. Health screenings which shall include:

- 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,

*New Jersey State Library*

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) 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.

(d) 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.

(e) 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 district board of education shall 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:4, Appeals.

3. The employee may, without reprisal, refuse to waive his or her right to protect the confidentiality of medical information, in accordance with P.L. 104-191, Health Insurance Portability and Accountability Act of 1996.

(f) All employee medical records for the school district, including computerized records, shall be secured, and 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 (c) above.

(g) 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.

## SUBCHAPTER 7. STUDENT RECORDS

### 6A:32-7.1 General considerations

(a) This subchapter applies to all district boards of education or private agencies which provide educational services by means of public funds.

(b) Each district board of education shall compile and maintain student records and regulate access, disclosure or communication of information from educational records in a manner that assures the security of such records in accordance with this subchapter.

(c) Student records shall contain only such information as is relevant to the education of the student and is objectively based on the personal observations or knowledge of the certified school personnel who originate(s) the record.

(d) The district board of education shall notify parents and adult students annually in writing of their rights in regard to student records and student participation in educational, occupational and military recruitment programs. Copies of the applicable State and Federal laws and local policies shall be made available upon request. District boards of education shall make every effort to notify parents and adult students in their dominant language.

(e) A nonadult student may assert rights of access only through his or her parents. However, nothing in these rules shall be construed to prohibit certified school personnel, in their discretion, from disclosing student records to nonadult students or to appropriate persons in connection with an emergency, if such knowledge is necessary to protect the health or safety of the student or other persons.

(f) The parent or adult student, including an emancipated minor, shall have access to their own records and have access to or be specifically informed about only that portion of another student's record that contains information about his or her own child or himself or herself.

(g) Each district board of education shall establish written policies and procedures for student records which:

1. Guarantee access to persons authorized under this subchapter within 10 days of the request, but prior to any review or hearing conducted in accordance with the State Board of Education rules;

2. Assure security of the records;

3. Enumerate and describe the student records collected and maintained by the district board of education;

4. Provide for the inclusion of educationally relevant information in the student record by the parent or adult student;

5. Allow for the designation, release and public notice of directory information as defined herein;

6. Provide the parent or adult student a 10-day period to submit a written statement to the chief school administrator prohibiting the institution from including any or all types of information about the student in any student information directory before allowing access to such directory and school facilities to educational, occupational and military recruiters pursuant to N.J.S.A. 18A:36-19.1 and P.L. 107-110, sec. 9528, Armed Forces Recruiter Access to Students and Student Recruiting Information of the No Child Left Behind Act of 2001;

7. Provide the parent or adult student a 10-day period to submit a written statement to the chief school administrator pursuant to (b) above, excluding information from any school directory for official use.

8. Assure limited access to student records by secretarial and clerical personnel pursuant to N.J.A.C. 6A:32-7.5; and

9. Provide for the access and security of student records maintained in a computerized system.

10. Maintain the confidentiality of all student records with name, social security number, address and telephone number information or use the substitute address for certified participants in the Address Confidentiality Program pursuant to the provisions of N.J.A.C. 5:61.

(h) All anecdotal information and assessment reports collected on a student shall be dated and signed by the individual who originated the data.

(i) The chief school administrator or his or her designee shall require all permitted student records of currently enrolled students to be reviewed annually by certified school personnel to determine the education relevance of the material contained therein. The reviewer shall cause data no longer descriptive of the student or educational program to be deleted from the records except that prior notice shall be given for classified students in accordance with N.J.A.C. 6A:14, Special Education. Such information shall be disposed of and not be recorded elsewhere. No record of any such deletion shall be made.

(j) No liability shall be attached to any member, officer or employee of any district board of education permitting access or furnishing student records in accordance with these rules.

(k) When the parent's or adult student's dominant language is not English or the parent or adult student is deaf, the district board of education shall provide interpretation of the student records in the dominant language of the parents or adult student.

(l) Student health records shall be maintained separately from other student records and handled, according to the requirements of this subchapter, until such time as graduation or termination whereupon the health history and immunization record shall be removed from the student's health record and placed in the student's mandated record.

