

elopmental ages of student offenders and students' histories of inappropriate behaviors in accordance with N.J.A.C. 6A:16-7.2 through 7.8, as appropriate.

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

1. A description of students' responsibilities that includes expectations for academic achievement, behavior and attendance, pursuant to N.J.A.C. 6A:32-8 and 13.1;

2. A description of behaviors that result in suspension or expulsion, pursuant to N.J.S.A. 18A:37-2;

3. A description of students' rights to:

i. Advance notice of behaviors that result in suspensions and expulsions that have been identified pursuant to N.J.S.A. 18A:37-2;

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

iii. Attendance in safe and secure school environments;

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

v. Due process appeal procedures and policies, pursuant to N.J.A.C. 6A:3-1.3 through 1.17; N.J.A.C. 6A:4; and, where applicable, N.J.A.C. 6A:14-2.7 and 2.8, and N.J.A.C. 6A:16-7.2 through 7.5;

vi. Parent notification consistent with the policies and procedures established pursuant to N.J.A.C. 6A:16-6.2(b)3, this section, and N.J.A.C. 6A:16-7.2 through 7.8; and

vii. Protections pursuant to 20 U.S.C. §1232g, Family Educational Rights and Privacy Act; 34 CFR 99, Family Educational Rights and Privacy; 20 U.S.C. §1232h, Protection of Pupil Rights; 34 CFR Part 98, Student Rights in Research, Experimental Programs, and Testing; P.L. 104-191, Health Insurance Portability and Accountability Act; 45 CFR 160, General Administrative Requirements; 20 U.S.C. § 7165, Transfer of school disciplinary records; 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records; N.J.S.A. 18A:40A-7.1, Confidentiality of certain information provided by pupils, exceptions; N.J.A.C. 6A:16-3.2, Confidentiality of student alcohol and other drug information; N.J.S.A. 18A:36-19, Pupil records, creation, maintenance and retention, security and access, regulations, nonliability; N.J.S.A. 2A:4A-60, Disclosure of juvenile information, penalties for disclosure; N.J.A.C. 6A:32-7, Student Records; N.J.A.C. 6A:14-2.9, Student records; as well as other existing Federal and State laws and rules pertaining to student protections;

4. A description of comprehensive behavioral supports that promote positive student development and the students' abilities to fulfill the behavioral expectations estab-

lished by the district board of education. The description of comprehensive behavioral supports may include:

i. Positive reinforcement for good conduct and academic success;

ii. Supportive interventions and referral services;

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

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

5. A description of school responses to violations of behavioral expectations established by the district board of education that, at a minimum, are graded according to the severity of the offenses, and consider the developmental ages of the student offenders and their histories of inappropriate behaviors that shall:

i. Include a continuum of actions designed to remediate and, where necessary or required by law, to impose sanctions;

ii. Be consistent with other responses, pursuant to N.J.A.C. 6A:16-5.5 through 5.7;

iii. Provide for the equitable application of the code of student conduct without regard to race; color; religion; ancestry; national origin; nationality; sex; gender; sexual orientation; gender identity or expression; marital, domestic-partnership, or civil-union; mental, physical, or sensory disability; or any other distinguishing characteristic, pursuant to N.J.S.A. 10:5-1 et seq.; and

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

6. Expectations and consequences consistent with the district board of education's policies and procedures on attendance, pursuant to N.J.A.C. 6A:16-7.6, and harassment, intimidation, and bullying, pursuant to N.J.A.C. 6A:16-7.7; and

7. A current list of community-based health and social service provider agencies available to support a student and the student's family, as appropriate, and a list of legal resources available to serve the community.

(d) A district board of education may deny participation in extracurricular activities, school functions, sports, graduation exercises or other privileges as disciplinary sanctions when designed to maintain the order and integrity of the school environment.

Recodified from N.J.A.C. 6A:16-5.1 and amended by R.2005 d.297, effective September 6, 2005.

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

Deleted former (b) through (e); rewrote (a); added new (b) through (d).

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

See: 38 N.J.R. 2294(a), 38 N.J.R. 4411(c).

In introductory paragraph of (a), inserted “, adopt”; in (a)5iv, inserted “school”; in (a)7, inserted “Education Improvement”; in (b)2, inserted “secure,”; in (c)1, updated N.J.A.C. reference; in (c)3iii, inserted “and secure”; in (c)3vii, substituted “6A:32-7, Student Records” for “6:3-6, Pupil Records”; in (c)4, substituted “district board of education” for “school district”, and in (c)6, updated N.J.A.C. reference.