## **6A:32-7.2 School contact directory for official use**

(a) Each district board of education shall compile and maintain, but need not publish, a school contact directory for official use, which is separate and distinct from the student information directory. School personnel shall provide information from the school contact directory for official use only to judicial and law enforcement personnel, and to medical personnel who are currently providing services to the student in question. Upon request from a court, other judicial agency, law enforcement agency, or medical service provider who is currently providing services to the student in question, school personnel shall promptly verify the enrollment of a student and provide the requester with all the information about that student that is contained in the school contact directory for official use.

(b) In order for a parent or adult student to exclude any information from the school contact directory for official use, the parent or adult student shall notify the district board of education in writing on a form prescribed by the Commissioner of Education. The form shall explain that the purpose of the school contact directory for official use is to allow judicial, law enforcement, and medical personnel to contact the parent when necessary, and that the school contact directory for official use is only accessible by school, judicial, and law enforcement personnel, and by medical personnel who are currently providing services to the student in question.

## **6A:32-7.3 Mandated student records**

(a) Mandated student records shall include the following:

1. The student's name, address, telephone number, date of birth, name of parent(s), gender, citizenship, standardized assessment and test answer sheets (protocol), grades, attendance, classes attended, grade level completed, and year completed.

2. Record of daily attendance;

3. Descriptions of student progress according to the system of student evaluation used in the school district;

4. History and status of physical health compiled in accordance with State regulations, including results of any physical examinations given by qualified school district employees;

5. Records pursuant to rules and regulations regarding the education of students with disabilities; and

6. All other records required by the State Board of Education.

## **6A:32-7.4 Maintenance and security of student records**

(a) The chief school administrator or his or her designee shall be responsible for the security of student records

2. Authorized organizations, agencies and persons from outside the school whose access requires the consent of parents or adult students shall submit their request in writing together with any required authorization, to the chief school administrator or his or her designee.

3. The chief school administrator or his or her designee shall be present during the period of inspection to provide interpretation of the records where necessary and to prevent their alteration, damage or loss. In every instance of inspection of student records by persons other than parents, students or individuals who have assigned educational responsibility for the individual student, an entry shall be made in the student record of the names of persons granted access, the reason access was granted, the time and circumstances of inspection, the records studied and the purposes for which the data will be used.

4. Unless otherwise judicially instructed, the district board of education shall, prior to the disclosure of any student records to organizations, agencies or persons outside the school district pursuant to a court order, give the parent or adult student at least three days' notice of the name of the requesting agency and the specific records requested. Such notification shall be provided in writing if practicable. Only those records related to the specific purpose of the court order shall be disclosed.

5. A record may be withheld from a parent of a student under 18 or from an adult student only when the district board of education obtains a court order or is provided with evidence that there is a court order revoking the right to access. Only that portion of the record designated by the court may be withheld. When the district board of education has or obtains evidence of such court order the parent or adult student shall be notified in writing within five days of his or her request that access to the record has been denied and that the person has the right to appeal this decision to the court issuing the order.

#### **6A:32-7.7 Rights of appeal for parents and adult students**

(a) Student records are subject to challenge by parents and adult students on grounds of inaccuracy, irrelevancy, impermissive disclosure, inclusion of improper information or denial of access to organizations, agencies and persons. The parent or adult student may seek to:

1. Expunge inaccurate, irrelevant or otherwise improper information from the student record;
2. Insert additional data as well as reasonable comments as to the meaning and/or accuracy of the records; and/or
3. Request an immediate stay of disclosure pending final determination of the challenge procedure as described in this subchapter.