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

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

In the introductory paragraph of (a), substituted “school buses” for “a school bus” and updated the N.J.A.C. references; in (b)6, inserted “in accordance with N.J.A.C. 6A:16-7.2 through 7.5 and 7.6 as appropriate”; in (c)3v, substituted “appeal procedures and policies” for “and appeal procedures” and updated the N.J.A.C. references; in (c)3vi, updated the N.J.A.C. references; in (c)3vii, inserted “N.J.A.C. 6A:32-7, Student Records,”; and added (e).

Amended by R.2014 d.047, effective March 17, 2014.

See: 45 N.J.R. 987(a), 46 N.J.R. 505(a).

Rewrote the section.

### Case Notes

Regarding a student’s long-term suspension, his due process rights were adequately protected by the written notification given to his parents pursuant to N.J.A.C. 6A:16-7.3(a). The superintendent of schools adequately explained that the student was charged with violation of the Board of Education policies, possession and consumption of alcohol under the legal age, and possession of a weapon for an unlawful purpose. It explained that a formal hearing would be conducted, explained the student’s right to consult an attorney, and have that attorney present. The suspension was proper under N.J.A.C. 6A:16-7.1(a) and (b) given the seriousness of the infractions. E.R. ex. Rel. O.R. v. Ocean Twp. Bd. of Educ., OAL DKT. No. EDS 16867-13, 2014 N.J. AGEN LEXIS 162, Final Decision (April 15, 2014).

Initial Decision (2008 N.J. AGEN LEXIS 1265) adopted, which found that, while the school administration did not act arbitrarily, capriciously, or unreasonably by exercising its statutory authority to discipline one student for a physical assault upon another, it may not have been wise to suspend the student who was the victim rather than the aggressor; while evenhandedness in enforcing discipline must be applied, the school district should have taken into account degrees of culpability in determining the appropriateness of the penalty. Because the student had no prior record of disciplinary infractions and did not initiate the physical confrontation, even a suspension of only one day was excessive and should have been modified to a written reprimand. L.L. ex rel. B.L. v. Bd. of Educ. of Clifton, OAL Dkt. No. EDU 5652-05, 2008 N.J. AGEN LEXIS 1187, Final Decision (October 15, 2008).

Board of education’s discipline of a student as a result of his involvement in a fight on school grounds was not arbitrary or unreasonable; the student drove participants to and away from the fight, and his punishment included a three-day in-school suspension and suspension from extracurricular activities, including football (adopting 2008 N.J. AGEN LEXIS 31 as supplemented). S.L. ex rel. D.L. v. Bd. of Educ. of Verona, OAL Dkt. No. EDU 9009-07, 2008 N.J. AGEN LEXIS 268, Commissioner’s Decision (March 10, 2008).

Initial Decision (2008 N.J. AGEN LEXIS 31) adopted as supplemented, which concluded that suspension from certain high school extracurricular activities does not implicate a student’s property interest in education, because the only right protected is the right to a thorough and efficient education. S.L. ex rel. D.L. v. Bd. of Educ. of Verona, OAL Dkt. No. EDU 9009-07, 2008 N.J. AGEN LEXIS 268, Commissioner’s Decision (March 10, 2008).

### 6A:16-7.2 Short-term suspensions

(a) In each instance of a short-term suspension, a district board of education shall assure the rights of a student suspended for one, but not more than 10 consecutive school days by providing for the following:

1. As soon as practical, oral or written notice of charges to the student.

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

2. Prior to the suspension, an informal hearing during which the student is given the opportunity to present his or her version of events regarding his or her actions leading to the short-term suspension and is provided notice of the school district’s actions taken pursuant to N.J.A.C. 6A:16-7.1(c)2 and 5:

i. The informal hearing shall be conducted by a school administrator or his or her designee;

ii. To the extent that a student’s presence poses a continuing danger to persons or property or an ongoing threat of disrupting the educational process, the student may be immediately removed from the student’s educational program and the informal hearing shall be held as soon as practical after the suspension;

iii. The informal hearing shall take place even when a school staff member has witnessed the conduct forming the basis of the charge; and

iv. The informal hearing and the notice given may take place at the same time;

3. Oral or written notification to the student’s parents of the student’s removal from his or her educational program prior to the end of the school day on which the school administrator decides to suspend the student. The notification shall include an explanation of:

i. The specific charges;

ii. The facts on which the charges are based;

iii. The provision(s) of the code of student conduct the student is accused of violating;

iv. The student’s due process rights, pursuant to N.J.A.C. 6A:16-7.1(c)3 and this section; and

v. The terms and conditions of the suspension.

4. Appropriate supervision of the student while waiting for the student’s parent to remove the student from school during the school day; and

5. Academic instruction either in school or out of school that addresses the Core Curriculum Content Standards.

i. The student’s academic instruction shall be provided within five school days of the suspension.

ii. At the completion of a short-term suspension, the district board of education shall return a general education student to the general education program from which he or she was suspended.

iii. The academic instruction provided to a student with a disability shall be provided consistent with N.J.A.C. 6A:14.

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

See: 38 N.J.R. 2294(a), 38 N.J.R. 4411(c).

In (a)1, inserted “, security” two times.

Recodified from N.J.A.C. 6A:16-7.6 and amended by R.2014 d.047, effective March 17, 2014.

See: 45 N.J.R. 987(a), 46 N.J.R. 505(a).

In the introductory paragraph of (a), deleted “, including on a school bus or at a school-sponsored function” following “grounds”; in (a)2, substituted “that” for “which”; in (a)3, substituted “education’s” for “education”, inserted a comma following “7.3”, and substituted “7.4” for “7.5”; and added (b). Former N.J.A.C. 6A:16-7.5, Expulsions, recodified to N.J.A.C. 6A:16-7.4.

### 6A:16-7.6 Attendance

(a) Each district board of education shall develop, adopt, and implement policies and procedures regarding the attendance of students, pursuant to N.J.S.A. 18A:38-25 through 31 and N.J.A.C. 6A:32-8 and 13.1, at the public schools of the school district or at day schools in which students are provided with equivalent instruction, pursuant to N.J.S.A. 18A:38-25. The policies and procedures shall include, at a minimum:

1. The expectations and consequences regarding students’ timely arrival of students to school and classes;
2. The expectations and consequences regarding attendance at school and classes;
3. A definition of unexcused absence that counts toward truancy, for the purpose of this section, that, at a minimum, shall be consistent with the definition of a school day, pursuant to N.J.A.C. 6A:32-8.3;
4. School staff responses for unexcused absences:
  - i. For up to four cumulative unexcused absences, the school district shall:
    - (1) Make a reasonable attempt to notify the student’s parents of each unexcused absence prior to the start of the following school day;
    - (2) Make a reasonable attempt to determine the cause of the unexcused absence, including through contact with the student’s parents;
    - (3) Identify in consultation with the student’s parents needed action designed to address patterns of unexcused absences, if any, and to have the child return to school and maintain regular attendance;
    - (4) Proceed in accordance with N.J.S.A. 9:6-1 et seq. and N.J.A.C. 6A:16-11 if a potential missing or abused child situation is detected; and
    - (5) Cooperate with law enforcement and other authorities and agencies, as appropriate;
  - ii. For between five and nine cumulative unexcused absences, the school district shall:
    - (1) Make a reasonable attempt to notify the student’s parents of each unexcused absence prior to the start of the following school day;

(2) Make a reasonable attempt to determine the cause of the unexcused absence, including through contact with the student’s parents;

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

(4) Develop an action plan to establish outcomes based upon the student’s patterns of unexcused absences and to specify the interventions for supporting the student’s return to school and regular attendance, which may include any or all of the following:

(A) Refer or consult with the building’s intervention and referral services team, pursuant to N.J.A.C. 6A:16-8;

(B) Conduct testing, assessments or evaluations of the student’s academic, behavioral and health needs;

(C) Consider an alternate educational placement;

(D) Make a referral to or coordinate with a community-based social and health provider agency or other community resource;

(E) Refer to a court or court program pursuant to (a)4iv below;

(F) Proceed in accordance with N.J.S.A. 9:6-1 et seq. and N.J.A.C. 6A:16-10 if a potential missing or abused child situation is detected; and

(G) Engage the student’s family.