(b) To request a change in the record or to request a stay of disclosure pending final determination of the challenged procedure, a parent or adult student shall notify the chief school administrator in writing of the specific issues relating to the student record. Within 10 days of notification, the chief school administrator or his or her designee shall notify the parent or adult student of the school district's decision. If the school district disagrees with the request, the chief school administrator or his or her designee shall meet with the parent or adult student to revise the issues set forth in the appeal. If the matter is not satisfactorily resolved, the parent or adult student may appeal this decision either to the district board of education or the Commissioner of Education within 10 days. If appeal is made to the district board of education, a decision shall be rendered within 20 days. The decision of the district board of education may be appealed to the Commissioner pursuant to N.J.S.A. 18A:6-9 and N.J.A.C. 6A:3, Controversies and Disputes. At all stages of the appeal process, the parent or adult student shall be afforded a full and fair opportunity to present evidence relevant to the issue. A record of the appeal proceedings and outcome shall be made a part of the student record with copies made available to the parent or adult student.

(c) Appeals relating to the student records of students with disabilities shall be processed in accordance with the requirements of (b) above.

(d) Regardless of the outcome of any appeal, a parent or adult student shall be permitted to place a statement in the student record commenting upon the information in the student record or setting forth any reasons for disagreement with the decision of the agency. Such statements shall be maintained as part of the student record as long as the contested portion of the record is maintained. If the contested portion of the record is disclosed to any party, the statement commenting upon the information shall also be disclosed to that party.

Administrative correction.  
See: 38 N.J.R. 1828(a).

#### **Case Notes**

Letter by school principal dated June 7, 2000 concerning a first-grader's holding his hand like a pistol and threatening to shoot another student did not contain inaccuracies and irrelevancies justifying expungement under N.J.A.C. 6A:32-7.7 by virtue of its allusion to the referral of the incident to the Assistant Superintendent of the school district, and recommendation that the student receive counseling or a psychiatric evaluation, which petitioners claimed made the incident seem more serious than it was; petitioners pointed to no facts in the letter which were inaccurate. S.S. & E.S. ex rel. E.S. v. Bd. of Educ. of Union, OAL Dkt. No. EDU 5179-07, 2007 N.J. AGEN LEXIS 1006, Commissioner's Decision (August 23, 2007).

Disciplinary record of a student, who no longer resided in New Jersey, relating to the student's holding his hand like a pistol when he was in first grade and threatening to shoot another student, was not entitled to expungement; N.J.A.C. 6A:32-7.8(b) only applies while the student is enrolled in a district, and the classification given to student disciplinary records under the authority of the Destruction of Public Records Law, N.J.S.A. 47:3-15 et seq., does not permit their destruction until two years after the student's graduation or termination from the

school system or age 23, whichever is longer. S.S. & E.S. ex rel. E.S. v. Bd. of Educ. of Union, OAL Dkt. No. EDU 5179-07, 2007 N.J. AGEN LEXIS 1006, Commissioner's Decision (August 23, 2007).

Commissioner rejected petitioners' contention that a student's permanent move to Pennsylvania rendered irrelevant and thus eligible for expungement a New Jersey disciplinary record from June 2000, relating to the student's holding his hand like a pistol when he was in first grade and threatening to shoot another student. Neither the Destruction of Public Records Law, N.J.S.A. 47:3-15 et seq., nor N.J.A.C. 6A:16-7.10, which requires the transfer of disciplinary records between school districts, contains an exception arising from a student's move to another state, and the fact that the New Jersey regulations flow from federal regulations also supports the lack of any such limitation. S.S. & E.S. ex rel. E.S. v. Bd. of Educ. of Union, OAL Dkt. No. EDU 5179-07, 2007 N.J. AGEN LEXIS 1006, Commissioner's Decision (August 23, 2007).

Disciplinary record of a student, who no longer resided in New Jersey, relating to the student's holding his hand like a pistol when he was in first grade and threatening to shoot another student, was not entitled to expungement based on the degree of seriousness of the conduct involved; petitioners did not challenge the suspension when it was imposed, and the Commissioner was aware of no provision in the Destruction of Public Records Law that allows exceptions based upon the content of disciplinary records nor was there any expert testimony in the record evaluating the significance of the student's behavior. S.S. & E.S. ex rel. E.S. v. Bd. of Educ. of Union, OAL Dkt. No. EDU 5179-07, 2007 N.J. AGEN LEXIS 1006, Commissioner's Decision (August 23, 2007).