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

iii. For cumulative unexcused absences of 10 or more, a student between the ages of six and 16 is truant, pursuant to N.J.S.A. 18A:38-25, and the school district shall:

(1) Make a determination regarding the need for a court referral for the truancy, per (a)4iv below;

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

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

(4) Proceed in accordance with N.J.S.A. 18A:38-28 through 31, Article 3B, Compelling Attendance at School, and other applicable State and Federal statutes, as required; and

iv. A court referral may be made as follows:

(1) When unexcused absences are determined by school officials to be violations of the compulsory education law, pursuant to N.J.S.A. 18A:38-25, and

the district board of education's policies, in accordance with (a) above, the parent may be referred to municipal court;

(A) A written report of the actions the school has taken regarding the student's attendance shall be forwarded to the municipal court; or

(2) When there is evidence of a juvenile-family crisis, pursuant to N.J.S.A. 2A:4A-22.g, the student may be referred to Superior Court, Chancery Division, Family Part;

(A) A written report of the actions the school has taken regarding the student's attendance shall be forwarded to the juvenile-family crisis intervention unit.

(b) For a student with a disability, the attendance plan and its punitive and remedial procedures shall be applied, where applicable, in accordance with the student's individualized education program, pursuant to 20 U.S.C. §§1400 et seq., the Individuals with Disabilities Education Act; the procedural protections set forth in N.J.A.C. 6A:14; accommodation plan under 29 U.S.C. §§794 and 705(20); and individualized healthcare plan and individualized emergency healthcare plan, pursuant to N.J.A.C. 6A:16-2.3(b)3xii.

(c) All receiving schools pursuant to N.J.A.C. 6A:14-7.1(a), shall act in accordance with (a)4i above for each student with up to four cumulative unexcused absences.

1. For each student attending a receiving school with five or more cumulative unexcused absences, the absences shall be reported to the sending school district.

i. The sending school district shall proceed in accordance with the district board of education policies and procedures pursuant to (a) above and the provisions of (a)4ii through iv and (b) above, as appropriate.

Amended by R.2006 d.366, effective October 16, 2006.  
See: 38 N.J.R. 2294(a), 38 N.J.R. 4411(c).

In introductory paragraph of (a), inserted "develop," and updated N.J.A.C. reference; in introductory paragraph of (a)3, updated N.J.A.C. reference; in (a)3iii, deleted "and" from the end; added new (a)3iv; recodified and rewrote former (a)3iv as (a)3v; rewrote (a)4i(4) and (a)4ii(4)(F); in the introductory paragraph of (a)4iii, inserted "between the ages of six and 16,"; in (b), inserted "et seq." and "Education Improvement", and updated the N.J.A.C. reference at the end; and in (c)1 and (c)1i, inserted "school" preceding "district".

Amended by R.2007 d.184, effective June 4, 2007.  
See: 39 N.J.R. 294(a), 39 N.J.R. 2243(a).

In (a)4i(2), substituted "to determine" for "of".  
Recodified from N.J.A.C. 6A:16-7.8 and amended by R.2014 d.047, effective March 17, 2014.

See: 45 N.J.R. 987(a), 46 N.J.R. 505(a).

Rewrote the section. Former N.J.A.C. 6A:16-7.6, Conduct away from school grounds, recodified to N.J.A.C. 6A:16-7.5.

Administrative correction.  
See: 46 N.J.R. 2405(a).

### 6A:16-7.7 Harassment, intimidation, and bullying

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

1. Each district board of education shall develop the policy in consultation with, at a minimum, parents and other community members, school employees, school volunteers, students, and school administrators.

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

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

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

iii. A description of the type of behavior expected from each student;

iv. Appropriate remedial action for a student who commits an act of harassment, intimidation or bullying that takes into account the nature of the behavior, the developmental age of the student and the student's history of problem behaviors and performance and that may include the following:

(1) A behavioral assessment or evaluation including, but not limited to, a referral to the child study team, as appropriate; and

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

v. Consequences for a student who commits an act of harassment, intimidation, or bullying that are:

(1) Varied and graded according to the nature of the behavior, the developmental age of the student and the student's history of problem behaviors and performance; and

(2) Consistent with the provisions of N.J.A.C. 6A:16-7, as appropriate;

vi. Appropriate consequences and remedial action for a staff member who commits an act of harassment, intimidation, or bullying;

vii. A procedure for reporting, verbally and in writing, an act of harassment, intimidation, or bullying, including a provision that permits a person to report anonymously consistent with N.J.S.A. 18A:37-15.b(5);