Adopting Initial Decision's conclusion (2005 N.J. AGEN LEXIS 661) that the doctrine of issue preclusion barred petitioner's challenge to the record of his 10-day suspension, because a juvenile hearing in Superior Court had resulted in an adjudication of delinquency that depended entirely on the finding of fact that petitioner wrongly possessed a weapon on school property. R.O. ex rel. R.O. v. Bd. of Educ. of W. Windsor-Plainsboro School Dist., OAL Dkt. No. EDU 2010-05, 2006 N.J. AGEN LEXIS 275, Commissioner's Decision (March 17, 2006).

## 6A:32-7.8 Retention and disposal of student records

(a) A student record is considered to be incomplete and not subject to the provisions of the Destruction of Public Records Law, N.J.S.A. 47:3-15 et seq., while the student is enrolled in the school district.

1. The school district shall retain the student health record and the health history and immunization record according to the School District Records Retention Schedule, as determined by the New Jersey State Records Committee.

(b) Student records of currently enrolled students, other than that described in (e) below, may be disposed of after the information is no longer necessary to provide educational services to a student. Such disposition shall be accomplished only after written parental or adult student notification and written parental or adult student permission has been granted or after reasonable attempts of such notification and reasonable attempts to secure parental or adult student permission have been unsuccessful.

(c) Upon graduation or permanent departure of a student from the school district:

1. The parent or adult student shall be notified in writing that a copy of the entire student record will be provided to them upon request.

2. Information in student records, other than that described in (e) below, may be disposed of, but only in accordance with the Destruction of Public Records Law, N.J.S.A. 47:3-15 et seq. Such disposition shall be accomplished only after written parental or adult student notification and written parental or adult student permission has been granted, or after reasonable attempts at such notification and reasonable attempts to secure parental or adult student permission have been unsuccessful and prior written authorization has been obtained from the New Jersey State Records Committee in the New Jersey Department of State.

(d) No additions shall be made to the record after graduation or permanent departure without the prior written consent of the parent or adult student.

(e) The New Jersey public school district of last enrollment, graduation or permanent departure of the student from the school district shall keep for 100 years a mandated record of a student's name, date of birth, name of parents, gender, citizenship, address, telephone number, health history and immunization, standardized assessment and test answer sheet (protocol), grades, attendance, classes attended, grade level completed, year completed, and years of attendance.

### Case Notes

N.J.A.C. 6A:32-7.8(b) allows student records to be destroyed while the student is still enrolled in a district. After the student has left the district, his records may be disposed of only in accordance with the Destruction of Public Records Law, N.J.S.A. 47:3-15 et seq. S.S. & E.S. ex rel. E.S. v. Bd. of Educ. of Union, OAL Dkt. No. EDU 5179-07, 2007 N.J. AGEN LEXIS 1006, Commissioner's Decision (August 23, 2007).

Disciplinary record of a student, who no longer resided in New Jersey, relating to the student's holding his hand like a pistol when he was in first grade and threatening to shoot another student, was not entitled to expungement; N.J.A.C. 6A:32-7.8(b) only applies while the student is enrolled in a district, and the classification given to student disciplinary records under the authority of the Destruction of Public Records Law, N.J.S.A. 47:3-15 et seq., does not permit their destruction until two years after the student's graduation or termination from the school system or age 23, whichever is longer. S.S. & E.S. ex rel. E.S. v. Bd. of Educ. of Union, OAL Dkt. No. EDU 5179-07, 2007 N.J. AGEN LEXIS 1006, Commissioner's Decision (August 23, 2007).

## SUBCHAPTER 8. STUDENT ATTENDANCE AND ACCOUNTING

### 6A:32-8.1 School register

(a) This subchapter applies to all district boards of education or private agencies which provide educational services by means of public funds.

(b) The Commissioner shall prepare and distribute a school register which shall be known as the New Jersey School Register, for recording student attendance in all public schools of the State operated by district boards of education, except adult high schools.